



CPT/Inf (2001) 30

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

from 9 to 18 October 2000

The Government of the Slovak Republic has agreed to the publication of the CPT's report on the visit to Slovakia in October 2000 (see CPT/Inf (2001) 29) and of its response.

Strasbourg, 6 December 2001

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

from 9 to 18 October 2000

Secretariat of the CPT
Human Rights Building
Council of Europe
F-67075 STRASBOURG Cedex

Tel.: +33 3 88 41 23 88
Fax: +33 3 88 41 27 72
E-mail: cptdoc@coe.int
Internet: www.cpt.coe.int

**Response by the Government of the Slovak Republic
to the report to the Government of the Slovak Republic
on the visit to Slovakia carried out by the European Committee
for the Prevention of Torture and Inhuman or Degrading
Treatment or Punishment (CPT)
from 9 October to 18 October 2000**

The Government of the Slovak Republic discussed and took note of the Report to the Government of the Slovak Republic on the visit to Slovakia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 9 October to 18 October 2000 at its session on 10 October 2001 and at the same time approved the response by the Government of the Slovak Republic to the Report by the CPT.

At the same time the Government of the Slovak Republic gave its assent to disclosing the Report by the CPT, the Response by the Government of the Slovak Republic and the Position to the findings and shortcomings submitted by Mr. Volodymyr Yevintov, head of the CPT delegation, at the end of the visit to Slovakia from January 2001.

In the Position of January 2001 (Annex 1) the CPT was informed on measures adopted and implemented in order to remedy the most serious shortcomings.

Taking into account that the Government of the Slovak Republic considers the findings and recommendations by the CPT important and stimulating the Government has dealt with their content and with the recommendations of measures to remedy identified shortcomings in the course of 2001.

Beginning of January 2001 the Government of the Slovak Republic was informed about the most important shortcomings in the material Information on Shortcomings in Social Services Establishments under the Competence of the Ministry of Labour, Social Affairs and Family of the Slovak Republic Identified by the CPT Delegation at its Final Meeting on 18 October 2000 and on Adopted and envisaged Measures. In this context the Government tasked the Minister of Labour, Social Affairs and the Family and the Minister of Health to submit, *inter alia*, a systemic solution for the long-term institutional care for clients with mental disorders and behavioural disorders by placing them into specialised medical establishments, in its Resolution No. 21 of 10 January 2001 (Annex 2).

The Ministry of Health responded to the above Resolution of the Slovak Government of 10 January 2001 by submitting a material called the Proposal of a Systemic Solution for Providing Long-term Institutional Care to Clients with Mental Disorders and/or Behavioural Disorders in Specialised Establishments. The material was returned with a request for additional amendments due to the lack of time to carry out a thorough financial and institutional analysis. The Proposal should again be submitted for approval in October 2001. The Government of the Slovak Republic approved this procedure with its Resolution No. 593 of 27 June 2001 (Annex 3).

The Ministry of Labour, Social Affairs and Family followed the above Resolution of the Government of the Slovak Republic by submitting a material called the Report on the Current Situation in Financial, Material, Technical and Specialised Human Resources in the Area of Social Services and Care Provided to Persons with Mental Disorders and/or Behavioural Disorders in Social Services Establishments, including the Analysis of their Potential Transformation from Organisations Fully Financed from the State Budget to Subsidised Organisations in April 2001 (and its Supplement in May 2001). In this context the Government of the Slovak Republic adopted Resolution No. 473 of 30 May 2001 (Annex 4).

On 22 May 2001 the Ministry of Labour, Social Affairs and Family organised a national conference on Observing Human Rights in Social Care provided in the Social Services Establishments where the area of CPT competence and mission was also discussed.

According to the adopted conclusions and Resolution of the Government No. 979 of 10 October 2001 (Annex 5) the Office of the Prosecutor General shall continually perform checks of procedures by the Section of Control and Inspection Service of the Ministry for the Interior of the Slovak Republic (hereinafter SCIS MI SR) in case of complaints concerning injuries of apprehended, arrested and accused persons allegedly caused by officers of the Police Force that give reason to suspect illegal conduct.

Considering that full remedy of the undesirable situation and determined shortcomings requires adopting and implementing systemic measures that would have a financial impact on the state budget some tasks resulting from the above Resolutions of the Government are in progress and in the process of implementation.

A. Co-operation

The level of co-operation of Slovak central authorities encountered by the CPT during the visit of its delegation was appreciated as very good. Co-operation encountered on the local level was good because the delegation received required assistance in most establishments.

