



CPT/Inf (2008) 8

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

**from 31 January to 8 February 2006**

The Slovenian Government has requested the publication of this response. The report of the CPT on its January/February 2006 visit to Slovenia is set out in document CPT/Inf (2008) 7.

Strasbourg, 15 February 2008

(\*) *In accordance with Article 11, paragraph 3, of the Convention, certain names have been deleted.*

File number: 511-14/2006  
Date: 25<sup>TH</sup> of January, 2008

Pursuant to the sixth paragraph of Article 1 of the Government of the Republic of Slovenia Act (Official Gazette RS No 24/05-UPB1), at its sessions on 8<sup>th</sup> November 2007 and 10<sup>th</sup> of January 2008 the Government of the Republic of Slovenia has adopted the following

#### **DECISIONS:**

1. The Government of the Republic of Slovenia accepts the answer to the Report by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment on the visit to the Republic of Slovenia from 31 January to 8 February 2006.
2. The Government of the Republic of Slovenia withdraws the designation of confidentiality from the above stated answer and at the same time requires from the above stated Committee to publish his report together with the answer of the Government of the Republic of Slovenia to this report.
3. The Government of the Republic of Slovenia has entrusted the Ministry of Justice with the task of forwarding the answer to the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, with the withdrawal of the designation of confidentiality from the stated answer and with requirement to the stated Committee to publish the answer of the Government of the Republic of Slovenia to this report.

## II. FACTS ESTABLISHED DURING THE VISIT AND PROPOSED RECOMMENDATIONS

### A. Institutions within the Ministry of the Interior

#### 2. Ill treatment

8.

9.

#### Explanation from the Police:

We wish to underscore the fact that the findings in the CPT report regarding ill treatment by police officers are based on the unilateral allegations of detainees and do not contain facts and circumstances (except in the case involving a detainee at the Ljubljana Prison). This prevents the truthfulness of these persons' allegations being examined further and, hence, adequate measures being adopted. It should also be noted that the lack of definition regarding events and imprecision as regards time are improper because they allow the report to be interpreted and the situation to be assessed in different ways.

It should be furthermore pointed out that the rules currently in force precisely define the cases in which case a police officer can use restraints with due regard for the principles of legality, humanity, proportionality and professionalism enshrined in the relevant international legal instruments.

The Ministry of the Interior and the management of the Slovene Police make every effort to prevent all forms of illegal or unprofessional treatment by police officers of persons subject to police procedures. Where such treatment has been nonetheless occurred and been detected, measures against police officers are strictly enforced.

The respect of human rights in police procedures is a topic very often included in various forms of professional training and education in the Police. These topics have already formed but will also in future form part of the training and perfection programmes for police officers.

We would like to say that, in exercising their powers, police officers use restraints only in emergency situations, and this is corroborated by statistics. In 2005, although police officers intervened in 43 323 cases of violation of public order in private as well as public places<sup>1</sup>, dealt with 17 566 suspects for criminal offences and detained 7 276 persons, brought 5 980 persons before the court or other authorities, in 3 848 cases restraints were used against merely 4 479 persons. Of 8 027 various types of restraints the most commonly used were fettering and handcuffing (4 085-times) and physical force (3 701-times); other types were much less frequently used. The most common type of physical force was the so-called "professional grip" – 3 389-times. In 93.0% of cases, police officers therefore used the most lenient restraints – handcuffing and fettering as well as professional grips, which undoubtedly shows that the principle of

---

<sup>1</sup> The only interventions taken into consideration are those where a violation was established and repressive action was taken (issue of a payment order, decision in accelerated procedure, bill of indictment, etc.).

proportionality was observed. This is reflected by the low number of bodily injuries with respect to the use of restraints and suspects' resistance to their use<sup>2</sup>. In 2005, 85 offenders and 106 police officers suffered minor injuries due to the use of restraints and attacks on police officers – two offenders and one police officer were seriously injured.

**As regards the case involving a detainee in Ljubljana Prison when 9 police officers, members of the Special Task Force, allegedly ill-treated detainees, we have the following clarification:**

Pursuant to Article 157 of the Criminal Procedure Act (ZKP) and to the grounds for detention under Article 201 of the ZKP, the detainee A. was deprived of liberty at his home by Ljubljana Police Directorate officers (and not by members of the Special Task Force). There were reasonable grounds to suspect the detainee (hereinafter “suspect”) of committing criminal offences that are prosecuted *ex officio* (illicit manufacturing of and trafficking in drugs under the first paragraph of Article 181 of the Penal Code (PC) as well as illicit manufacturing of and trafficking in weapons and explosives under Article 310 of the PC).

When collecting information, the police officers established that there were well-founded reasons to believe that the suspect would resist arrest physically and might even use a firearm. The police officers acquired a written warrant from the competent court to search the house.

Taking into consideration the information on the manner in which other criminal offences had been committed, previous police records related to drugs and weapons and fears that the suspect would resist arrest including by using firearms, the police officers decided that the search of the apartment and other premises would be carried out without issuing prior notice in order to preserve evidence and the *corpus delicti* (Article 215, fourth paragraph, of the ZKP).

In the light of the above reasons, the arrest was planned and, according to the risk assessment, was carried out by the criminal investigators of the Mobile Criminal Investigation Unit of the Ljubljana PD (hereinafter “police officers”), who are among other things also trained in arresting dangerous suspects of criminal offences.

On entering the apartment building, the police officers took the stairs to the first floor where the suspect's apartment is located. For their own protection they carried armoured shields with the inscription “POLICE”. Before they reached the door of the suspect's apartment, he was already facing them. They recognised him from the description and immediately gave him the order, “Stop! Police! Hands up!” The suspect did not obey the orders but tried instead to run down the stairs. One of the police officers attempted to stop him and seized him by the hand. The suspect resisted by pushing the police officer away aggressively in order to avoid apprehension, so it was impossible to apply the most lenient measure of physical force – the professional grip. Due to the type, manner and force of the suspect's resistance, the police officer used a professional punch in his face, applied an elbow lock and forced the suspect to the floor. The police officer then used appliances for fettering his hands (handcuffs). After apprehending the suspect, the police officers searched him. It should be emphasised that, when the arrest was being prepared, the police officers had access to some very important information from a reliable source, namely that the suspect had been constantly carrying a weapon when he was engaged in illicit trafficking in drugs and was also ready

---

<sup>2</sup> In attacks on police officers and in offering resistance, in 2005, besides various forms of physical violence such as pushing, seizing, strangling, blows with hands or legs (239 times), offenders also used various dangerous objects and weapons (sticks 33 times, vehicles 25 times, knives or other bladed weapons 9 times, axes, hammers and other dangerous objects or tools 16 times, incendiary objects twice, rifle once, etc.). On 5 occasions the offenders set dogs on police officers.

to use it. It is also a fact that scientists and professionals have not so far invented any techniques for restraining violent persons that do not entail some risk of causing injury. In the light of all these facts and circumstances, the consequences were minimal.

The suspect was taken to the doctor after the search of the premises. The medical opinion voiced no objections to his detention. After being detained, the suspect was brought by the police officers before the judge, who ordered police custody.

We categorically deny the suspect's allegations as regards the use of other kinds of violent physical force and the baton. If the police officers had actually used physical force and the baton in the manner claimed by the suspect then he would undoubtedly have suffered much more serious physical injuries, for example visible external injuries to the head (and possibly internal injuries affecting the brain). A forensic expert is available to confirm the above.

Slovene police officers never use sticks or batons to arrest dangerous suspects (even in the event of a surprise raid) because their first priority is to handcuff the suspect quickly and professionally, which is very difficult to do when holding a stick. In addition, using a stick or baton when arresting dangerous suspects prevents the efficient deployment of firearms procedure.

The alleged ill treatment by police officers of minors in particular, as described by the Committee in the third and fourth paragraph of point 9 of the Report, is essentially a criminal offence – forced statement – under Article 271 of the PC. The Slovene Police does not deal with criminal offences where the injured parties are minors separately from other criminal offences where the injured parties are adults. The Police examine every suspected criminal offence of this kind – especially if minors are involved – and takes all necessary measures to establish the true situation. With regard to the allegation that many cases date back several years, we present below statistics on criminal offences of this kind for the past four years. According to the Police, in this period 15 cases were examined when there were reasons to suspect that an offence of this kind had been committed. In three cases the suspicions were confirmed and denunciations of criminal acts were filed against the police officers with the competent prosecutor's office. In 12 cases the suspicions were not confirmed and so the competent prosecutor's office received only reports.

**Table:** *Criminal offences – forced statements – under Article 271 of the Penal Code*

<b>Year</b>	<b>Denunciation of criminal act or report (Article 148(9) of the Criminal Procedure Act)</b>	<b>Report (Article 148(10) of the Criminal Procedure Act)</b>
2003	2	1
2004	1	5
2005	/	3
First six months of 2006	/	3

10.

**Explanation from the Police:**

Due to the specific nature of the tasks performed by police officers there is always a possibility that, while exercising their powers in individual cases, unwarranted or excessive interference in human rights and fundamental freedoms may occur. Procedures involving the use of restraints are particularly delicate because, in order to safeguard the human rights of third parties, police officers often have to take decisions on the spur of the moment, without the option of delaying and weighing up every single aspect of the situation.

As members of the police force, we are aware of this and endeavour, through a raft of measures, to avoid violations of this kind as much as possible.

We constantly implement this CPT recommendation during the regular training and education of police officers in the implementation of police powers and practical procedures as well as self-defence<sup>3</sup>. Besides this, senior police management at all levels constantly reminds police officers that ill treatment of persons is against the law and will be strictly sanctioned. Four times a year we also publish materials containing the cases of unlawful police conduct. During regular internal inspections, particular attention is paid to the respect and protection of human rights and fundamental freedoms of persons undergoing police procedures. All the above mechanisms were already presented to the members of the CPT delegation during their visit to Slovenia.

Moreover, each year, in the annual guidelines and instructions for the preparation of the Police annual plan, the Ministry of the Interior pays particular attention to the respect of human rights in police procedures with special emphasis on the prohibition of torture.

11.

**Explanation from the Police:**

We are surprised at the allegations regarding the fettering of persons in the so called “banana position” because in the complaints or denunciations of criminal acts against police officers neither were such acts described nor were the consequences definitely ascribed to such interventions established.

It must be noted that the professional standards of the practical procedure of the Slovene Police do not contain any such fettering or handcuffing techniques and that therefore police officers are not trained to use them.

In 2007, in addition to the professional rules for using fettering and handcuffing appliances, a handbook was also prepared. It contains the restrictions upon the use of such restraints due to medical reasons. Special emphasis is laid on the obligation to handcuff a person in such a way as to prevent “suffocation due to the position of the person”.

---

<sup>3</sup> Point 12 below presents in detail the contents and the course of police training.

12.

**Explanation from the Police:**

As regards the Committee's order to the Slovene authorities to ensure that active police officers are systematically trained on the principle of connecting the theory of human rights with practical training on taking action in high-risk situations (such as the arrest and interrogation of suspects), we have to explain that this is already routine training in the Slovene Police, with refresher courses on a yearly basis.

Candidates in the basic police training programme are already made familiar with the content of police powers and the corresponding obligation to respect human rights, both theoretically and practically. The programme lasts 18 months and contains 2 190 hours of training. It is performed at the Police Academy and in police stations. A total of 100 hours are dedicated to each of the subjects of – “professional powers” and “social skills” and 20 hours to “police ethics”. Besides regular classes, the “police ethics” course also comprises afternoon workshops carried out by the lecturer together with Amnesty International Slovenia. The Police Academy also cooperates with the Human Rights Ombudsperson and the Institute for Ethnic Studies. The subject of social skills lays particular emphasis on dealing with conflict situations.

Practical training is performed within the subject of practical procedures and skills comprising 270 hours, 70 of which are dedicated to practical procedures, 140 hours to self-defence and 60 hours to psychological/physical preparation.

Besides mastering various skills, the candidates are also made familiar with the legal requirements for the use of restraints as well as with lawful and professional approaches to persons involved in police procedures. Experts on police powers and social skills actively participate in these training classes.

Since 1996, continuous professional education and training on police powers and practical procedure has been provided for police officers at stations. All police officers are required to participate in training. For police officers deployed directly in the field the programme contains 80 hours per year and, for other police officers, 60 hours. During theory classes, given at police stations by deputy commanders, officers are made familiar with practical cases and warned about irregularities or excesses in exercising individual police powers, particularly in using restraints. Special emphasis is laid on strict compliance with the principles of legality, professionalism, humanity and proportionality. Besides theory, police officers are also trained in practical procedures, including self-defence, for which instructors in the police directorates are responsible. In recent years there have also been training courses for police officers on communication and social skills as well as anti-stress programmes. In addition, many other training courses are organised every year.

The 2006 training programme on the exercise of police powers and deployment of practical procedures and use of self-defence contains the following theory topics in the area of human rights:

- protection of human rights and fundamental freedoms in police procedures, in the event of deprivation of liberty and the use of restraints;
- rules of communication and attitudes to persons in police procedures;
- information on the new Rules on Police Powers;

- police detention; and
- constitutional principles and legal requirements for the use of restraints.

In the 2006 programme, interrogation as a police power was not included among the compulsory topics because the topics within the 80 hour yearly training programme are periodically exchanged.

As regards information (or lack thereof) on the new handbook on interrogation, we would like to explain as follows:

Even before the formal adoption of amendments to the Criminal Procedure Act (ZKP), the Police started intensive preparations for the introduction of the new police interrogation procedures. On 14 April 2003 the Director-General of the Police appointed a Working Group for the introduction of amendments to the Criminal Procedure Act. The task of the Group was to define, propose and perform all the necessary activities to successfully roll out the new interrogation procedures. The Group prepared an overall proposal covering all the activities and appropriate solutions for the introduction of amendments to the criminal Procedure Act as regards police work, namely:

- a proposal regarding adjustments to the Police in terms of its organisation, its personnel and its technical equipment was prepared,
- the financial impacts of proposed amendments to criminal Procedure Act were evaluated,
- a training programme for the interrogation of suspects, training course concept and implementation plan, written material and teaching equipment were prepared,
- a temporary aide-memoire for interrogations and model questionnaires to be used by police officers during interrogations were drawn up.