The Slovak Republic explained the situations described in Paragraph 7 – failure to provide immediate access to a building under the competence of the Ministry for the Interior of the Slovak Republic (hereinafter MI SR) – and Paragraph 8 – dissatisfaction with the provision of information and possibility to examine relevant files, MI SR – in its Position of January 2001.

The Slovak Republic acknowledges that the Slovak authorities acted inappropriately when not allowing the CPT delegation to fully look into personal information of individuals interviewed in the files but reading out the statements and reporting the decisions on the merits for closing the files/cases.

In this respect appropriate measures will be taken to prevent any re-occurrence of situations described in Paragraphs 7 and 8. The measures adopted shall mainly focus on prevention and systematic training of police officers in the area of CPT competence, mandate and tasks. New credentials – entry permits, which will be more accurate and detailed in citing the competencies of the CPT members acting under this mandate in compliance with Article 8 para. 2 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment – shall be prepared.

B. Establishments under the competence of the Ministry of the Interior of the Slovak Republic

1. Ill-treatment

COMMENT

Paragraph 13: The CPT reports allegations of ill-treatment by police officers of persons suspected of criminal offence before their placement to prison establishments.

Based on allegations of ill-treatment received from persons placed in establishments for sentenced prisoners, the CPT mentions some concrete cases. However, the Report does not give even the initials of alleged victims in the cases presented to demonstrate ill-treatment. This made it very difficult to identify the cases in question. No position can be taken on some of the cases, which the officials from the Ministry of the Interior of the Slovak Republic ("Ministry of the Interior" hereinafter) were not able to identify in spite of considerable efforts.

As regards the facts established by the Committee, it needs to be mentioned that all cases of ill treatment reported by the General Directorate of the Corps of Prison and Court Guard ("GD CPG" hereinafter) are investigated and/or reviewed by the Control and Inspection Service of the Ministry of the Interior ("Control and Inspection Service" hereinafter). As a general practice, Control and Inspection Service gives great attention to investigating and/or examining cases of police violence reported by persons placed in the Bratislava Remand Prison ("Bratislava Prison" hereinafter) or the Prison for Sentenced Persons in Košice ("Košice Prison" hereinafter). Persons alleging ill-treatment are interviewed by officers of the Corps of Prison and Guard Service or of the Police Inspection Office subordinated to the Interior Ministry's Control and Inspection Service. In every reported case of injury, medical opinions are requested and the relevant police departments must submit all the records about interactions between police officers and persons placed in the Bratislava or Košice Prisons.

As regards the cases connected with Bratislava Prison, their description was too brief to enable their identification. The following may be said about the Košice Prison cases:

- *The case involving a person who claimed that in August 2000 he had been made to sit on a chair placed in the middle of a room at the district department of Košice – South Police while, for several minutes, five police officers struck him on the body with hands and fists.*

This case involved a person suspected of robbery. The victim identified three suspects, including the person who alleged ill treatment ("complainant" hereinafter) by police officers. Suspected persons were brought to the station and requested to give explanations concerning the case. They first made oral statements; their explanations were then recorded in a written protocol in which they confessed to the offence. Based on submitted documents, explanations given by the suspects, the victim and the police officers concerned, police investigator opened criminal prosecution pursuant to Section 160 paragraph 1 and Section 163 paragraph 1 of the Code of Criminal Procedure in respect of criminal offence of robbery by complicity pursuant to Section 9 paragraph 2 and Section 234 paragraph 1 of the Penal Code. The Košice Police Inspection Unit (working under the Police Inspection Office of the Control and Inspection Service) established that

the complainant received medical attention at the Emergency Surgery Clinic of Košice Teaching Hospital because he was physically assaulted in the time after he gave explanation to and was interrogated by the police investigator and before he was placed in the Košice Prison. The attending physician found contusions on the complainant's arm and thighs and declared him to be fit for being remanded in custody. Subsequent examination at the medical ward of Košice Prison confirmed contusions on his right arm and right thigh. The protocol drawn up in respect of the complainant's explanation mentions also that he reported pain in the vertex and that he was beaten with baseball bats two days before at Poprad. He did not report the incident and did not seek medical attention.

This case of suspected abuse of power by five police officers pursuant to Section 158 paragraph 1 (a) of the Penal Code and bodily injury pursuant to Section 221 paragraph 1 of the Penal Code was set aside because the suspicion of criminal offence was not confirmed and there was no reason to initiate other procedures.

- The case of two further persons arrested in August 2000 in Košice who claimed that they – as well as a further two persons detained with them – had been beaten by police officers, including by using the bats found in the detainees' own car.

Explanations given by intervening police officers indicate that they proceeded in conformity with Act No. 171/1993 Coll. of the National Council of the Slovak Republic on Police Force as amended ("Police Act" hereinafter). They answered the call for service from patrol officers and when they arrived at the scene, they found four persons sitting in a car that was stopped and controlled by the police. These persons belonged to a group known to be a part of criminal underworld and to carry arms (subsequent search of the vehicle revealed baseball bats, firearms and a hand grenade under car seats). Persons sitting in the car did not obey the warning issued by police officers who arrived at the scene and some of them offered active assistance. Police officers therefore used means of restraint to control them in conformity with Section 51 paragraph 1 (a), (c) and Section 52 paragraph 1 (a) of the Police Act. Competent police authorities subsequently determined that the use of the means of restraint was appropriate.

Medical examination performed at the emergency unit of Košice Teaching Hospital where the above persons were brought by the police established that one of them suffered a contusion and excoriation to the forehead, sprained cervical vertebra, contusion and excoriation to the left arm, and contusion to the abdominal wall. These injuries were qualified as light, requiring a two-day treatment. Another of the persons reported that he sustained injuries by police officer and the medical examination established fractured nasal bone without displacement, nasal bleeding, sprained cervical vertebra and minor contusion to the neck and thoracic wall. The injury was qualified as light, requiring the treatment of up to 5 days. Other persons did not display any injury before they were placed under police detention.

The matter was examined by the Police Inspection Unit of Košice Police Inspection Service which received the notification of a suspected abuse of power by police officers from the General Directorate of the Corps of Prison and Court Guard.

The above case of suspected abuse of power by police officers pursuant to Section 158 paragraph 1 (a) of the Penal Code was set aside because the suspicion of criminal offence was not confirmed and there was no reason to initiate other procedures.

Paragraph 14: The CPT refers to two further cases examined in Košice.

The first reported case could not be identified because of insufficient data (fractures to right ribs VIII and IX). Since it was impossible to identify the case, no detailed position is given.

- *The case of two persons that had apparently been bitten by a police dog.*

In response to the alarm indicating unlawful forced entry to a pub, a police patrol including a police dog were dispatched to the scene. Upon arrival the dog handler saw two suspects running towards nearby woods. Police issued a warning asking them to stop. Since the suspects did not respect the warning, police used a police dog in conformity with Section 53 paragraph 1 (d), (e) of the Police Act. Although the suspects sustained only minor injuries, they were given medical attention. According to medical reports, one person sustained a biting wound on the right forearm. This injury was superficial and did not penetrate into the subcutaneous region. The second person had a biting wound on left forearm - a light injury requiring a 7-10 day treatment.

The investigation established that since the first suspect tried to escape and did not respect police warning the police officer proceeded in conformity with Section 53 paragraph 1 (d) of the Police Act. With regard to the second offender who tried to hide from the police, the police officer also acted in conformity with Section 53 paragraph 1 (e) of the Police Act.

The matter was examined by the Police Inspection Unit of Košice Police Inspection Office. Košice Prison submitted the files of both complainants which confirmed that they were injured by the police dog used in apprehending them.

The above case of suspected abuse of power by police officers pursuant to Section 158 paragraph 1 (a) of the Penal Code and bodily injury pursuant to Section 221 paragraph 1 of the Penal Code was set aside because the suspicion of criminal offence was not confirmed and there was no reason to initiate other procedures.

RECOMMENDATIONS

Paragraph 17: The CPT recommends that the Slovak authorities seek to integrate human rights concepts into practical professional training for high-risk situations, such as the arrest and interrogation of suspects.

Police officers receive training in the area of human rights, prevention of torture and inhuman or degrading treatment in contacts with and in the interrogation of suspects, at secondary vocational training schools for the police in Bratislava, Pezinok and Košice, and at the Police Academy in Bratislava. These subjects are taught within the courses on law, public order, criminology, ethics and psychology of police work.

The course on law includes:

- the Bill of Rights (constitutional statute No. 23/1991 Coll.);
- concept of a public official, status and criminal liability of public officials;
- basic principles of criminal procedure;
- apprehending a suspect;
- interrogating a suspect.

The course on public order includes:

- obligations of police officers under Police Act No. 171/1993 Coll. as amended and basic obligations of police officers under Act No. 73/1998 Coll. on State Service of Police Force, Slovak Intelligence Service, Corps of Prison and Court Guard, and Railway Police;
- rights of police officers, use of the means of restraint, tactical rules for using such means and observation of general principles, in particular principles of legality and proportionality.