One of the most important tasks of the Working Group was to prepare and train police officers adequately to perform interrogations in a lawful and professional manner. The Group prepared a training programme on interrogating suspects and a plan for implementing said training. The programme specifies the objectives and purposes as well as the target groups and main topics of the training. The implementation plan sets out in detail the manner of implementing, time schedule, equipment and technical requirements and the specific tasks of all training providers.

The group targeted for training comprised all police officers involved in detecting and investigating criminal offences and conducting interviews with suspects. More than 80 training courses were planned, to be attended by some 2 500 police officers. Owing to the large number of police officers to be trained, a combined training concept was developed, with training to be carried out partly at national level and partly at the regional level, through multipliers or employees trained to hand their knowledge on to others. The training programme was of two days' duration.

All training courses at national and regional level were coordinated and supervised by the Criminal Investigation Police Directorate GPD in cooperation with the Police Academy and the Uniformed Police Directorate.

### **Training at national level**

Six training courses were carried out between October and December in the year before the introduction of interrogation nationally in line with the interrogation programme and the implementation plan and there were 231 participants, employees of the GPS, management of CIPD and deputy commanders-criminal investigators at police stations. In addition, multipliers were also trained at national level or police employees, selected according to special criteria to perform training at regional level and transfer their knowledge to other police officers.

Particular attention was paid to the training of multipliers. The entire programme lasted three working days because a specific training programme for transferring the knowledge was added to the two-day basic programme. Altogether, 43 multipliers were trained.

All training at national level was performed by a group of operators made up of appropriately trained employees of competent services of the General Police Directorate. There were also two external operators at all six training courses who actively and successfully participated: a representative of the Supreme Court of the Republic of Slovenia and a representative of the investigating magistrates. The operators prepared written material – a set of documents and video footage of interrogation. A temporary handbook was also drawn up for performing interrogations.

### **Regional training**

Regional training courses took place between January and June 2004 in all the police directorates. There were altogether 91 training courses attended by 2 126 police officers. Police directorates were responsible for the organisation and performance of regional training courses. They were implemented in line with an exact schedule for target groups from police directorates.

The following target groups were trained during Stage I (until April 2004):

- employees of the CIPD (except criminal investigation technicians and employees of mobile criminal investigation groups),
- criminal investigators at police stations (PS),
- shift leaders from all PS or police units (except shift leaders at traffic police stations),
- employees of the PD Director's office who deal with complaints.

During Stage II (until June 2004) all the chiefs of patrols from all PS or police units were trained (except chiefs of patrols at traffic police stations [TPS]).

Due to the particular nature of interrogations of parties suspected of traffic security offences, employees working in this area had a separate and slightly different type of training.

The operators or multipliers were specially selected employees of PD who were trained for the job at the central training course. In total, 43 multipliers participated from all the PD. The number of multipliers per individual PD was defined in line with special criteria set out in the implementation plan.

Examining magistrates and public prosecutors participated in the implementation of all regional trainings.

Members of the Working Group also performed three expert visits to regional interrogation training courses. They ascertained whether the training was performed in line with the implementation plan and, if needed, also provided assistance to multipliers to deal with individual topics. The visits established that the training was being conducted according to the programmes and on a uniform basis, albeit with minor adjustments in individual PD that did not however have any critical impact on the programme's objectives.

**Table: Number of multipliers, performances and participants in regional trainings by PD**

PD	Number of multipliers	Number of trainings (Stages I + II)	Number of participants
Celje	4	11	224
Koper	4	8	149
Kranj	4	6	166
Krško	2	5	101
Ljubljana	6	16	452
Maribor	6	13	269
Murska Sobota	5	9	185
Nova Gorica	2	3	106
Novo mesto	2	4	107
Postojna	2	3	64
Slovenj Gradec	2	3	67
<b>TOTAL</b>	<b>39</b>	<b>81</b>	<b>1 890</b>

Note: The table does not show the training courses for traffic security.

### **Organisation of training in the area of traffic security**

Training courses in the area of traffic security took place from February to April 2004. There were altogether 10 training courses for 236 employees in the area of traffic security (assistants to commanders, shift leaders and chiefs of patrols at TSPS).

**Table: Number of participants by PDs**

Police Directorate	Number of participants
Celje	27
Koper	20
Kranj	19
Krško	16
Ljubljana	46
Maribor	37
Murska Sobota	13
Nova Gorica	16
Novo mesto	17
Postojna	14
Slovenj Gradec	11
<b>Total</b>	<b>236</b>

There were altogether **97** training courses on interrogating suspects with **2 357** participants.

The above clearly shows that, when introducing the new police power (interrogation), the Slovene Police seriously and responsibly performed all the activities to ensure lawful and professional work. In the light of the findings of the CPT, it should be said that not all police officers deal with interrogations so they are not all just as familiar with the interrogation handbook as those who actually conduct interrogations. All police officers have, however, been properly familiarised with the legal provisions on interrogation.

In 2007, a training programme was authorised for criminal police investigators and deputy commanders in police units with provision for training for interrogation and collecting intelligence as well as information. The purpose is further or additional training of police officers.

In line with the CPT recommendations, interrogation was again one of the mandatory topics of the Training Programme for the performance of police powers with practical procedures and self-defence designed for all police officers in 2007.

**13.**

**Explanation from the Police:**

The Police are committed to eliminating all forms of ill treatment of citizens in the broadest sense of the term. This is ensured by immediate in-depth investigation into all suspected criminal offences by officers. This is a clear message to all police officers that any illegal activities will be dealt with strictly and fairly by the competent service.

The Slovene Police management is absolutely committed to the strict respect of human rights at all stages of police procedure and demands that any ill treatment by colleagues be reported by all police officers to the proper authority. This is also their duty under the Civil Servants Code that applies also to police officers. If the opposite occurs, justified reasons can be established to suspect that a criminal offence was committed – unscrupulous conduct or failure to take due measures, since this kind of conduct by police officers may constitute a violation of civil rights. It also means a breach of contractual obligations, which could serve as a basis for cancelling the employment contract pursuant to legislation on employment relations.

**14.**

**Explanation:**

This recommendation will be submitted to the Supreme Court of the Republic of Slovenia.

15.

**Explanation from the Police:**

The procedure for appeals against treatment at the hands of police officers shown in the report is presented with certain flaws, or is not entirely presented in line with the amended legislation (a representative of the Police Trade Union is still indicated as a member of the senate). This is why the Committee has recommended that Slovene authorities adopt certain measures. To clarify the appeals procedure against police officers, we present normative possibilities for complaint by an individual against the treatment at the hands of a police officer and the course of the appeals procedure.

The Slovene Police management certainly supports the idea that an individual, if he or she believes that his or her rights or freedoms were violated by police officer's action or failure to act, has the right to file a complaint with the Ministry or the Police within 30 days of the moment he or she learned about said violation.

Every complaint against a police officer must first be examined and all the relevant facts checked by the head of the police organisation unit which employs the officer concerned by the complaint or by a police officer appointed by the head of the unit (hereinafter "head"). The plaintiff shall be made familiar with the findings and, if he or she agrees with them, the complaint examination procedure is closed. This is entered in the records that summarise the essential findings of the head and are signed also by the plaintiff. The procedure has to be closed within 15 days of receipt of the complaint.

If the plaintiff, having been duly invited, fails to respond to the invitation for an interview or does not notify the Police in writing that he intends to continue the procedure, his or her silence is deemed to constitute withdrawal from the complaint, and this is entered in the record of the examination of the complaint.

If the plaintiff disagrees with the head's findings, or the complaint raises a suspicion that a criminal offence prosecuted *ex officio* was committed, the head immediately submits the entire dossier to the Ministry for a further examination procedure.

At the Ministry, complaints are examined by a senate composed of three members: a person authorised by the minister and two representatives of the public. Representatives of the public who participate in examining complaints against the police employees at regional level are appointed on the basis of proposals by local communities within the area of individual police directorates and are relieved of their duties by the minister. The representatives of the public are appointed for four years and can be re-appointed.

The complaint examination procedure at the Ministry is closed with the communication of an answer to the plaintiff within 30 days of the closure of the procedure by the head of the police organisation unit. The plaintiff is furthermore free to resort to any legal remedies for the protection of his or her rights and freedoms.

A detailed procedure for examining complaints has been laid down by the Minister of the Interior in the Rules on resolving of appeals.

The plaintiff can file the complaint in writing, orally or in electronic form with the Ministry or any police organisation unit. At the Ministry, an oral complaint is received by the organisation unit responsible for examining complaints. If the plaintiff files a written complaint in person, he is issued with a certificate of filing of a complaint. An oral complaint is documented in a record which are to be signed by the plaintiff and the person who received the complaint. A complaint submitted in electronic form is deemed to have been signed if the plaintiff is indicated in the complaint as its signatory.

If the complaint is incomplete or unintelligible, the plaintiff receives a written request to correct it or amend it within five days. If this request is disregarded, the complaint is rejected and the plaintiff is notified of same in writing. The procedure can also be closed if the plaintiff withdraws the complaint, if the complaint has already been decided in the procedure, if the complaint was filed too late or if it was filed by a person not entitled to do so. In that case, too, the plaintiff is notified in writing of the closed procedure. In both cases, the decision is taken by the responsible internal organisation unit of the Ministry that draws up the notice for the plaintiff.

The complaint in the “reconciliation part” is examined by the head of the police organisation unit which employs the police officer against whom the complaint was filed and, during the examination by the senate, as a rule by the employee of the Ministry or the Police (rapporteur). The ministry rapporteurs are appointed permanently or for a single case by the Minister of the Interior whereas the police rapporteurs are appointed by the Director-General of the Police. On the basis of the collected findings and evidence, the rapporteur draws up a report on the findings regarding the complaint in which the police officer’s actions are assessed in terms of their compliance with the rules in force.

The first part of the examination procedure is conducted by the head of the police organisation unit where the officer against whom the complaint was filed is employed. When the examination is over, the head invites the plaintiff either orally or in writing to an interview where he presents the findings and measures taken. The head also invites the police officer against whom the complaint was filed.

After the examination of the complaint, the head of the police organisation unit draws up the records indicating the essential conclusions. If the plaintiff agrees with the head’s findings, the latter suggests that the interview constitutes the end of the procedure. This is placed on the record and signed by both the head and the plaintiff.

The procedure with the head of the organisation unit is to be closed within 15 days of a complaint being received.

If the examination of the complaint by the head of the organisation unit is not successful, the head must hand the complaint with all the collected documentation over to the competent internal organisation unit of the Ministry for further examination. That unit is also responsible for examining the complaint if there are reasons to believe a criminal offence was committed that is prosecuted *ex officio*. In both cases, the head of the competent unit appoints a rapporteur who examines the entire complaint, draws a report and presents it at the session of the senate.

The senate for dealing with complaints is composed of three members: a person authorised by the minister and two representatives of the public. The senate is chaired by the person authorised by the minister, who is responsible for ensuring that the complaint is examined and weighed in all aspects. The senate's session is public. A written invitation is sent to the plaintiff and the police officers against whom the complaint was filed. At the session they can present their facts in connection with the contents of the complaint. The senate decides on the substance of the complaint on the basis of the completed procedure, the established facts and circumstances as well as evidence by voting. The decision of which at least two members of the senate are in favour prevails and is deemed final. The minutes on the senate's session are drawn up and signed by all the members of the senate, the plaintiff, the police officer concerned and the recording clerk.

In line with the decision taken during the session, the head of the senate prepares and signs a written answer for the plaintiff in which the essence of the senate's decision must be explained. At the end of the answer, the plaintiff is cautioned that the procedure is closed but that there are still other legal remedies available for protecting his rights and freedoms.

The time limit for closing the examination procedure at the Ministry through the communication of an answer to the plaintiff is within 30 days of the close of the procedure involving the head of the police organisation unit.

As mentioned above, in the final stage the complaint is examined by a senate composed of three members, two of whom are representatives of the public appointed by the minister on the basis of proposals by the local community and by non-governmental and civil organisations. The senate takes its decision by voting. The decision of which the majority is in favour prevails. Impartiality in taking the senate's decision is guaranteed by two representatives of the public and the representative, a ministry employee, appointed by the Minister.

The following should also be pointed out:

If the complaint raises a suspicion that a criminal offence was committed, the whole case is also examined in line with Article 148 of the Criminal Procedure Act and the Decree on the cooperation of the State Prosecutor's Office of the RS and the Police in detection and investigation of perpetrators of criminal offences (Official Gazette of the Republic of Slovenia No 52/2004). Based on the findings, a report or a denunciation of a criminal act is sent to the State Prosecutor's Office.

If the complaint against a police officer concerns an action or failure to act that did not cause any violation of individual human rights or fundamental freedoms, the complaint is not examined according to the Rules but under the Decree on administrative operations (Official Gazette of the Republic of Slovenia No 20/2005) or the professionalism and legality of the police officer's actions are verified. According to the above Decree, the complaint is examined by the head of the internal organisation of the employee who has the duty to answer the plaintiff no later than 15 days after receipt of the complaint if the plaintiff has indicated their full name, surname and address. If the plaintiff is not satisfied with the answer, he or she may turn directly to the head of a superior organisation unit that supervises the unit that gave the answer.

All other legal remedies are available to the plaintiff after the procedure has been closed in order to protect his or her rights and freedoms.

16.

**Explanation from the Police:**

The Police operate a collection of personal data (hereinafter “records”) based on Article 59 of the Police Act (ZPol-UPB5 – Official Gazette of the Republic of Slovenia No 70/2005). These records, that also include records of complaints, contain the following personal data: full name, date and place of birth, unified citizen’s personal number (UCPN), sex, address of permanent or temporary residence and data on citizenship.