The course on criminology includes:

- special considerations in interrogating minors, juveniles, elderly, sick and wounded persons;
- preparing interrogations of the above categories of persons;
- interrogation tactics;
- tactical rules in searches.

The course on ethics and psychology includes:

- communication with persons who are under the influence of narcotic substances;
- specific aspects of social communication during interrogation;
- suggestion and suggestibility.

The teaching programme of the Bratislava Police Academy includes a course on "Police and Human Rights" comprising the following topics: concept of human rights and their classification, basic principles of the protection of human rights, European human rights documents and institutions, the Council of Europe and the European Convention for the Protection of Human Rights and Fundamental Freedoms, prohibition of torture and of inhuman treatment, right to life, personal freedom, asylum, privacy, freedom of expression, freedom of association, judicial protection, principles of organisation and activities of the European Court of Human Rights.

Human rights issues are addressed also in courses offered by the department of public law, mainly those on –

"foundations of the State and of police mechanisms" in the area of:

- rights and freedoms in democratic states;
- human rights, their classification and categories;

"international public law" in the area of:

- population in international law;
- State authorities in charge of international relations;
- international treaties;
- international bodies and organisations;

"constitutional law" in the area of:

- fundamental rights and freedoms;
- constitutional principles of underlying legal status of citizens;
- fundamental human rights and freedoms of citizens.

Human rights issues are addressed also in the course on Criminal Law at the Criminal Law Department within the unit on Criminal Offences against Freedom and Human Dignity. Education to human rights is also ensured through such general subjects as philosophy and ethics which teach about the Role of Police in the Protection of Human Rights, Human Dignity as Fundamental Ethical Norm for Police Conduct, Ethical Aspects of the Coercion Monopoly.

Paragraph 17: *The CPT recommends that it should be recalled in an appropriate manner at regular intervals that the ill-treatment of detained persons is not acceptable and that such conduct will be the subject of severe sanctions.*

As recommended, the above issue will be recalled in the professional training of police officers and the controls will focus, in particular, on verifying compliance with the Police Act. In this connection, Police President issued Order No. 543/2001 of 30 July 2001 on Systemic Measures for Improving Professional Training of Police Officers, and on Establishing a Committee for Testing Police Officers' Knowledge of Generally Binding Legal Regulations and Internal Rules. The Order introduces obligatory testing of police officers every two years in such areas as the knowledge of those Police Act provisions that deal with the rights and responsibilities of police officers, in particular as regards the appropriate use of firearms and means of restraint, and the treatment of persons presented to, apprehended and detained by the police. The tests will also check the knowledge of the Penal Code and of the Code of Criminal Procedure, particularly as regards the circumstances that warrant the use of force, such as necessity and self-defence, and the knowledge of internal regulations.

Paragraph 18: *The CPT recommends that police officers be unambiguously reminded that no more force than is strictly necessary should be used when effecting an arrest and that, once arrested persons have been brought under control, there can be no justification for striking them.*

This recommendation is embodied in Section 8 paragraph 1 of the Police Act, which sets out the proportionality principle in the discharge of police officers' duties and their obligation to respect honour and dignity of persons and to refrain from causing unnecessary harm to persons. The same Section lays down another aspect of the proportionality principle, i.e. that the rights and freedoms of individuals may be infringed only if this is strictly necessary to attain the purpose of police action.

In the light of the above CPT recommendation, increased emphasis will be laid on requiring strict compliance with the provisions of applicable laws, in particular as regards the proportionality of actions after the offenders have been brought under control.

Paragraph 19: The CPT recommends that the practice of police officers wearing balaclavas in the course of their duties be reviewed

The use of balaclavas by police officers when carrying out their duties is provided for in Section 68 paragraph 4 and Section 68a of the Police Act. The decision to use balaclavas in arresting dangerous criminals or persons suspected of exceptionally serious crimes is taken by the commanding officer (in case of SWAT team members) or by police department director (in case of other police officers). The legal prerequisite for such decision is the necessity to ensure personal safety of police officers or persons close to them during police actions.

This means that balaclavas may be worn, within the bounds of the law, only by specially trained police in the course of certain specific actions; the persons they apprehend in these actions are then transferred to competent police departments for further proceedings.

Consequently, protective balaclavas may be worn only in strictly defined cases and may not be arbitrarily used by police officers e.g. during interrogation. As recommended, competent police officers will strictly control the use of balaclavas.

Paragraph 20: The CPT recommends to review the circumstances and manner in which dogs may be used by police officers when carrying out arrests. This review should permit to develop the rules set out in Section 53 of the Police Act concerning the use of dogs and to provide more detailed guidance to police officers on this subject.

The use of police dogs is defined in precise terms in Section 53 of the Police Act. This provision also sets out the cases in which it is possible to use unmuzzled police dogs. As regards allegations concerning the use of a police dog without a muzzle, one situation where persons who are brought to a police station can sustain injuries is e.g. when they are guarded by a police dog pursuant to Section 53 paragraph 1 (f) and try to escape or assault a police officer. In such situations, police dogs are trained to act without order.

Only four cases of using unmuzzled police dogs were reported in 2000. 22 cases of using unmuzzled police dogs in the pursuit of persons suspected of criminal offence pursuant to Section 53 paragraph 1 (d) of the Police Act were reported in the first half of 2001. All persons in respect of whom police dogs were used received medical attention.

In keeping with the recommendation and in order to control and prevent unauthorized or unwarranted use of unmuzzled police dogs, the canine unit of Police Presidium will establish a database with the data on all cases of using unmuzzled police dogs. Control and methodical guidance procedures will be applied to verify whether the use of police dogs was appropriate in each of these cases. In-service police training will include refresher courses on the use of police dogs in harmony with the Police Act.

Paragraph 21: *The CPT recommends that the procedures applied by the Control and Inspection Service of the Police vis-à-vis allegations of ill-treatment be reviewed. Reaching a sound conclusion as to the veracity of the allegations will require evaluating the credibility of the person making them; in other words, that person (as well as any other relevant persons) should be interviewed on this specific matter by the investigating authority and, in appropriate cases, a forensic doctor should be consulted.*

All allegations of ill-treatment by and injuries caused by police officers, received from persons being admitted to Bratislava or Košice Prisons, are thoroughly examined by the Control and Inspection Service which investigates and/or verifies circumstances of police actions. As regards the credibility of some persons who report ill-treatment by police officers during apprehension or interrogation, in our opinion most of these allegations are unfounded and are made with the aim of throwing doubts on police actions.

Paragraph 22: *The CPT recommends that whenever the competent authorities (e.g. investigator, prosecutor or judge) receive a complaint of ill-treatment by the police, they immediately request a forensic medical examination of the person concerned. This approach should be followed irrespective of whether the person concerned bears visible injuries. Even in the absence of an express allegation of ill-treatment, the competent authorities should request a forensic medical examination whenever there are other grounds to believe that a person brought before them could have been the victim of ill-treatment.*

We note in connection with the above recommendation of the CPT that whenever a person brought before a police investigator ("investigator" hereinafter) complains of ill-treatment by the police and displays visible injuries or reports latent physical harm, the investigator requests medical examination. The complaint is entered into the investigation protocol and is referred to the competent Police Inspection Office of the Inspection and Control Service for further investigation. Police investigators may also proceed of their own motion in case they have a reason to believe that the person brought before them suffered bodily injury, even if the person does not complain. Article 13 of Instruction No. 10/2000 of the General Director of Investigation, Criminology and Expertise Section of the Police Force on Procedures to Be Followed by the Directors of Investigation Authorities and Police Investigators in Criminal Proceedings provides that if the investigation brings to light any other facts than those related to the investigated crime, these facts are brought to the attention of the competent body (i.e. Police Inspection Office of the Inspection and Control Section, competent authorities of the Armed Forces of the Slovak Republic, of the Corps of Prison and Court Guard, or of the Customs Administration).

However, since each case requires individual examination, it is not possible to formulate a general position. Notwithstanding the above, increased emphasis will be laid on ensuring compliance with lawful procedures so as to secure a thorough investigation of all relevant facts.

REQUESTS FOR INFORMATION

Paragraph 17: *The CPT wishes to receive detailed information on the selection criteria currently applied in the police force.*

Selection procedure currently applied in the police force is set out in Section 14 of Act No. 73/1998 Coll. on Service in the Police Force, Slovak Intelligence Service, Corps of Prison and Court Guard, and Railway Police.

Persons who are eligible for service in the police force must be nationals of the Slovak Republic older than 18 years who meet the following criteria:

a) integrity. For the purposes of the above Act, persons who were finally convicted for premeditated criminal offence do not meet the criterion of integrity. Integrity is demonstrated by an excerpt from the criminal register dated not more than three months before the date of application.

b) reliability. The reliability criterion under the above Act is not met by a person who

- demonstrably abuses alcohol;
- uses other substances that may create addiction; or
- cannot be relied on to duly discharge his duties because of other circumstances established in the course of admission procedure.

c) general education of requisite level for the given position. Candidates must have a baccalaureate (i.e. complete secondary education) or a university degree.

d) good health, physical and mental fitness for the discharge of police duties, verified by means of physical fitness tests and psychological and medical examinations conducted in specialised facilities of the Ministry of the Interior (e.g., required physical skills include swimming). Physical fitness tests are not compulsory for male applicants over 50 and for female applicants over 40 years of age.

e) if the applicant is a conscript, completed basic military service or alternative military service. Applications of persons who performed civilian service in lieu of military service will not be considered.

f) command of the State language. State language examinations are conducted in specialised facilities of the Ministry of the Interior.

g) permanent residence in the Slovak Republic.