The records contain the reasons for the complaint according to the following categories:

- with regard to the powers used;
- with regard to the restraints used;
- with regard to other reasons, such as incorrectness, offensiveness, unprofessional demeanour etc., therefore the reasons that show the police officer’s attitude towards persons in the procedure;

Cases of so-called ill-treatment are established when restraints are used. The cases dealt with are shown in the table for the year 2005 and the first six-month period in 2006:

***Table: Number of complaints due to the use of restraints***

	Year 2005*	First six-months of 2006
<b>Unfounded</b>	<b>145</b>	<b>17</b>
<b>Justified</b>	<b>15</b>	<b>2</b>
Total	160 **	21***
<b>Share of justified complaints (in %)</b>	<b>9.4</b>	<b>10.5</b>

Remark:

- \* Until 2006 statistics on the use of restraints were managed according to the reasons for complaints; since 2006 the statistics have been managed according to the number of cases where the restraints were used.
- \*\* This is the number of police officers who used various restraints (in fact, 71 persons filed complaints due to the use of 126 different restraints).
- \*\*\* Two complaints are pending.

The Police employees’ procedures allegedly involving “ill-treatment” of citizens may contain elements of criminal offences in terms of “the violation of human dignity through abuse of official position and rights” under Article 270 of the Penal Code (PC) or “forcing the person to give a statement” under Article 271 of the PC. The investigation into such criminal offences is initiated on the basis of a complaint regarding the police officer’s procedure that contains justified reasons to believe that a criminal offence was committed for which the perpetrator is to be prosecuted *ex officio* based on the denunciation of a criminal act filed by citizens or on the police officer’s own establishment of the reasons for suspecting that such a criminal offence was committed.

**Table: Criminal offences by police officers under Articles 270 and 271 of the Penal Code**

<b>Criminal offences under the Penal Code</b>	<b>Denunciation of criminal act or report (Article 148(9) - ZKP - Criminal Procedure Act)</b>		<b>Report (Article 148(10) of ZKP)</b>	
	<b>2005</b>	<b>First six months of 2006</b>	<b>2005</b>	<b>First six months of 2006</b>
Violation of human dignity through abuse of official position and rights under Article 270 of the PC	10	4	98	58
Forced statements under Article 271 of the PC	/	/	3	3

The table shows that in 2005 and in the first six months in 2006 police officers were suspected of a total of 170 criminal offences related to violations of human dignity through abuse of official position and rights under Article 270 of the PC. The suspicion was confirmed in 14 cases and the competent state prosecutor's office received denunciations of a criminal act against the police officers. In the same period, police officers were suspected of having committed six criminal offences regarding forced statements but the suspicion was not confirmed in any of these cases so the competent state prosecutor's offices received only reports.

### **3. Measures against ill-treatment of persons detained by the Police**

17.

18.

#### **Explanation from the Police:**

The second paragraph of Article 108 of the Criminal Offences Act (ZP-1-UPB3 – Consolidated – version No 3, Official Gazette of the Republic of Slovenia No 70/06) provides as follows: “A defendant who has been detained must be notified immediately of the reasons for his detention either in his mother tongue or a language he understands. He must also be instructed without delay that he is not obliged to give any statements, that he has the right to immediate legal aid by counsel whom he can choose freely and that the competent authority is obliged to notify his closest relatives or his employer of the detention if he so requests. If he is a foreign citizen, the competent authority is also obliged to notify the consular representation office of his country if he so requests. The defendant must be immediately or within at most three hours served a written decision on his detention, which contains the reasons for the deprivation of liberty and the legal caution. While detained, the defendant has the right to file an appeal against the decision; the appeal has no suspensive effect, however. The appeal is decided by the panel of judges of the competent district court (sixth paragraph of Article 25 of the Criminal Procedure Act - ZKP) within 48 hours.” The Criminal Procedure Act (ZKP) and the Police Act (ZPol) contain the same provisions. Therefore all persons who have been deprived of liberty and have received a detention order must be informed immediately of their rights. By signing the liberty deprivation decision or the order the person actually confirms that he has been made familiar with his rights. However, for different types of detention the law defines different deadlines within which the detainee is to be served the detention decision or detention order.

Police officers must ensure that the rights requested by a detainee are guaranteed whenever circumstances permit, most commonly on the premises of the police station. With regard to the above, it is understood that the time for notifying the next of kin and the legal counsel depends on the situation and does not necessarily correspond to the time when the person was detained. As a rule, these persons are notified within between 30 and 90 minutes.

Pursuant to the Convention on the Rights of the Child which provides that the leading principle in procedures involving children is the child’s best interest, Article 33 of the Rules on Police Powers defines an exception in terms of notifying the next of kin in the event that the detainee is a child or a minor. If a police officer ascertains that such a notification could be contrary to the rights or interests of the child or minor, he shall notify only a social welfare authority of the detention (for example if the child is a victim of parental or domestic violence).

Pursuant to Article 49 of the Rules on Police Powers, a police officer has the duty to write a formal note and, in certain cases prescribed by law, also a decision or a resolution that clearly shows the manner in which the detainee has been made familiar with his rights and the procedure for enforcing these rights. This allows additional supervision of the respect and provision of detainees’ rights in police procedures.

With regard to the detainees' allegations that they were not permitted to notify their relatives (in one case, for as much as a whole day), the Police examined all the files on the deprivation of liberty in respect of the persons with whom the CPT delegation talked in the Police facilities. It was established that not one of the allegations was confirmed. Nor did the police during their regular controls establish any irregularities regarding notification of the detainees' close relatives. In any case, we intend to continue to monitor this sensitive area where police intervention impacts on human rights and freedoms.

It is not possible from the statistics on complaints and declared reasons to establish the number of complaints linked to the right to information on the deprivation of liberty.<sup>4</sup> The table below shows the data on complaints concerning the deprivation of liberty.

*Table: Number of complaints due to the deprivation of liberty*

	Year 2005*	First six months of 2006
<b>Unfounded complaints</b>	<b>40</b>	<b>3</b>
<b>Justified complaints</b>	<b>4</b>	<b>1</b>
Total	44**	4
<b>Proportion of justified complaints (in %)</b>	<b>9.1</b>	<b>25.0</b>

Remark:

\* Until 2006 the statistics on using police powers were managed according to the reasons for complaints. Now they are managed according to the number of cases involving the use of police powers.

\*\* This is the number of police officers who carried out the detention.

In 2005, 44 reasons for complaints were dealt with due to the deprivation of liberty. four cases were deemed justified. During the first six months of 2006 there were four such cases and one was deemed justified. Considering the total number of detainees (7 276 persons in 2005), the share of complaints based on the deprivation of liberty is extremely small.

We therefore believe that there is no need to adopt new measures further to the ones already implemented.

---

<sup>4</sup> The data can be checked by looking into the actual files.

19.

**Explanation from the Police:**

From the allegations made by the CPT regarding the complaints of persons who were notified of their right to the legal counsel only a few hours after their arrest (even eight hours later) or after the first hearing, it is not clear what were the cases about, and therefore we cannot pass any judgements. The police examined all the files on the deprivation of liberty concerning the persons with whom the CPT delegation spoke on Police premises. It was established that not one of the the detainees' allegations regarding the above delay in the notification of rights was confirmed. Nor did the Police, during their regular controls, establish any irregularities about the notification of this right or its enforcement. We shall by all means continue to monitor this sensitive area where police intervention impacts on human rights and freedoms.

Under point 18 of the reply to the CPT's comments, we already gave an answer on the manner and procedure of notifying the persons of their rights upon the deprivation of their liberty as well as transparency in terms of exercising these rights. The procedure or the composition of the detention document itself guarantees that the person is made familiar with his rights. By signing the document the detainee confirms that he has been made familiar with his rights and their enforcement. The detainee can also refuse to sign the document and thus raise doubts about the correctness of the procedure and the fact that he has been made familiar with his rights.

In addition to the above, the Police also prepared the following:

In order to facilitate the work of police officers and to notify detainees without delay of the reasons for the deprivation of liberty and of their rights, pocket-size cards were printed several years ago in six languages (Slovene, English, German, French, Italian and Hungarian). The police officers keep them with them at all times and always show them to detainees in case they do not speak or understand Slovene.

In Police facilities there are posters showing the rights of persons who have been deprived of their liberty. The rights are written in 15 languages. When these posters are reproduced, they will be supplemented with the CPT recommendations with respect to the right to a physician of one's own choice.

In 2004, the Slovene Police published a booklet titled "Information on the Rights of Detainees". It contains information on a person's rights in the event of deprivation of liberty in 22 languages, selected considering the most important world languages and those spoken or understood by the majority of persons who most often undergo police procedures in Slovenia (particularly when crossing the state border illegally). The booklet concisely explains all their rights and the manner of putting them into practice. The right to access a physician of one's choice is therefore clearly set out as well as the right to legal aid free of charge.

Particularly as regards the right to legal counsel, it is necessary to point out that the Criminal Procedure Act was amended in 2003 to contain<sup>5</sup> the possibility of using the minutes of the suspect's hearing as evidence during the trial. Article 148 contains the following additional paragraphs:

*“(4) When, in the process of collecting intelligence, the police establishes that there are reasons to believe that a certain person committed or participated in the commission of a criminal offence (the suspect), the police shall, before collecting information from that person, inform him of which criminal offence he is suspected and the grounds for this suspicion. The police has also the duty to instruct the suspect that he is not obliged to make any statements or answer questions, and if he wishes to speak for himself he is not obliged to testify against himself or his closest relatives or to plead guilty and has the right to legal counsel of his own free choice who may be present during the hearing and that everything he says may be used against him in the court of law.*

*(5) If the suspect declares that he will take legal counsel, the hearing shall be postponed until the arrival of the legal counsel or until the time limit determined by the Police where this is not less than two hours. Other investigation activities shall also be postponed until the arrival of the legal counsel, except those in respect of which the delay could be harmful. The hearing of the suspect is conducted by virtue of the provisions set out in Article 148a of this Act.*

*(6) If the suspect declares that he will not take legal counsel or if the chosen legal counsel does not arrive within the time limit determined by the Police, a formal note of the suspect's statement shall be made. The note shall contain the legal caution and the suspect's statement; if he wishes to make a statement about the criminal offence, the note shall contain also the essential contents of the statement and the remarks concerning the contents. The contents of the formal note shall be read to the suspect and he shall receive the copy of the formal note which will be confirmed by the suspect's signature. Subject to preliminary notification, the suspect's statement can be recorded by a device that records sound and images.”*

Article 148.a was also added:

*“(1) Hearing of the suspect can take place only in the presence of the legal counsel. The State Prosecutor can also be present at the hearing but has to be notified of it by the Police in a proper manner.*

*(2) The hearing of the suspect is conducted by the Police by virtue of the provisions of this Act that apply for the hearing of the defendant (Articles 227 to 233). Minutes of the hearing shall be made by virtue of the provisions of Articles 79 to 82 of this Act.*

*These minutes can be used as evidence in a criminal procedure. Subject to preliminary notification, the hearing can be recorded by a device that records sound and images.*

*(3) In the event that the suspect has not been informed on his rights as set out in the fourth paragraph of the previous Article, or if the instruction given and the suspect's statement have not been put on record with respect to the right to legal counsel or if he has been heard without the legal counsel being present or the procedure followed is contrary to the provisions of the eighth paragraph of Article 227 of this Act, the court cannot corroborate its decision with reference to the suspect's testimony.”*

The hearing procedure itself, and the composition of the form, guarantee that the suspect is made familiar with his right to legal counsel before the hearing, irrespective of whether or not he is deprived of his liberty.

---

<sup>5</sup> ZKP-E, Off.Gaz.RS No 56-2770/2003.

20.

**Explanation from the Police:**

We believe that enforcing the right to legal counsel exclusively depends on the detainee's will. Already under points 18 and 19 of the reply to CPT's comments we gave an answer about the manner and the procedure for informing persons of their rights in a detention situation which are no doubt very transparent.

With regard to legal aid free of charge, Article 4(4) of the Criminal Procedure Act provides as follows: if, due to his material situation, the suspect cannot hire legal counsel himself, one shall be appointed to him by the authority responsible for internal affairs in the interest of justice, at his own request and at the expense of the state. This provision contains all the elements for enforcing the detained person's right to legal aid free of charge. The obligation of law enforcement authorities or the Police is invoked when a detained person makes such a request. In this case, the Police have the duty to verify all the relevant circumstances and resolve the matter in line with the principle of justice. In this way, all the requirements for effective implementation and enforcement of this provision in practice are met. The state has established an adequately funded system for the provision of legal aid that is also practically implemented and in which the actual use of the system depends on the direct will of the detainee.

21.

**Explanation from the Police:**

As regards the allegations of certain detainees that they were not familiar with the right to choose their own physician, we would like to explain that this right is also described in the Brochure on the Rights of Persons deprived of their Liberty.

**Explanation of the Ministry of Health**

The Ministry of Health will prepare instructions for physicians as regards entering all data into the medical files of detainees, prisoners and wards in social welfare institutions, especially in case of an injury. The Ministry will also prepare instructions regarding the strict observance of personal data protection rules, particularly medical data and the management and handling of medical documentation.

These instructions will take into consideration all the CPT Committee recommendations with a view to gradually eliminating the established shortcomings. The proposed new legislation on patient's rights and the rights of persons with mental disorders will, in addition to the established rights protection and monitoring institutes, also introduce a special representative to protect patient's rights and an advocate of persons with mental disorder who will be authorised to access individual detainees and speak with them confidentially. Besides regular monitoring, independent supervision of the protection of rights will also be stepped up.

22.

**Explanation from the Police:**

Under the previous points, we already explained in detail the methods and procedures for informing the detainees of their rights as well as enforcing those rights. They are no doubt in line with the CPT recommendations.

As for the second recommendation, it should be said that the detainee's right to access a physician at his own choice is described already in the 2004 Brochure on the Rights of Detainees – all detainees are given an opportunity to become familiar with its contents.

23.

**Explanation from the Police:**

As explained under previous points, the detainees confirm by means of their signature that they have been made familiar with their rights. This also applies to detained minors who may also choose not to sign.

Under Article 4 of the ZKP, it is the duty of the Police to notify a detainee's relatives of his deprivation of liberty at his request. Article 50 of the Rules on Police Powers also defines the duty of the police to notify parents or legal representative if the detainee is a minor. The only exceptions are cases where such a notification would be contrary to the minor's rights or interests, in which case only a social welfare authority is notified. Parents, legal representatives and - in certain cases - the social welfare authority have the same rights as the detained minor; they can be present at hearings and they can exercise the right to legal counsel on behalf of the minor. Under the conditions set out under point 20, they can also benefit from the right to legal aid free of charge.