More detailed criteria for service in the police force are specified in relevant ordinances of the Minister of the Interior, including Ordinance No. 18/2001 on compulsory psychological testing that must be verified by the police superior who decides on the acceptance. Obligatory psychological testing narrows down the possibility of admitting persons whose personality or character traits are undesirable for a police officer or who are unable to cope with the situations of stress.

Competent police authorities have the right to perform background checks on applicants for police service and to collect and store this information in conformity with the law (Act No. 52/1998 Coll. on the Protection of Personal Data in Information Systems).

Police authorities reserve the right to make the decision on the recruitment, i.e. the fulfilment of selection criteria alone does not guarantee admission to the police force. Moreover, admissions also depend on vacancies in the police force.

Paragraph 21: *The CPT would like to receive the following information in respect of 1999 and 2000:*

- *the number of complaints lodged concerning ill-treatment by police officers and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;*
- *a detailed account of those complaints and the outcome of the proceedings (allegations, brief description of the findings of the relevant court or body, verdict, sentence/sanction imposed).*

As regards the complaints concerning ill-treatment by police officers and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints, the procedures for lodging, receiving, registering, processing and following up on complaints brought by natural or legal persons are set out in Act No. 152/1998 Coll. on Complaints. In 1999 and 2000, the Control and Inspection Service, regional police headquarters and regional investigation authorities registered 351 complaints alleging ill-treatment by police officers. Of them, 240 complaints were dismissed, 91 complaints were referred to the authorities outside of the sector of the Interior Ministry, 11 complaints were filed a/a and 1 complaint was returned. Subsequent investigation established that 8 complaints were justified. More specifically, a total of 177 complaints alleging police misconduct were registered in 1999. Of them, 107 were dismissed, 61 were referred for further proceedings and 5 complaints were filed a/a. Subsequent investigation established that 4 complaints were justified. The number of complaints filed in connection with ill-treatment by police officers in 2000 was 174, 133 of which were dismissed, 30 were referred for further proceedings, 6 were filed a/a, and 1 complaint was returned. Subsequent investigation established that 4 complaints were justified.

Detailed account of those complaints and the outcome of the proceedings (allegations, brief description of the findings of the relevant court or body, verdict, sentence/sanction imposed): in three of the 8 justified complaints lodged in 1999 and 2000, police officers concerned were reprimanded in conformity with Act No. 73/1998 Coll. on Service in the Police Force, Slovak Intelligence Service, Corps of Prison and Court Guard, and Railway Police as amended. In two of the justified complaints, police officers concerned were reprimanded in a personal discussion and the problem was generalised at the meeting of the entire police department. In one justified complaint, the police officer concerned was dismissed from service with the verdict that he is unfit for any position in the State service. In one justified complaint it was not possible to identify the police officer concerned. In connection with another justified complaint, the Director of the Regional Police Headquarters convened a staff meeting at which he generalised conclusions drawn on the basis of the complaint and requested interpretation of Section 68 paragraph 1 and Section 68a of the Police Act.

Competent specialised bodies of the Ministry of the Interior will continue to apply a highly responsible approach to the investigation of all complaints concerning ill-treatment and/or use of excessive force, and will consistently apply the provisions of relevant laws and internal regulations, in particular the Code of Criminal Procedure.

2. Conditions of detention in the establishments visited

RECOMMENDATIONS

Paragraph 26: *The CPT recommends that immediate steps be taken to ensure that persons detained by the police are accommodated in adequate facilities from the very outset of their custody.*

Persons who are presented to the police, placed under police detention or caught "in the act" are, once they are brought to a police facility, placed in a separate area (in most cases and depending on local conditions this area is separated from the entrance hall by bars, etc.) fitted with benches. Persons are placed in these areas only for as long as it takes to perform necessary procedures, i.e. until the competent authority decides to release them or remand them in custody, etc. These areas are not equivalent to Police Detention Cells within the meaning of Part 4 Chapter 3 of the Police Act.

Section 52 paragraph 1 (c) of the above Act provides that police officers may handcuff persons who are presented to the police, apprehended, detained, arrested, remanded in custody or sentenced persons only if there is a reasonable ground to believe that they will try to escape. If the circumstances warrant it, these persons can be tied in between or prior to individual police procedures in conformity with Section 52 paragraph 2 of the Police Act.

It needs to be noted in connection with the above recommendation that some police facilities have a shortage of office premises even for their own police officers. Notwithstanding, efforts will be made to implement the recommendation and financial resources will be sought to adapt the existing or to build new premises for the aforesaid persons and to abandon the practice of placing them in corridors, in front of offices, etc.

Paragraph 27: *The CPT recommends that instructions be issued to ensure that anyone detained by the police in the Slovak Republic receives food at appropriate times, including at least one full meal every day.*

The provision of food to persons placed in police detention cells is governed by Section 47 of the Police Act which stipulates that they should be normally provided a meal within six hours after being placed in police detention cells (depending on the circumstances and local conditions, they may be provided food either before or after six hours). This provision applies to all apprehended, detained or arrested persons or persons presented to the police (unless it has been decided to release the latter) who are placed in police detention cells. Necessary material conditions have been created to ensure the application of this principle.

However, since the aforesaid provision of the Act does not apply to persons presented to the police but not placed in police detention cells, material prerequisites for the provision of food to such persons do not exist. In rare cases when these persons stay in a police facility for more than six hours, they are provided food, even at the expense of police officers.

Necessary steps will be taken to initiate the amendment of the legislation governing the provision of meals to the above categories of persons.

Paragraph 28: *The CPT recommends that the Slovak authorities take immediate steps to ensure that immigration detainees are transferred without undue delay to one of the designated detention centres for foreigners.*

Section 20 of the Police Act provides that detained foreigners are to be placed in the Police Detention Centre for Foreigners at Medved'ov or in the Centre for Foreigners at Sečovce. However, because of limited capacities of these facilities (foreigners are quite often apprehended in relatively large groups of 15 or up to 40 persons), Section 20 paragraph 3 of the aforesaid Act provides that they may be alternatively placed in police detention cells for up to 30 days.

A total of 38 and 42 foreigners were held for up to 30 days in police detention cells of the Bratislava Regional Police Headquarters in 1999 and 2000, respectively. Most of them were placed in these cells due to the shortage of places in designated detention centres for foreigners; some of them were under criminal prosecution.

The only solution to this problem is to build more police detention facilities. Slovak authorities will take the necessary steps to this effect. However, the success of these steps is largely influenced by the amount of funds allocated to the Interior Ministry's sector.

COMMENT

Paragraph 24: *The CPT criticizes the condition of police cells at Michalovce and notes that the state of repair and cleanliness of certain of the cells at the Košice Regional Police Headquarters also left something to be desired.*

As regards police cells at the Košice Regional Police Headquarters, they were thoroughly disinfected and fumigated. The re-allocation of funds from the budget of Regional Police Headquarters made it possible to purchase necessary cleansing agents and to bring cleanliness to a satisfactory level. The intensity of lighting of the cells was also increased.

The walls of police detention cells at Michalovce received fresh oil paint at the end of 2000. Good ventilation is ensured thanks to the fans purchased from the allocation made for this purpose from the budget of the Regional Police Headquarters at the beginning of 2001. The intensity of lighting in the cells was also increased. All cells are currently operational.

REQUESTS FOR INFORMATION

Paragraph 25: *The CPT wishes to have more information about the progress made in meeting the standards of police detention cells set out in the Order No. 63 of 17 September 1998 and reiterates the recommendation made in its report on the 1995 visit that a partition or other means of offering a suitable degree of privacy be installed around in-cell lavatories, particularly in multi-occupancy cells.*

Partitioning or otherwise separating the lavatory area would considerably reduce the field of vision of duty officers and the possibility to visually check the area behind the toilet, and would thus increase the risk of self-mutilation of persons held in police detention cells. This being said, the CPT recommendation will be acted upon and the area in question will be visually separated from the rest of the cell in the framework of reconstruction and construction of multi-occupancy police detention cells as provided for in Order of the Minister of Interior of the Slovak Republic No. 63/1998 on police detention cells. The process of construction and reconstruction of these cells continues and is largely determined by availability of financial resources. Reconstruction of police detention cells at Račianska 45 in Bratislava proceeds according to the schedule with 8 more cells awaiting reconstruction.