Minors should certainly be treated with due regard and their mental maturity, vulnerability and personal characteristics taken into consideration so that the penal procedure does not harm their development (Article 453 of the ZKP). We will prepare special simplified and more understandable information on the rights of detained minors and prepare an adequate solution.

24.

**Explanation from the Police:**

Based on the provision in the new Article 148.a of the ZKP, the suspect's hearing can be recorded, after preliminary notification, by a sound or image recording device. Due to this provision, the facilities and premises for hearings have been fitted out with the appropriate technical equipment. The law does not prescribe the recording of hearings as obligatory but gives the Police the possibility of recording the hearing after giving prior notice. Based on professional criteria, we have prepared guidelines as to the cases where sound or image recording could be advisable. Police officers who conduct hearings will be re-issued the guidelines stating that hearings should be recorded in order to guarantee the correctness and legality of the procedure.

As regards the performance of hearings and the training of police officers in the use of the technical equipment, we already gave a partial answer under point 12 of the CPT comments.

25.

**Explanation from the Police:**

By the end of 2007, the Police will have supplemented the existing computer records taking into account the recommendations of the CPT and the Human Rights Ombudsperson. This is a systemic solution of the problem, which is connected also with the corresponding legislation (the Minor Offences Act and the Police Act were adopted in 2006, as well as the new Rules on Police Powers). The computer records of detainees are modified in such a manner that it is possible to see exactly for each person when he was notified of his rights or put in detention, served meals and permitted to exercise in the open air, etc.

As regards the allegation about (non-)management of records of detainees at the Ljubljana Airport Brnik, it is not possible to establish exactly which category of persons was involved so it is also not possible to give a precise answer. We established that during the visit to the Brnik Airport Police Station, the Committee was allowed to examine the records of detainees who were refused entry into Slovenia and who received a deportation order (Brnik Airport Police Station /APS/ Note No 000-2710/2006 (3C63111), dated 6 February 2006) so that it is possible there was some misunderstanding in the communication between the members of the CPT delegation and the police officers. Based on the list of detainees, we also established that between 1 January 2006 and 5 February 2006, when the Committee visited the airport, there were 16 persons entered in the records of detainees whereas only one person was entered in the Detention Book.

#### **4. Detention conditions**

##### **a) Police stations and detention facilities**

26.

27.

28.

##### **Explanation from the Police:**

Based on the 2002 CPT recommendations, the Slovene Police adopted new standards for the arrangement of detention facilities or premises, which provide that the empty floor area (clear of equipment and toilets) should measure at least 6m<sup>2</sup> if it has been designed to detain only one person. A minimum of 1m<sup>2</sup> should besides be provided for every additional detainee. During the visit of the CPT delegation, we already produced a list of detention facilities and their accommodation capacities. At the Ljubljana PS Centre there are three detention facilities for a total of five persons. Accommodation standards regarding the number of persons in these facilities are strictly respected. This has been arranged by providing a sufficient number of detention facilities all over the country. The current accommodation capacities of detention facilities exceed by as much as 10 times the average daily number of detainees. Due consideration of standards is checked through regular supervision in police units. Besides this, the list of detention facilities and accommodation capacities is published on the Police websites so that, in the event of possible congestion, police officers can also accommodate detainees in other police units.

29.

##### **Explanation from the Police:**

In 2002 the Ministry of the Interior prepared new standards for constructing, adapting and equipping detention facilities in line with the CPT recommendations as well as the recommendations of the Human Rights Ombudsperson. Detention facilities that do not meet the applicable health and safety requirements are no longer used by the Police. In individual detention facilities, the only deviations from these standards concern the equipment and provision of daylight. All these flaws are being eliminated through reconstruction and technical adjustments.

In the past three years, 33 detention facilities were reconstructed in police stations.

**Table:** *Number of reconstructed detention facilities*

<b>Police Station</b>	<b>Number of facilities</b>
PS Sežana	2
PS Nova Gorica	5
PS Postojna	3
PS Maribor	3
PS Celje	2
PS Velenje	2
PS Novo mesto	2
PS Dravograd	4
PS Tržič	2
PS Ljubljana Vič	2
PS Idrija	2
PS Ljubljana Bežigrad	2
PS Krško	2
<b>Total</b>	<b>33</b>

Besides the above reconstruction work, there were also newly constructed detention facilities in police stations, namely: PS Ptuj 6 facilities, PS Ljubljana Moste 20 facilities and PS Murska Sobota 6 facilities. By the end of 2007, reconstruction of detention facilities in three police stations is envisaged. Besides this, due to the introduction of the Schengen border, 59 detention facilities will be newly built or reconstructed in police units by the end of 2007. Since the CPT visit, the Police have increased the capacity of detention facilities by 50%.

Certain established shortcomings (not enough daylight in PS Celje, PS Ljubljana Center, PS Ljubljana Šiška, PS Ljubljana Vič, PS Piran and PS Rogaška Slatina) were eliminated when the new building of PS Piran was constructed (5 facilities for detaining persons for more than 12 hours and 5 facilities for detaining persons for up to 12 hours) or will be eliminated by the end of 2007 with the construction of the new building of the Rogaška Slatina Police Station (3 facilities for detaining persons for more than 12 hours and 2 facilities for detaining persons for up to 12 hours). The same standards will apply as in the Ljubljana Moste Police Station. The problem of natural light in other detention facilities will be resolved according to technical possibilities during reconstruction. The problem of insufficient artificial light in PS Ljubljana Šiška has, however, been solved.

**b) Detention facilities for foreigners**

**30.**

**31.**

**Explanation from the Police:**

The Aliens' Centre has been entirely renovated as well as the so called Division for Stricter Police Surveillance. On the occasion of the CPT visit, regular maintenance works were under way, including the repair of walls damaged by the foreigners during their stay in the Centre as well as the painting of the accommodation facilities in all the divisions. The Division for Stricter Police Surveillance was reconstructed immediately after the departure of the CPT delegation.

32.

**Explanation from the Police:**

The Police will take into consideration the space and layout standards recommended by the CPT.

33.

**Explanation:**

The above recommendation will be taken fully into consideration.

34.

35.

**Explanation from the Police:**

All foreigners accommodated in the Centre receive clean clothes, namely underwear, shirts, socks, track suits and footwear, so that they give an external impression of uniformity. This is merely a measure designed for providing adequate hygienic conditions. The Centre sees to it that dirty clothes of foreigners are washed after reception and are ready to be used in case the foreigner is deported or on departure from the Aliens' Centre. In April 2007, on adopting the Additional Measures regarding the House Rules in the Facilities and Premises of the Ministry of the Interior for the Building of the Aliens' Centre (hereinafter Rules for Foreigners), Article 19 contained a provision that all foreigners accommodated in the division for vulnerable groups and in the division for minors are allowed to keep their own clothes. Others can be permitted to wear their own clothes during their stay at the Centre in the case of special needs and with the Centre's permission.

36.

**Explanation from the Police:**

Article 23 of the Rules for Foreigners provides that recreation can take place in the morning from 10.00 to 12.00 and in the afternoon from 14.00 to 18.00.

Different equipment has been purchased to provide recreation in the Postojna Aliens' Centre. It is already in use. (Two handball goals and two basketball goals and, for the children, a double swing, a climbing frame and a slide were bought).

37.

**Explanation from the Police:**

The programme of activities for foreigners is prepared by the Centre's social service considering their category, period of stay in the Centre, equipment resources and the availability of staff. The programme of activities also includes non-governmental organisations that cooperate with the Centre on a regular basis, primarily through voluntary work aimed at activities such as organising various workshops, events, excursions for children, etc. These activities most often take place in the afternoon or evening. The Centre's social service will pay more attention to programmes of activities taking place also in the morning.

We pay particular attention to children, especially those staying in the Centre for a long time. For them we organise excursions, visits to various performances, cinema, etc. Children also participate in the elementary education programme. We cooperate very well with the Postojna local community. Three children from the Centre attended Postojna Elementary School from December 2004 to the end of academic year 2005. One child is attending the elementary school this year.

38.

**Explanation from the Police:**

On 15 January 2004 the Aliens' Centre organised an inter-ministerial consultation on unaccompanied minors. The participants were the representatives of the Ministry of Labour, Family and Social Affairs, non-governmental organisations (UNHCR, IOM, Slovenska filantropija, the associations KLJUČ and MOZAIK), Jesuit Service for Refugees, Postojna Centre for Social Work and the competent officials of the Aliens' Centre. The purpose of this meeting was to find solutions for accommodating unaccompanied minors outside Police institutions (Aliens' Centre). One of the conclusions adopted at the consultation with the Ministry of Labour, Family and Social Affairs is for an initiative to study the possibilities for the adequate housing of children and unaccompanied minors. In 2005, the Police sent the Ministry of Labour, Family and Social Affairs an opinion on "the resolution regarding minors in the Republic of Slovenia". In October 2006, the above Ministry prepared a Programme for Children and Young People 2006-1016. The Police also cooperated in preparing this document. One of the Programme's objectives is also to guarantee children - unaccompanied foreigners - all their rights and to prepare the most useful solutions for them. To reach this objective, it is necessary also to draw up an individual programme for each child and find a way for them to be integrated as smoothly and easily as possible into their new environment. To that end, the establishment of special foster care is being considered and also a special crisis centre for young people which, besides adequate facilities, requires also the 24-hour presence of specially-trained staff. A huge obstacle in realising this plan is also the lack of knowledge of the languages spoken by these children.

39.

**Explanation from the Police:**

We pay a lot of attention to the training of staff at the Aliens' Centre, particularly police officers. The topic of the training is deportation and it also includes the cultural particularities of countries of origin, the psychological and social preparation of foreigners for deportation, communication and conflict resolution.

From necessity and due to the fact that dealing with foreigners is a very sensitive area, in 2006 we organised an additional three-day seminar for all the employees of the Centre. The seminar was entitled "Communication and Conflict Resolution". The police officers, moreover, that year also took part in an advanced training programme on enforcing police powers in practical procedures as well as a self-defence programme dealing with the following topics:

- Rules of communication and relations with parties in police procedures (Police Rules, Code of Police Ethics, Civil Servants Code and SPP Catalogue, points 4, 4.1 and 4.2)
- Protection of human rights and freedoms in police procedures, upon deprivation of liberty and use of restraints (European Convention on the Protection of Human Rights, European Convention on the Prevention of Torture and Inhuman or Degrading Treatment and Punishment, the Slovene Constitution, the Police Act, the Rules on Police Powers, the Penal Code and other regulations)
- Trafficking in human beings.

40.

41.

**Explanation from the Police:**

Foreigners have no restrictions whatsoever with respect to sending letters at the Centre's expenses. In 2006, 91 letters were sent by foreigners. Every letter at the Centre is recorded on the list of outgoing mail on a prescribed form, which is also confirmed by the Post Office.

Foreigners who have no means of their own have the opportunity to make telephone calls (not just one first one) at the expense of the Centre. All phone calls are entered in the Centre's special records. In 2007, the Centre installed a telephone booth in the division for vulnerable groups.

42.

**Explanation from the Police:**

By virtue of the Standing House Rules, all foreigners must hand over their valuables, money and cell phones when they arrive in the Centre. This measure was included in the House Rules for safety reasons and to prevent theft among the foreigners, which used to be quite a problem in the past. These modifications have been already taken into consideration in the Rules for Foreigners.

**B. Institutes under the jurisdiction of the Ministry of Justice**

43.

44.

**2. Ill-treatment**

45.

**Explanation of the Directorate for the Enforcement of Penal Sanctions -hereinafter PA (Prison Administration):**

Koper Institution – use of restraints

The General Office of the Republic of Slovenia of the Directorate for the Enforcement of Penal Sanctions (hereinafter General Office of DRSEPS) performed a thorough inspection of the use of restraints in the prison of Koper (state penitentiary) immediately after the oral CPT notification and established the following as regards the described event:

As the cause of injury, it was established that the injury was the result of circumstances in the reasonable intervention procedure conducted by the staff due to the detainee's destructive and disruptive behaviour.

The competent authority examined the allegations of the detainee who supposedly filed the denunciation of a criminal act against the prison guards but it was established that they did not receive it. In an interview, the detainee explicitly stated that he "did not file the denunciation" but announced he would file a compensation suit after the end of medical treatment.

The General Office of DRSEPS believes that the decision to intervene was justified, that the principle of proportionality and availability was not violated in the procedure, but that the staff could have intervened in a safer manner using protection means (shield) or a defensive gas atomiser based on hot chilli pepper (pepper spray) thereby substantially reducing the likelihood of injury.

The above General Office also establishes, on the basis of the Rules on implementation of prison guards' duties and responsibilities, that in this case there was no need to use hand cuffs in general and, in particular, to tie the detainee's hands and legs behind his back.

In this respect, the General Office of DRSEPS adopted the following measures:

1. The findings of the inspection were presented to the prison's management with a warning that fettering without justification is unacceptable. The Office also prohibited fettering convicts in special facilities by fastening their ankle cuffs to their handcuffs.

2. The prison management was instructed to pass these findings on to employees and that the case should be used as a topic of training in order to draw attention to flaws, mistakes or shortcomings and to prevent this kind of fettering in the future.

3. The same findings were also presented to the heads of prisons and the chiefs of security services.

4. The internal instructions on the implementation of prison guards' duties and responsibilities have already been modified in the chapter covering assignment to a special facility. It is expressly forbidden to tie a person's hands behind their back and to connect the handcuffs with the ankle cuffs (the so called "banana position") in special facilities. The training programme on the use of physical force is also being reworked with a view to prohibiting the use of force in general.

#### Ljubljana Institution – death of a detainee

##### Description of events:

The case involves a detainee B. who was placed in detention in September 2004. In the initial detention period, the detainee observed the House Rules. He regularly attended interviews with the institution's educator. The purpose of these interviews was to offer support and relaxation. In January 2005, more tension and restlessness were noted during the interviews. He frequently expressed a wish to be treated in a psychiatric clinic. He declared that he "was sick" and that the prison was not a suitable institution for him because, at the end of his sentence, his condition would be even worse. Other inmates staying with him felt they were at risk and tried to move him out of the room without his knowledge. He was also aggressive during a medical examination. He threatened the doctor that he would kill her either in the institution or somewhere outside.

On 31 January 2005, the personnel had to remove him by force from the accommodation premises because he was striking the walls with his head, endangering himself and disturbing his inmates. After being placed in another facility, he continued this self-inflicted aggression (bumping into walls and hitting them). He did not respond to another warning from prison guards but instead unexpectedly hit their leader in the face and attacked yet another prison guard. In order to prevent such behaviour, the guards cuffed his hands and legs. Later he calmed down and was taken to the psychiatrist for examination.

The following day, the detainee was admitted to the psychiatric clinic where he stayed until 10 February 2005. Soon afterwards, the detainee began smashing things so the educator and the psychiatrist conducted an intervention interview with him. He stated that he wanted to go back to hospital. The educator notified the doctor of this, so the doctor issued a formal order and sent the detainee to the psychiatric clinic. After an examination he was returned to the prison.

After this event, the educator conducted regular interviews with the detainee (more than 10). Throughout these interviews the detainee's mood was changeable. At times he wanted to be accommodated in a common room and at other times in a smaller room. He regretted what he had done and at the same time expressed fear of new procedures before the court. As regards his attacks on prison guards, he expressed regrets and promised never to do so again. The detainee also maintained frequent contact with the medical service and was dealt with by the psychiatrist in the institution on several occasions.

During his talks to the educator, the detainee neither directly nor indirectly expressed a heightened level of suicidal intentions but, owing to his changing mood, he was nevertheless put on the list of persons at risk of suicide and therefore placed under stricter surveillance. He also sent a letter to the General Director of DEPS in which he indicated suicidal intentions. The staff wanted to place him in a room with another inmate but the other inmates explicitly objected because they were afraid of him. He was therefore placed under strict surveillance also at night. On 5 March 2005 the guards were serving lunch and as they opened the door, they saw that the detainee was lying on his back, unconscious. They immediately started to resuscitate and took him to the hospital where he died on 11 March 2005.

#### Findings:

The allegations about being kicked by the employees are false. Only lawful restraints were used against the detainee, above all as a consequence of his attacks on prison guards, who themselves always resorted to the most lenient and soft restraints. After each use of restraints he was examined by the doctor, who established that he had a scratch on the right earlobe and the cheek, bruises on the nose and in the middle of the forehead. It should be said that this case involved a person with exceptional physical strength, who could not be controlled even by prison guards highly qualified and trained for that purpose.

In assessing the incident and the measures taken by prison guards, we came to the conclusion that we proceeded in a manner that was perfectly correct and in line with the rules. We could, however, have used the pepper spray to disable the detainee temporarily in order to avoid minor injuries since it was extremely difficult to control him by physical force alone.

46.

#### **Explanation by the PA**

##### **Ljubljana Prison – inter-prisoner violence**

After obtaining a report on physical and psychological violence against remand prisoner C., the Head Office of the PA of the Republic of Slovenia, through authorised officials, verified all circumstances by carrying out interviews – at Ljubljana Prison on 6 February 2006 – with the concerned prisoner, three remand prisoners who were said to have been engaged in violence, and with some of the prison staff, and by collecting additional information and examining all available documentation.

#### **Findings of the investigation**

In an interview with an official from the Head Office of the PA, remand prisoner C. described how his cellmates had treated him; the description was completely identical to the one he gave to certain members of the prison staff at Ljubljana Prison. He said he had suffered inhumane treatment shortly after being placed in his living unit. His cellmates forced him to clean up the living unit, toilet and table; he also had to make tea and coffee for his cellmates on the grounds that according to “unwritten rules” the prisoner who last arrives in the living unit must clean up after the other cellmates. For some time, he did the cleaning without opposing it. But when he once said to the other cellmates that they should also do the cleaning (which sparked a verbal dispute between him and his cellmate, D.), they began ill-treating him as described above. Therefore, he decided to

inform a social worker of this ill-treatment and wrote an application letter for an interview, which he had to tear up after receiving threats from the other cellmates. He then wrote another application, hiding it behind his trouser belt, which his cellmates noticed and forced him to eat the application. It is true that C. did not tell the prison staff anything about what was going on in the living unit because he was afraid of his cellmates. However, he told his brother about it when speaking to him on the telephone. Given that during his stay in the prison, according to available information, he held five telephone conversations with persons outside the prison premises, and that he sent twenty and received fourteen letters, he indisputably had the possibility of reporting the occurrences in the prison to the relevant person outside the prison premises who would then forward this notice to the competent authority. In addition, it has been determined that his cellmates had forced him to conceal traces of bodily injuries (washing) so that the prison staff wouldn't notice them. Nevertheless, the Head Office assesses that the prison guards, and head of the department, who entered this room every day, could have noticed – should they have carefully supervised the remand prisoners – that there was something unusual going on among them.

In the process of verifying the circumstances of inflicting violence on prisoner C., prisoners E. and F. confessed during the interview that they had been involved in the violence against their cellmate, whereas prisoner G. denied it. The Head Office has further established that, in this particular case, Ljubljana Prison did not consistently implement the provision of Article 6 of the Rules on the implementation of detention, according to which professional prison staff is obliged to help prisoners in solving family and other issues arising from detention being ordered and implemented. The Head Office assesses that a social worker should also have discussed the conditions of detention with the prisoner, especially because C. stated that he had not been informed of his rights and obligations during the implementation of detention.

## Measures

1. Ljubljana Prison placed the ill-treated prisoner C. in another living unit, making sure that he does not come into contact with the other remand prisoners who had been involved in the violence against him.
2. On the grounds of reasonable suspicion that the remand prisoners involved in the violence had committed a crime, Ljubljana Prison informed the competent police station. The Ljubljana-Center police station, which is dealing with the case within its competencies, has already interrogated the alleged perpetrators, E. and G., whereas F., who is currently at liberty, will be interrogated in March 2006. Prisoner C. has already submitted a proposal to initiate criminal prosecution against the alleged perpetrators. On the basis of available information, the Ljubljana-Center police station has filed a criminal complaint against the perpetrators with the competent state prosecutor's office.
3. On the grounds of reasonable suspicion that a serious disciplinary infraction of physical assault on a remand prisoner has been committed under Article 211 of the Criminal Procedure Act, Ljubljana Prison has submitted a proposal to initiate disciplinary proceedings against the perpetrators. The president of the panel at the District Court of Ljubljana has imposed a disciplinary measure upon the remand prisoners E. and G., prohibiting them from receiving visits and having correspondence for a period of two months.

4. The Ljubljana Prison management has reminded prison guards, especially those in detention premises, of their duty to pay special attention – when performing their daily tasks – to possible signs of discriminatory, humiliating treatment among remand prisoners in living units (by examining cleaning lists and the performance of other common duties, signs of possible bodily injury, unusual behaviour). In terms of general prevention, the same decision was adopted – applying equally to all prison guards – at a regular meeting of the directors of all prisons and the re-education centre.

47.

#### **Explanation by the PA**

The CPT recommendations relating to the findings from the investigation into Ljubljana and Koper Prisons, which are described under item 47, will be consistently implemented by the prisons. Additional measures are described under items 45 and 46.

With regard to the delegation's recommendation relating to the necessary improvement of prison staff training, we add that the comprehensive reevaluation of programmes and study plans for initial training, as well as the elaboration of new programmes for prison guards, are under way, thus forming a basis for training in order to ensure effective and safe control over the most difficult prisoners.

### **3. Conditions in the establishments visited by the delegation**

#### **a) Follow-up visit to Ljubljana Prison (remand section)**

48.

49.

#### **Explanation by the PA**

##### Implementation of the CTP's long-standing recommendations to reduce cell occupancy rates at Ljubljana Prison

We agree with the CPT's findings that the remand section at Ljubljana Prison has exceeded its full official capacity, but at the same time, we emphasise that this problem cannot be solved within the available accommodation capacity at the present location of the prison. For this reason, activities for the construction of a new prison at another appropriate location are already under way, taking account of the necessary accommodation capacity of living and other units, and of the specified standards.

##### Quality and quantity of food actually served to remand prisoners

We have verified the statements of remand prisoners regarding the quality and quantity of the food served to them. We have established that the food is prepared in accordance with the specified standards of quality and quantity. It sometimes happens that the menu, which is published in advance, changes if the supplier fails to deliver the ordered goods. However, such examples are rare. If this does happen, remanded prisoners are informed of the change in the menu in good time, which does not influence the specified quality and quantity of the food.

50.

#### **Explanation by the PA**

##### Development of programmes of activities for remand prisoners at Ljubljana Prison Special attention paid to juvenile prisoners – the regime of activities tailored to their needs

We are in agreement about the findings that the prison is overcrowded, which has a negative effect on all aspects of life in the prison, and that it would be reasonable to make more efforts to improve the detention conditions by ensuring that remand prisoners engage more in leisure activities, education, recreation, work, etc.

Despite the space shortage, Ljubljana Prison tries to enable remand prisoners, within the space and staff capacity available, to serve detention as actively and normally as possible. The professional prison staff encourages remand prisoners to spend their spare time in living units actively. The staff provides them with the necessary material for drawing, painting and writing. They may also borrow books from the prison library. According to their religion, remand prisoners are provided with appropriate pastoral care; they receive regular visits from a priest working in the prison system.

The construction of a new Ljubljana Prison will enable prisoners to spend more time outside their cells by being engaged in additional activities.

Prison staff (psychologist, pedagogue, head and guards) pay more attention to juvenile prisoners, enabling them to spend one hour more outdoors and to be served more meals than other remand prisoners.

b. Ig Prison for women

51.

i. Material conditions

52.

53.

54.

55.

**Explanation by the PA**

Refurbishment of remand and reception sections

Plans to divide large-occupancy dormitories into smaller living units

As for the recommendation under item 55, we would like to stress that we will address the issue of unsuitable living units at Ig Prison after a new prison in the Ljubljana area has been built. It is envisaged that suitable living and other units for the purpose of implementation of the sentence of imprisonment and detention for women will also be built within the new prison.

56.

**Explanation by the PA**

We note with pleasure the CPT's positive opinion.

57.

**Explanation by the PA**

**Alleged verbal abuse by a private company's managers of female prisoners working outside the prison**

As regards item 57, according to which the CPT would welcome the comments on working conditions of female sentenced prisoners working outside the prison, we inform you that the Head Office of the PA of the Republic of Slovenia has established, in the appeal proceedings initiated on the basis of an appeal by one of the concerned female sentenced prisoners alleging that her superior in the company X. had exerted psychological pressures on her during work, that there is no conclusive evidence to support this. The authorised staff of the public commercial institution Golovec and Ig Prison, who regularly supervise working conditions at the workplace outside the prison premises where female sentenced prisoners work did not detect any irregularities at the concerned company. In monthly reports, the female sentenced prisoner was assessed by the director of production of the company as a good worker. However, it is true that she was less successful at work after being informed that her employer would not be able to assure her a half-time post.

58.

59.

**Explanation by the PA**

The Head Office of the PA of the Republic of Slovenia explains that Ig Prison encourages female sentenced prisoners to engage in education and vocational training. Following the individualisation principle, the prison analyses the level of education obtained by female sentenced prisoners and reconciles it with their desire to continue their education and with the offer of a particular educational institution. The aim is to improve the professional qualifications of female sentenced prisoners, thus making it easier for them to find employment after being released. In 2005, out of a total of 37, five female sentenced prisoners were educated in external educational institutions.

As regards the recommendation about ensuring that female prisoners engage in various activities and spend more time outside their cells, we would like to explain that the spatial arrangement of the remand section at Ig Prison enables female prisoners to spend almost all day outside their cells. Various leisure activities are also being organised for them. They make decorations and various cards, they paint on paper, make handiwork, etc. They can use the gym and read the books they borrow from the prison or mobile library. If a prisoner wishes to engage in education, the prison enables her to do so.

c) **Koper Prison**

60.

i. Material conditions

61.

**Explanation by the PA**

All rooms have been provided with suitable curtains and shades in order to ensure greater privacy.

62.

**Explanation by the PA**

We note with pleasure the praise of the CPT.

63.

64.

**Explanation by the PA**

The Koper Prison will see to it that, in future, administrative decisions are more transparent.

When elaborating an individual treatment programme together with each sentenced prisoner, Koper Prison specifically also looks into the possibilities for this prisoner's further education. Sentenced prisoners are informed of the possibilities of both formal and informal education. Both types of education can be provided either inside or outside the establishment.

The Prison enables sentenced prisoners not meeting the conditions for leave to complete primary school – in the framework of formal education, to sit for exams and enjoy free-of-charge study help in the establishment.

Sentenced prisoners are, furthermore, guaranteed participation in various programmes at the level of vocational and secondary schooling, either by correspondence or independent learning, and sitting for exams taken on the prison premises, subject to arrangements with the relevant schools.

The prison occasionally organises – subject to funds being available to it – foreign language courses (Italian) and "The Bridge to Education" (i.e. education in order to bridge insufficient knowledge required for advancement to vocational and secondary schools).

Sentenced prisoners meeting conditions for leave are able to attend all schools in the region outside the prison premises.

Sentenced prisoners are informed of all forms of education during their individual interviews, occasional visits by relevant persons from outside who present possible education programmes in some form of group work, and by means of brochures containing information on schools and available in all prison sections. It has been noted, however, that, despite ample information and encouragement, most prisoners are not interested in formal education while serving their sentences; this is to be attributed partly to the prisoner structure (addicts), partly to the fact that this prison houses inmates serving shorter sentences, and partly to the costs involved. There is greater interest in informal education forms, in particular if they are free of charge and held on the prison premises.

Koper Prison will most certainly take the CPT's recommendation into consideration and continue its endeavours to expand the range of possibilities for education and vocational training.

65.

**Explanation by the PA**

We note with pleasure the positive opinion regarding the regime of activities for remand prisoners. We shall continue our endeavours.

**d) Radeče Re-education Centre for young**

66.

67.

68.

69.

70.

**Explanation by the PA**

We would like to explain that the Re-education Centre has installed a direct call system linking the female, drug-free and open units with the on-duty guard's room.

In September 2006, windows and furnishings were replaced in the common living unit. Regarding access to artificial lighting in the cells at night, a floodlight was installed on the outside of the building to enable movement in the room at night, while a sensor light was installed in the sanitary facilities.

The installation was carried out with the purpose specified in Article 195 of the Enforcement of Penal Sanctions Act. The programme content and objectives are defined in detail. The underlying guiding principle is to prepare juveniles for their constructive re-integration into their respective Education Groups. Detailed explanation is provided under items 72 and 82.

71.

**Explanation by the PA**

We would like to explain that, in the Re-education Centre, all juveniles meeting the formal conditions (and displaying suitable capabilities) are being encouraged to participate in vocational training, while the remaining ones are included in primary or functional education (literacy courses) combined with work training in the establishment's workshops (wood work, manual metal work, metal machining, electrical work, painting, bricklaying, house painting, landscaping, cooking, baking). These activities are compulsory for 6 hours and 45 minutes per day.

The second part of the day is dedicated to educational work proper, conducted by pedagogues in group and individual work, including free-time activities that are part of the educational content. Participation in these activities is compulsory for 4 hours in the morning shift and 3 hours in the afternoon shift.

The remainder of the day is intended for rest, food, information, telephone calls, reading, learning and satisfying other personal needs.

72.

**Explanation by the PA**

In the first week spent in the Special Education Group, the treatment of juveniles is focused chiefly on intensive expert treatment, self-reflection included. After the first week, the juveniles are allowed to gradually participate in in-house activities together with other juveniles, continue their work training and education, while in the last two weeks they can also participate in the activities of their respective Educational Group pending their re-integration into these groups.

After returning to the Educational Group, the juvenile – as well as other members of the group – has the possibility of participating in activities taking place outside the establishment, since they are a motivating and pedagogical factor at a higher level of regularity and progress in the implementation of the educational programme.

Placement in the Special Education Group is decided by the director of the Centre, who issues a decision following a proposal made by the head of the Education Unit, again following the previous proposal of the Educational Group pedagogue, together with the opinion provided by the Expert Group. On the basis of the assessment of programme implementation in the Special Educational Group, given by the pedagogue together with the opinion of the Expert Group, the juvenile is re-integrated into his or her original Educational Group by a decision issued by the director of the Centre.

The level of responsibility is evident from the records, minutes of the Expert Group, and decisions for each individual juvenile.

The implementation of each individual programme in the Special Educational Group is an education category and as such is verified regularly on a weekly basis by the Expert Group and on a daily basis by experts. This is also a regular practice in other educational groups.

73.

**Explanation by the PA**

Irrespective of the description under Item 72 hereof, the Head Office together with the Radeče Re-education Centre for juveniles will re-examine the existing programme of activities offered.

4. Healthcare services

74.

75.

**Explanation by the PA**

Hours of attendance of doctors in prisons:

Ljubljana Prison: at least 30 hours a week

Koper Prison: a half-time post

Presence of a person qualified to provide first aid at weekends, in particular at Ljubljana Prison and Koper Prison

Regarding the presence of a general practitioner at Ljubljana Prison for at least 30 hours per week, we would like to explain that the CTP visit coincided with the replacement of the general practitioner who was re-establishing the medical services. The doctor was replaced because of the expiry of the lease contract of the previous team of doctors holding concessions who indeed maintained at least a 20 to 25 hour presence in Ljubljana Prison.

We would like to explain that it is difficult to provide doctors and additional medical staff since they are hired by prisons on the basis of public invitations to tender. Work in prisons is demanding; therefore, very few doctors and nurses are interested in applying for the post. A further difficulty is the shortage of general practitioners and specialists in some regions of the public healthcare network, the coastal region and Koper Prison being one of them.

For many years there have been efforts and interministerial cooperation to integrate prison clinics into the public healthcare network, which would eliminate problems such as insufficient presence of doctors at Ljubljana Prison, Koper Prison and other establishments, as well as the presence of medical staff at night and weekends.

All legal foundations of the integration are now in place. The assignment of the Ministry of Health and the Health Insurance Institute of the Republic of Slovenia pertaining to the expansion of medical services in the public network and provision of doctors for prison clinics is, however, still under elaboration.

We wish to stress, however, that the current healthcare organisation does not in any way jeopardise the health of prisoners held in Ljubljana Prison or Koper Prison. Both establishments are located in the vicinity of public healthcare establishments that provide immediate medical help to prisoners in cases of emergency.

76.

### **Explanation by the PA**

#### The level of psychiatric and/or psychological care offered in the establishments in Ljubljana, Koper and Radeče

Regarding the CPT recommendation to strengthen psychiatric/psychological care at Ljubljana Prison and Koper Prison, we would like to explain that it is difficult to secure the services of a psychiatrist for prisons. As has already been explained, in the coastal and Karst region where Koper Prison is located, psychiatric care is insufficient because of the shortage of psychiatrists.

The CPT also recommends that the Slovenian authorities strengthen psychological care in all establishments visited. We would like to explain that there are two full-time psychologists on the staff at Ljubljana Prison. There is a full-time psychologist – head of the education service – on the staff at Koper Prison. In addition, there are two full-time pedagogues who have also trained in a post-graduate programme for counselling and psychotherapy; they can therefore counsel in cases of prisoners experiencing mental distress. There is a full-time psychologist on the staff at Radeče Re-education Centre for young persons, who happened to be on annual leave during the CPT's visit. It is evident from the documentation that, in 2005, this psychologist was in charge of in-depth psychological work for all young persons in need of psychological counselling.

#### Possible conflict of interest: therapeutic activities of the psychologist at Ig Prison and his involvement in decision-making processes

The psychologist on the staff at Ig Prison is also in charge of casework, which indeed makes him part of the decision-making process. We are aware of the conflict that this might constitute for the therapeutic relationship between the psychologist and detained persons. Ig Prison will solve this situation by offering employment to a social work grant-holder who will take charge of the casework.

77.

78.

### **Explanation by the PA**

#### Recording of medical data

We are pleased at the finding of the CPT that the recording of medical data has improved.

#### The recording of injuries (be it on admission or later during the course of imprisonment) – the degree of consistency between the description of injuries observed and the doctor's finding of ill-treatment

Regarding the observation made by the CPT that there are discrepancies in the recording of injuries between the doctor's record and the allegations made by imprisoned persons, we would like to explain that the recording of injuries is performed in compliance with the relevant healthcare regulations. Some prisoners try to make their injuries appear as severe as possible, particularly when they intend to lodge claims for compensation

### **Explanation by the Ministry of Health**

The Ministry of Health will prepare instructions for doctors for appropriate recording of all information in the medical records of individual remand prisoners, sentenced prisoners and wards in social welfare institutions, in particular in cases of injury. Moreover, the Ministry of Health will prepare instructions for consistent observance of regulations pertaining to the protection of personal data, in particular medical data, and to keeping and handling medical documentation.

All the recommendations made by the CPT will be taken into consideration in the instructions; consequently, the shortcomings found will gradually be remedied. The proposed new legislation related to the protection of patients' rights and the rights of persons with mental disorders introduces a special representative of the patient rights and the legal representative of persons with mental disorders – in addition to the existing institution of protection of rights and supervision; they will both be authorised to access and conduct private conversations with individuals with limited freedom of movement. In addition to the existing regular supervision, the independent supervision of the protection of rights will thus be stepped up.

79.

### **Explanation by the PA**

With respect to providing information to prisoners on transmissible diseases and tuberculosis, methods of transmission and possible means of protection, the Head Office has promised to continue to make information materials (leaflets) available to prisoners, while awareness-raising and counselling will continue to be provided by prison nurses; moreover, awareness-raising on sexually transmissible diseases and their consequences for health will be provided this year within the framework of a project entitled "Health Education" for two target groups: women and intravenous drug users. Female sentenced prisoners at Ig Prison will thus be provided with the opportunity for direct consultation on hepatitis C and its treatment with a social medicine specialist of the Institute of Public Health of the Republic of Slovenia. In cooperation with the Ljubljana Infection Clinic, the Head Office is currently preparing a systematic treatment protocol of persons infected with hepatitis C in prisons. The improvement of these persons' health at the same time constitutes an upgraded national health level.

### **Explanation by the Ministry of Health for Items 74 to 79**

The Government, aware of the problems in the field of mental health in the Republic of Slovenia, has included among its priorities the adoption of a law on mental health, which will, among other things, also define a network of all providers of mental health programmes and services. For this purpose a special national mental health programme has been foreseen to be adopted, linking providers of various services and disciplines into a uniform network on the one hand, and taking into consideration the varying degrees of access to psychiatric services in different regions on the other. In the national mental health programme, special attention will be paid to the protection of mental health of vulnerable groups. Comparative figures of the World Health Organization for 2005 show that in Slovenia, the number of staff working within mental health services is significantly lower than in neighbouring and other comparable countries. The Ministry of Health has taken an integrated and long-term approach to tackling this issue, which, on the other hand, means that it will take longer to achieve full implementation. In the period until the network of providers of mental health programmes and services is fully in place, special attention will be focused on vulnerable groups, which clearly also involve persons with the limited freedom of movement.

### **Law on mental health**

The Ministry of Health has resubmitted the proposed law to public debate lasting from 30 July 2007 to 15 September 2007, which will be followed by interministerial coordination and discussion at a session of the Government, scheduled for November 2007, whereupon the proposed law will be debated in the National Assembly.

Some of the novelties envisaged in the proposed law on mental health are the following:

- it determines a network of providers of mental health programmes and services and establishes the legal basis for the national mental health programme that will define the mental healthcare strategy and action plan, objectives, organisation, development and tasks of the network of public mental health services, task performers to implement the national programme, and the basis for evaluation of the national programme;
- it defines the rights of persons in the network of providers of mental health programmes and services, in particular in special supervision units, and procedures for their protection;
- it defines the right to counsel in all procedures in the network of mental care providers and in proceedings before courts of law. Persons appearing in proceedings before courts of law will be represented by lawyers;
- it regulates the procedure of admission into a psychiatric hospital and social care homes, comprising:
  - admission by consent,
  - admission on a proposal but without consent, and
  - admission procedures in emergencies;
- it defines special treatment methods and special safeguards, procedures for their implementation, supervision of implementation and special record keeping.

### **Law on patient's rights**

The proposal of the law on patients' rights was adopted by the Government on 7 June 2007. It will be submitted to the National Assembly for debate.

The proposal of the law defines individual rights of patients, unifies and defines appeal proceedings, which until now have been insufficiently regulated, non-transparent and often inefficient; it also strengthens the patient's role in decision-making and supervision processes when asserting patients' rights. The law is based on binding and non-binding international legal instruments (European Charter of Patients' Rights, Rome 2002, etc.) and regulates the area of the common or universal rights (material and procedural rights) of users of health services within the public health service network and within private health activities (the right to adequate, quality and safe healthcare; the right to access preventive healthcare services; the right to equal access to health services and health treatment; the right of free choice of physicians and health service practitioners; the right to respect the patient's time; the right to information and cooperation; the right to the Living Will; the right to pain prevention and relief; the right to a second opinion; the right to insight into medical records; the right to protection of privacy and personal data; the definition of ways to treat violations of patients' rights; and the right to free legal aid in proceedings provided by law). The substantive part defines the relationship between patients and health workers and healthcare providers, while the procedural part defines procedural rules and the manner of enforcing one's rights in cases of their violation.

The procedural part offers the following main solutions:

- if a misunderstanding is not resolved in the proceeding when the violation is dealt with by the responsible person for the first time, the complaint is dealt with by the National Commission for Patients' Rights Protection;
- since the principle of rapidity of procedure is the point of departure, deadlines for individual procedural acts are relatively short and a patient can opt for taking his or her case to court if unsatisfied with the commission's decision, or for reconciliation in the mediation procedure in cases of enforceable claims;
- the objectives pursued by the law are either an agreement concluded with the practitioner to eliminate the violation (first instance), or a settlement reached in the mediation procedure or in an appeal procedure dealt with by a panel of judges (second instance);
- in order to ensure as good and efficient an exercise of patients' rights as possible, a patient's rights representative has been introduced, offering patients advice on types and contents of the rights the law covers, legal and other advice and specific assistance in offering guidance regarding procedures in which the patient's rights representative will participate as the patient's authorised representative.

### **Amendments to the Health Care and Health Insurance Act**

The amendments to the Health Care and Health Insurance Act are currently in the adoption procedure in the National Assembly of the Republic of Slovenia; among other issues they also regulate the payment of health services for remand prisoners in compliance with the act regulating criminal procedure, and envisage the integration of prison health services into a joint system of general public health services which will enable easier access to these services in prisons and thereby the implementation of the CPT recommendations.

## **5. Other issues**

### **a) Prison staff**

**80.**

#### **Explanation by the PA**

##### **Measures to improve staffing levels at Koper Prison and the Radeče Re-education Centre (redeploying existing staff within the two establishments)**

Regarding the CPT's recommendation to improve staffing levels at Koper Prison and the Radeče Re-education Centre, the Slovenian authorities wish to explain that measures have been adopted to restrict employment in the state administration, which makes full implementation of the CPT's recommendations impossible. This is particularly true of the Radeče Re-education Centre where the number of juveniles is more or less constant, i.e. is not on the increase. If the ratio between the numbers of prisoners and staff members in penal institutions in Slovenia is compared to the majority of European countries, it can be seen that the situation in the Radeče Re-education Centre is not worse, but better.

At Koper Prison, the ratio between the numbers of staff members and prisoners has indeed changed, since the number of prisoners doubled after the prison premises were moved to a new building while the number of staff members has remained the same. According to expert assessment, ten additional guards would be needed at Koper Prison for work to be carried out normally; however, this shortage cannot be remedied by redeploying existing staff within the establishment. The staffing shortage can therefore only be resolved by employing new guards, which is what Slovenian authorities will strive to do as a real possibility.

**81.**

#### **Explanation by the PA**

##### **Increase of female staff deployed in Koper Prison and the Radeče Re-education Centre**

With reference to the CPT's invitation to increase the number of female staff members in Koper Prison and the Radeče Re-education Centre, the Slovenian authorities would like to explain that there has been no increase yet, owing to recruitment restrictions. Immediately after the first male guard position is vacated, however, we shall propose a change of the job classification in order to obtain a female guard position, thus at least partly improving the ratio of female staff members coming into contact with the prison population. The same measure is planned for the Radeče Re-education Centre at the end of this year; the position of trainer will be abolished and a female guard will be taken on instead.

It must be stressed, however, that both at Koper Prison and at the Radeče Re-education Centre full observance is ensured of regulations related to the performance of gender-specific tasks and duties that in units for female prisoners may be performed only by female staff members (searches, entry into living units).

**b) Discipline and segregation**

82.

**Explanation by the PA**

The difference between placement in the Special Educational Group ("PVS") and placement in a special room ("disciplinary cell") at the Radeče Re-education Centre

The possibility of being placed in the Special Educational Group is provided by Article 195 of the Enforcement of Penal Sanctions Act; (if a juvenile is unable to adjust to working and living according to the programme of the Educational Group he or she was referred to). Placement in a Special Educational Group is performed on the basis of a decision issued by the establishment's director after the procedure described in Item 72 has been followed. The decision can be appealed.

The disciplinary sanction of being placed in a special room is regulated by Article 191 of the Enforcement of Penal Sanctions Act (for disciplinary violations as defined in Article 87 thereof and are in no way identical to reasons for the placement in *PVS*). The decision to place is taken by the disciplinary commission. The decision can be appealed.

Placement of prisoners in the "specially protected department" – preliminary segregation of prisoners pending the outcome of disciplinary proceedings at Koper Prison.

The Slovenian authorities accept the CPT's note of caution regarding the practice at Koper Prison of preliminary segregation of prisoners in a specially protected department pending the outcome of disciplinary proceedings, and regarding the fact that some cells in that department have windows on the ceiling, as well as regarding the regime which is stricter here than in the closed section, i.e. less frequent access to telephone, visits and the gym.

We would like to explain that in certain cases of reasonable suspicion of a serious disciplinary violation having been committed by a prisoner, legislation in force specifies reasons why a prisoner should be removed from the group of living and other units and placed in a specially protected department pursuant to Article 236 of the Enforcement of Penal Sanctions Act. This segregation may, however, last no more than 12 hours, which means that the initiation of disciplinary proceedings must immediately be proposed against the perpetrator and this proposal forwarded to the disciplinary commission which, in turn, is obliged to hold the disciplinary hearing within eight days after the proposal for disciplinary proceedings has been lodged. If disciplinary confinement has been imposed on the prisoner as punishment, the disciplinary commission is obliged to include the time spent in the specially protected department in the disciplinary punishment of confinement in the operative part of the decision if segregation was ordered in connection with the commission of the disciplinary violation in accordance with the House Rules.

After the disciplinary punishment of confinement has been imposed and executed, legislation in force allows for the prisoner to be placed in a specially protected department pursuant to Article 206 of the Enforcement of Penal Sanctions Act; however, the law prescribes certain conditions to be in existence for this measure to be ordered, namely, that the prisoner is dangerous and poses a risk to other prisoners; this measure may, however, be ordered only for a period of up to six months on the basis of a written decision with a statement of reasons, with the possibility of appeal.

It is true that some living units at Koper Prison have windows on the ceiling; however, they are also used by prisoners who have not been placed in a specially protected department or subjected to a stricter regime. According to regulations in force, the degree of isolation from other sentenced prisoners inside, and outside, the specially protected department must be defined in the prisoner's individual treatment programme. Visits are supervised; when under this regime, prisoners have no possibility of obtaining benefits outside the establishment.

It needs to be stressed that the relevant Slovenian authorities monitor, on a daily basis, confinement measures ordered for prisoners and placement in the specially protected department and under a stricter regime in prisons since, to this end, prisons are obliged to communicate to the authorities copies of relevant decisions.

83.

### **Explanation by the PA**

We accept the CPT's recommendation that in all alleged disciplinary offences formal disciplinary procedures should be systematically adhered to along with a disciplinary hearing as specified in detail in the Enforcement of Penal Sanctions Act and in the Rules on the Implementation of the Sentence of Imprisonment. According to the above regulations, the disciplinary procedure is initiated on a proposal with a statement of grounds, and is to be served on the prisoner and the disciplinary commission not less than 24 hours before the beginning of the disciplinary hearing. The disciplinary hearing must be held within eight days after the proposal for the disciplinary proceedings has been lodged. The Slovenian authorities therefore hold the view that the responsible person of the establishment must immediately submit a proposal for the initiation of the disciplinary proceedings against a prisoner reasonably suspected of having committed one of the more serious disciplinary violations exhaustively listed in the above Act, and serve this proposal on the disciplinary commission, which, in turn, must hold a disciplinary hearing within the prescribed period.

It must be stressed that the disciplinary procedure against a prisoner must be implemented as fast as possible, which also arises, *mutatis mutandis*, from the Act which prescribes a very short period (three days) in which an appeal against the adopted disciplinary sanction may be filed; the same period applies to the decision of appeal to the second instance authority. On the other hand, however, it can be expected that the disciplinary sanction will fulfil its purpose only if imposed on the prisoner in as short a time as possible after the commission of the disciplinary offence.

In the opinion of the Slovenian authorities it is inadmissible to apply measures of segregation instead of the prescribed disciplinary sanctions against prisoners who have committed a serious disciplinary offence, since it is explicitly stipulated in the Act that a disciplinary offence on the part of a prisoner requires a disciplinary sanction.

The same safeguards as sentenced prisoners also to apply to remand prisoners, including the right to be heard in person by the deciding authority

Concerning the CPT's recommendations that remand prisoners be offered the same safeguards as sentenced prisoners during disciplinary procedures, the Slovenian authorities would like to explain that, from the point of view of legal formality, this can only be implemented by amending detention regulations which lay down the course of the disciplinary procedure against a remand prisoners at the competent court. The Criminal Procedure Act does not require from the court of law to hold a hearing with a remand prisoner in the disciplinary procedure. When the first amendments to the Criminal Procedure Act are envisaged, the Slovenian authorities will submit an initiative to the competent authorities to see to the statutory regulation of the right of remand prisoners to a hearing in the disciplinary procedure.

84.

#### **Explanation by the PA**

We accept the CPT's recommendation to re-examine the existing legal arrangements and practice concerning the role of prison doctors in disciplinary matters, whereby the existing regulations – stipulating that the disciplinary commission must obtain the opinion of the doctor if a prisoner claims to be unable, for health reasons, to serve the punishment of disciplinary confinement – will be modified accordingly and brought into line with the European Prison Rules.

#### **Explanation given by the Ministry of Health**

In accordance with the CPT's recommendations, the Ministry of Health will, in cooperation with the Ministry of Justice, draw up instructions regarding the role of prison doctors and healthcare staff in disciplinary matters and in the procedures of urine sample collection and testing for the presence of illicit drugs in order to change the inappropriate practice, which adversely affects relations between medical staff and the patient.

Contact with outside world

#### 85. **Explanation by the PA**

We are pleased with the CPT's confirmation that sentenced prisoners have satisfactory possibilities for maintaining and developing their contacts with the outside world through visits and arrangements for leave from the establishments.

86.

#### **Explanation by the PA**

As for the recommendation under item 86, we should emphasise that Ljubljana Prison does not have any real possibilities for improving material conditions in the visiting facilities, or for ensuring privacy to remand prisoners and visitors during visits. The unsatisfactory conditions in the visiting facilities are further affected by a significant increase in the number of inmates, which, of course, also results in an increase in the number of visitors. As already stated, this issue will only be resolved with a new Ljubljana Prison being built.

However, Koper Prison will be able to implement the CPT's recommendation in due course; settees, toys and books for children will be placed in the visiting facilities for family visits, whereas other visiting facilities will be appropriately decorated.

**87.**

**Explanation by the PA**

As for the CPT's recommendation, we would like to explain that other establishments, with the exception of Dob Prison, do not have suitable facilities to offer the possibility of conjugal visits to female and male sentenced prisoners. Such facilities, however, are envisaged in the project for building a new Ljubljana Prison – where Ig Prison is also scheduled to move. Similarly, such facilities are also envisaged in the construction or refurbishment of other larger establishments. Unfortunately, the planned construction and refurbishment largely depend on financial resources which have not yet been earmarked for this purpose in the national budget. Therefore, it is not possible to say exactly when the planned facilities will be built.

**88.**

**Explanation by the PA**

We accept the CPT's recommendation that the Slovenian authorities seek ways of improving opportunities for telephone contact for remand prisoners. However, the problem of enabling such contacts persists to a certain extent only at Ljubljana Prison. According to our information, female and male remand prisoners at Ig Prison and at Koper Prison do not point this out as a problem.

Ljubljana Prison has enabled remand prisoners to have telephone contacts twice a week, lasting at least ten minutes. Remand prisoners can also have daily telephone contacts with their lawyer or the human rights ombudsman, whereas remand prisoners who are foreign citizens can also phone the diplomatic and consular representatives of their country. Additional phone booths have also been installed at the prison, enabling remand prisoners to have better possibilities of contacts with the outside world. Unfortunately – given the existing space and staff capacity – it is not possible to additionally improve telephone contacts for remand prisoners, in real terms. This problem will be completely solved only when the prison moves to a new location, which is already planned.

**d) Complaints and inspection procedures**

**89.**

**Explanation by the PA**

We are pleased with the CPT's finding that complaint and inspection mechanisms appeared on the whole to be operating satisfactorily.

We also note with pleasure the finding that all complaints raised in the Radeče Re-education Centre have been dealt with properly and expeditiously. At Ig Prison, each complaint has received a prompt answer from the Director.

As for item 89 of the CPT's report, we would like to explain that the time limit within which the director of the prison is obliged to hold an interview with a sentenced prisoner is specified in the House Rules. An interview requested by a sentenced prisoner must be held when necessary, but within one week at the latest. It is possible that this time limit has not always been observed at Ljubljana Prison, but this has occurred only in individual cases. The prison management was informed of this irregularity. However, the regulations governing the enforcement of penal sanctions lay down a thirty-day time limit within which sentenced prisoners must receive a response to their appeal or application in which they assert their rights on the basis of the General Administrative Procedure Act. It is true that Ig Prison does not keep a special register of complaints filed by inmates and of those dealt with, because in our opinion, this is not necessary.

A copy of the response to the inmate's complaint must be inserted in the inmate's personal file, from which the course of the complaint procedure and the assessment of the justification of allegations provided in the complaint may be clearly evident.

**e) Placement of juveniles in adult prisons**

**90.**

**Explanation by the PA**

**Placement of juvenile remand prisoners together with adults – interest and benefits of juveniles**

As for the placement of juvenile remand prisoners together with adult remand prisoners, as provided for in Article 473 of the Criminal Procedure Act, we would like to explain that all establishments have been informed that when presenting the proposal to the court, they must consistently take account of the interest and benefits of the juvenile. Furthermore, it is also strictly prohibited to temporarily accommodate juveniles together with adults without prior decision of a competent court. Directors of establishments are obliged to supervise in person every placement of juveniles in detention.

**f) Transport of prisoners/means of restraint**

**91.**

**Explanation by the PA**

Since the competent Slovenian authorities estimate that the CPT failed to obtain complete insight into the issue of the transport of prisoners at the time of its visit, they offer, in this connection, the following explanation:

After the Committee's visit and recommendation in 2001, and after our response to it, we examined all the possibilities for adapting the vehicles at issue. Unfortunately, professional services have estimated that the adaptation of existing vehicles would cost more than the adaptation of new vehicles since the existing vehicles would thus have to be equipped with additional windows in line with general requirements for vehicles and conditions of type approval. Due to limited financial resources and given that the vehicles at issue were 2 years old at that time, we have decided to progressively renew the entire transport fleet, replacing it with new and appropriate vehicles, and to limit the transport of prisoners in the disputable part of vehicles during that time. Where these vehicles are still in use, only the middle part of the vehicles, with usual seats, seatbelts and the same ventilation as in the front part of the vehicle, should be used. The rear, inappropriate part of these vehicles may be used exceptionally for short distances around town and for the simultaneous transport of two persons who must not be in contact with each other.

In the intervening years, we have also bought a number of new vehicles (a total of 18) and provided them with safety equipment so that prisoners sit in usual seats with seatbelts; these vehicles are fully glazed and air-conditioned.

92.

### **Explanation by the PA**

It must be emphasised that the competent Slovenian authorities closely supervise the use of means of restraint, such as precautionary handcuffing, which is used solely for transport outside prison establishments. The guiding principle in deciding on the necessity of precautionary handcuffing is the principle of individuality.

On the basis of an individual risk assessment, which is supplemented or changed on a regular basis, the prison authorities decide on the use and method of handcuffing. When doing so, they must also take into account other objective circumstances, such as the place or location of escort, and above all, the staff capacity of prison establishments. As is evident from other parts of the report, prison staff capacity is an extremely pressing issue. Prison establishments thus decide on using only one guard to accompany prisoners, which consequently also leads to stricter preventive measures. If prison establishments had more quality staff structure – in which case they could provide 2 or even 3 prison guards to accompany prisoners – handcuffing could be omitted in many cases. Unfortunately, this cannot yet be achieved at this stage, since we are obliged to ensure the presence of prisoners and to prevent them from escaping. Apart from the staff capacity issue, the fact that only one court in the state provides a driveway to a special entrance and that persons under escort have to pass through crowds of court visitors when brought to court also adds to the difficult conditions of escort and increases the necessity of resorting to the use of precautionary handcuffing. Furthermore, the state does not have its own prison hospital, which results in all hospital treatment being carried out at external institutions which do not have adequate capacity for specific treatment of prisoners.

Some factual information on precautionary handcuffing for 2005:

Out of all accompanied sentenced prisoners, 60.1% (women – 61.8%) were not handcuffed; out of all remand prisoners, 1.4% (women – 11.6%) were not handcuffed; and out of all juveniles, 44% were not handcuffed.

We will by all means continue to supervise precautionary handcuffing and will try to abolish it where conditions for safe implementation of escorting will be created in terms of preventing prisoners from escaping.

93.

### **Explanation by the PA**

The Slovenian competent authorities explain that the technique of restraining persons – in Slovene translated as "strangulation" – is one of the most useful techniques for many reasons: minimal risk of injury to the person restrained and to the person performing the restraint technique, complete control by the person performing the technique and suitability of the technique in cases when restrained persons are under the influence of alcohol or psychotropic substances. It is necessary to point out that the Slovene translation of this technique is not the most appropriate in terms of the words used since it implies classic strangulation aimed at killing a person, which is not the case here. This technique is a completely different procedure by which pressure is applied on the lateral side of the person's neck from behind, by the use of a hand or any other useful means. The pressure does not cause any pain, but it decreases the blood flow, thus immediately reducing the person's resistance. The staff performing this technique has complete control over the situation. According to the assessment of experts in self-defence techniques (judo, ju-jitsu and similar), this is one of the safest grips. Many other grips cause pain and allow greater resistance of the person being restrained, thus increasing the risk of injury during the restraint procedure. Such grips are especially inappropriate for persons under the influence of psychotropic substances, who do not feel pain. To avoid further misunderstanding, we will replace inappropriate terms in amended study plans with more appropriate ones.

As for the training of prison staff in control and restraint techniques, we explain that this content is already covered in initial training as well as in the programme of permanent training. In recent years, 80 hours within the initial training course have been intended for learning basic restraint techniques. In our opinion, this is not enough, since according to the basic programme, more hours (130) should be allocated, for which case staff and material conditions would have to be provided. The problems with staff capacity are even more evident within permanent training at prison establishments, since this training cannot be carried out because prison guards have an increased workload and already work a significant number of extra hours. Since 2005 we have also been implementing, within the limits of our capacity to do so, other specialist forms of training in more demanding restraint techniques.

**g) Agitated or violent prisoners**

**94.**

**Explanation by the PA**

From the viewpoint of the Slovenian authorities, the CPT has probably wrongly interpreted or understood the information obtained at the time of its visit. On the basis of the verified information at that time and of the current verified information, only **two placements** in padded cells were made **in the first five weeks of 2006**. In the first case, such placement, lasting 1 hour 25 minutes, was made due to physical violence by one juvenile against another juvenile, whereas in the second case it was made in order to ensure permanent visual control over a juvenile who was excessively drunk at the time of arrival at a prison establishment (the level of alcohol in his blood was 2.26‰). Since the juvenile fell asleep immediately after being placed in a padded cell, he was not woken up. In this case, the placement lasted less than 12 hours. By October 2006, two more placements in padded cells occurred – making a total of four such placements, which is within the average range over the last years. We do not consider such a situation questionable, given that juveniles often get into such a state that we need to protect their health by placing them in a separate unit.

As regards these data, we would like to add that placements in padded cells are being regularly monitored and supervised. In past years, such placements lasted on average from 2 to 6 hours, most often occurring because of the threat that the inmates posed to themselves or to other inmates.

**95.**

**Explanation by the PA**

The Slovenian authorities assure that this will be taken care of.

**h. Drug-related issues**

**96.**

**Explanation by the PA**

Measures to prevent the entry of drugs into prisons are an essential and permanent part of the Strategy for the treatment of drug-addicted inmates.

97.

**Explanation by the PA**

As for urine testing of prisoners, the Head Office explains that this procedure is laid down in the Enforcement of Penal Sanctions Act and in statutory regulations.

The protocol of performing such tests is the same as in the Community – in methadone centres – since it was prepared on the basis of cooperation with the network of centres in the state. Before performing urine testing, healthcare staff at prison establishments were educated on how to carry out the tests. Such education is periodically repeated due to the turnover of staff. Such education was organised twice in the past year, coinciding with the setting up of revised instructions on carrying out the substitution treatment of inmates.

Special attention has been given to the protocol of urine sample collection, an extremely sensitive procedure which may be performed only by healthcare staff or by other specially trained staff (prison guards). Instructions on how to collect a urine sample have been drawn up on the basis of cooperation between the healthcare service and the security service (in the Appendix – Instructions on the collection of urine).

Urine testing for the presence of illicit drugs in the body is only allowed when a prisoner has concluded a therapeutic agreement or has given written consent for the test to be carried out. There is a record kept of the tests carried out.

As for the Committee's impression that urine testing is systematically applied to all sentenced prisoners and that there is no appropriate record of the tests performed, the Head Office will verify the Committee's observation and will demand of prison establishments that the inappropriate practice be brought into line with the instructions.

98.

**Explanation by the PA**

We will re-examine the method of reducing drug abuse at Koper Prison in terms of the compliance of the current practice with the adopted instructions in this field.

At the Radeče Re-education Centre, the treatment of drug addiction is integrated into the educational programme carried out at three levels (original educational group, drug-free unit, open unit). It applies to all juveniles; they all sign a therapeutic agreement. At the second and third levels, the rule of withdrawal applies; those who are unable to cope regress to the first level – the original educational group – but they certainly do not regress to the special educational group, which has another purpose.

99.

### **Explanation by the PA**

#### **Arrangements for urine testing at Koper Prison – reconciling the legitimate aim of combating drug abuse**

The Head Office will examine the practice of carrying out urine tests at Koper Prison and will recommend establishing the practice in line with the agreed instructions. The Head Office will, in cooperation with the Centre for Treatment of Drug Addicts, repeat the training in urine collection and analysis.

### **Explanation by the Ministry of Health**

In accordance with the CPT's recommendations, the Ministry of Health will, in cooperation with the Ministry of Justice, draw up instructions regarding the role of prison doctors and healthcare staff in disciplinary matters (paragraph 84) and in the procedures of urine testing for the presence of illicit drugs (paragraph 99) in order to change the inappropriate practice, which adversely affects relations between medical staff and the patient.

The Government, aware of the problems in the field of mental health in the Republic of Slovenia, has included among its priorities the adoption of a law on mental health, which will, among other things, also define a network of all providers of mental health programmes and services. For this purpose, a special national mental health programme has been foreseen to be adopted, linking providers of various services and disciplines into a uniform network on the one hand, and taking into consideration the varying degrees of access to psychiatric services in different regions on the other. In the national mental health programme, special attention will be paid to the protection of the mental health of vulnerable groups. Comparative figures of the World Health Organization for 2005 show that in Slovenia, the number of all staff working in mental health services is significantly lower than in the neighbouring and other comparable countries. The Ministry of Health has taken an integrated and long-term approach to tackling this issue, which means that it will take longer to achieve full implementation. In the period until the network of providers of mental health programmes and services is fully in place, special attention will be focused on vulnerable groups, which clearly also involve all persons with limited freedom of movement.

### **Law on mental health**

The Ministry of Health has resubmitted the proposed law to public debate, lasting from 30 July 2007 to 15 September 2007, which will be followed by interministerial coordination and discussion at a session of the Government, scheduled for November 2007, whereupon the proposed law will be debated in the National Assembly.

Some of the novelties envisaged in the proposed law on mental health are the following:

- it determines a network of providers of mental health programmes and services and establishes the legal basis for the national mental health programme, which will define the mental healthcare strategy and action plan, objectives, organisation, development and tasks of the network of public mental health services, task performers to implement the national programme, and the basis for evaluation of the national programme;
- it defines the rights of persons in the network of providers of mental health programmes and services, in particular in special supervision units, and procedures for their protection;
- it defines the right to counsel in all procedures in the network of mental care providers and in proceedings before courts of law. Persons appearing in proceedings before courts of law will be represented by lawyers;
- it regulates the procedure of admission into a psychiatric hospital and social care homes, comprising:
  - admission by consent,
  - admission on a proposal, but without consent, and
  - admission procedures in emergencies;
- it defines special treatment methods and special safeguards, procedures for their implementation, supervision of implementation and special record keeping.

### **Law on patients' rights**

The proposal of the law on patients' rights was adopted by the Government on 7 June 2007. It will be submitted to the National Assembly for debate.

The proposal of the law defines individual rights of patients, unifies and defines appeal proceedings which until now have been insufficiently regulated, non-transparent and often inefficient; it also strengthens the patient's role in decision-making and supervision processes when asserting patients' rights. The law is based on international binding and non-binding legal instruments (European Charter of Patients' Rights, Rome 2002, etc.) and regulates the area of the common or universal rights (material and procedural rights) of users of health services within the public health service network and within private health activities (the right to adequate, quality and safe healthcare; the right to access preventive healthcare services; the right to equal access to health services and health treatment; the right of free choice of physician and health service practitioner; the right to respect the patient's time; the right to information and cooperation; the right to the Living Will; the right to pain prevention and relief; the right to a second opinion; the right to insight into medical records; the right to protection of privacy and personal data; the definition of ways to treat violations of patients' rights; and the right to free legal aid in proceedings provided by law). The substantive part defines the relationship between patients and health workers and healthcare providers, while the procedural part defines procedural rules and the way to enforce one's rights in cases of their violation.

The procedural part offers the following main solutions:

- if a misunderstanding is not resolved in the proceeding when the violation is dealt with by the responsible person for the first time, the complaint will be dealt with by the National Commission for Patients' Rights Protection;
- since the principle of rapidity of procedure is the point of departure, deadlines for individual procedural acts are relatively short and a patient can opt for taking his or her case to court if unsatisfied with the commission's decision, or for reconciliation in the mediation procedure in cases of enforceable claims;
- the objectives pursued by the law are either an agreement concluded with the practitioner to eliminate the violation (first instance), or a settlement reached in the mediation procedure or in an appeal procedure dealt with by a panel of judges (second instance);
- in order to ensure as good and efficient an exercise of patients' rights as possible, a patient's rights representative has been introduced, offering patients advice on the types and content of the rights the law covers, legal and other advice and specific assistance in offering guidance regarding procedures in which the patient's rights representative will participate as the patient's authorised representative.

#### **Amendments to the Health Care and Health Insurance Act**

The amendments to the Health Care and Health Insurance Act are currently in the adoption procedure in the National Assembly of the Republic of Slovenia; among other issues they also regulate the payment of health services for remand persons in compliance with the act regulating criminal procedure, and envisage the integration of prison health services into a joint system of general public health service which will enable easier access to these services in prisons and thereby the implementation of the CPT recommendations (paragraphs 74–79, CPT(2006)30, confidential, Strasbourg, 27 July 2006).

**C. Establishments under the authority of the Ministry of Labour, Family and Social Affairs**

100.

101.

1. Living conditions

102.

2. Treatment and care

103.

**Explanation by the Ministry of Labour, Family and Social Affairs (hereinafter: MLFSA):**

The medical files kept for each resident were quite succinct and sometimes incomplete (item 103); medical documents are the responsibility of the treating doctor or the institution providing medical services at a certain establishment. In connection with this comment, the Ministry of Labour, Family and Social Affairs will link up with the Ministry of Health.

3. Staff

104.

**Explanation by the MLFSA:**

The Fužine Home for Elderly Persons has a contract with a psychiatrist. The psychiatrist, coming once a week or when necessary, covers the needs of the Home.

As previously stated, the procedure to amend the standards for performing services at homes for elderly persons and other social institutions is currently under way.

**105.** Nursing staff levels appear to be satisfactory during the day, but they pose serious problems at night, when only one nurse and one nursing assistant are expected to take care of all of the Home's 169 residents, many of whom suffer from serious health problems. As stated in the CPT's report on its visit made in 2001 (paragraph 111, CPT/Inf 2006/36), low staffing levels tend to generate highly stressful work conditions and increase the risk of disproportionate reactions towards challenging residents. **The CPT recommends that the Slovenian authorities ensure, as a matter of priority, higher nursing staff attendance during the night.**

**Explanation by the MLFSA:**

The Ministry of Labour, Family and Social Affairs has appointed a special working group to prepare a proposal of amended standards of work in homes for elderly people and in other social institutions. It is envisaged that the Commission will have completed its work by the end of 2007.

4. Seclusion and other means of restraint

106.

**Explanation by the MLFSA:**

The Ministry of Labour, Family and Social Affairs and the Ministry of Health have made an enquiry into the use of net-beds as early as 2004. On the basis of the findings obtained, we state with assurance that Slovenian social care homes no longer use net-beds.

107.

**Explanation by the MLFSA:**

Until the CPT's visit, the Fužine Home had not kept a register for recording the use of means of restraint for overly agitated and violent residents because such means had never been used in the home. In rare cases, where the safety of residents had to be ensured, a fixation belt was used in order to prevent residents from slipping from a wheelchair due to their physical weakness. In these cases, the use of a fixation belt was proposed by a doctor and was registered in the medical file of the resident.

The resident's family members are also informed of the method and purpose of fixation, and a record of it is kept by occupational therapists.

The relevant ministry will also examine the possibility of introducing a register for recording the use of means of restraint in public health institutions.

5. Safeguards (ensuring safety)

108.

109.

110.

**Explanation by the MLFSA:**

Placement in the closed section intended for residents suffering from dementia is agreed with family members or guardians. The competent court is informed of such placement. We also add that the Ministry of Health, in cooperation with the Ministry of Labour, Family and Social Affairs, has drafted a proposal for the law governing mental health, which, among other things, specifies the procedure for admitting residents with long-term mental problems, including persons suffering from dementia. The law has been already submitted to public debate and is currently being prepared for discussion at a session of the Government.

111.

**Explanation by the MLFSA:**

Residents have access to legal aid; such aid is provided by a social worker and, where appropriate, by a legal advisor who has signed a contract of employment with the Home.

112.

113.

**Explanation by the MLFSA:**

A booklet containing information about the staying in the Home is distributed to residents when they are admitted to the Home. If residents wish so, such information booklet is also distributed to their family members or guardians.

114.

**Explanation by the MLFSA:**

The avenues of complaint are specified in the Agreement on the duration, type, extent and manner of providing the service of institutional care, and on the payment or supplementary payment of the costs of care. The resident and others who have signed the Agreement receive a copy of it.

115.

**Explanation by the MLFSA:**

As for carrying out visits from independent supervisory bodies, there are no formal obstacles to it. As a matter of fact, visits from the Human Rights Ombudsman are fairly frequent.