3. Safeguards against the ill-treatment of detained persons

RECOMMENDATIONS

Paragraph 32: *The CPT recommends that immediate steps be taken to ensure that the rights of notification of custody and of access to a lawyer become fully effective in practice as from the very outset of police custody. It also recommends that Section 19, paragraph 4, of the Police Act be amended to ensure that detained persons have the right to notify both a close relative and a lawyer of their situation. The CPT also recommends that the right of detained persons to have a lawyer present during interrogation by an investigator be expressly extended to all questioning/interviews by police officers.*

As regards the above recommendation, the amended Police Act contains a new Section 19 paragraph 6 which reads: "Detained persons referred to in paragraph 1 shall have the right, without unreasonable delay and at their request, to notify a close person of their detention and to request a lawyer". An increased attention will be devoted to this provision of the Police Act in police training courses (see the reply to recommendation concerning Paragraph 17).

In this connection, mention should be made of the wording of Section 76 paragraph 4 of the Code of Criminal Procedure which stipulates that the investigator who places a person under police detention or before whom is brought a person caught in the act of committing a crime shall inform this person of the grounds for detention and shall proceed with interrogation without any delay. Section 76 paragraph 6 provides that the detained person has the right to choose and consult a counsel already as soon as he is placed under police detention and the right to request the presence of counsel during interrogation, provided that counsel can be reached within the time limit prescribed by law.

Section 76 paragraph 4 stipulates that if the suspicion is dispelled or if there are no reasonable grounds to continue detention, the detainee shall be immediately released. If the investigator decides not to release the detainee, he hands him over to a prosecutor together with the interrogation protocol and indictment (Section 163), and any evidence he may have. The prosecutor may then bring a motion proposing that the detainee be remanded in custody. The motion must be filed without delay and the detainee must be brought before a judge not later than 48 hours from the moment of detention or presentation to the police, or must be released.

Section 77 of the Code of Criminal Procedure provides that only a judge has the right to order that the indicted person be remanded in custody; this means that the notification of relevant persons falls within the purview of the judge.

In case of detained foreigners, Article 25 paragraph 4 of Instruction No. 9/2000 of the General Director of Police Investigation, Criminology and Expertise Section concerning Investigating Procedures during Criminal Prosecution against Foreigners in Matters with Foreign Element provides that before they are interrogated, foreign nationals must be instructed of their right to request that the diplomatic mission of their country to the Slovak Republic be notified of their detention (custody on remand), the right to send documents or letters to their diplomatic mission, to request the visit of consular officers, or to request legal representation through their diplomatic mission. The detainees have the right to waive these rights. The aforesaid rights must be exercised in conformity with the Slovak legal system. The content of the instruction is noted down in the interrogation protocol.

Paragraph 35: *The CPT recommends that existing legal provisions be developed to provide persons in police custody with a fully-fledged right of access to a doctor. Those provisions should stipulate inter alia that:*

- *a person taken into police custody has the right to be examined, if he so wishes, by a doctor of his own choice, in addition to any medical examination carried out by a doctor called by the police authorities (it being understood that nothing would prevent the second examination being carried out at the expense of the detained person);*
- *all medical examinations of persons in custody are to be conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of police officers;*
- *the results of every examination, as well as any relevant statements by the person in custody and the doctor's conclusions, are to be recorded in writing by the doctor and made available to the person in custody and his lawyer;*
- *the confidentiality of medical data is to be strictly observed.*

The legislation in force and related internal legal provisions attach considerable attention to medical examination. This issue is adequately provided for in the legislation in force, i.e. in Section 44 paragraph 3 of the Police Act which stipulates that in the cases set out by law, the placement of a person in a police detention cell is subject to the consent of a doctor. If the grounds for detention are present, but the doctor does not agree with placing the person concerned in a police detention cell, such person must be transferred to a medical facility. Persons placed in police custody are guaranteed medical attention under Section 48 which stipulates that if a person held in a police cell sustains a self-inflicted injury or attempts suicide, the officer on duty shall take all necessary measures to protect the detainee's health and life and will, in particular, administer first aid and call a doctor. These provisions apply to all persons who are to be placed in police cells.

We cannot agree with the allegation that persons held in police cells of the Bratislava Regional Police Headquarters are denied the possibility to see a doctor. All those who are placed in the cells in this facility, i.e. Slovak nationals and foreigners alike, can request medical attention. According to the data provided by the officer in charge of the police detention facility and by the escort service of the Bratislava Regional Police Headquarters operational unit, four detainees who reported health problems were provided medical examination or treatment in 2000.

Moreover, officers on duty are responsible for the detainees during their stay in police detention cells and have therefore personal interest in ensuring them proper access to medical examination and/or treatment.

Protection of health of persons who are presented to the police and persons in police custody is indirectly provided for also in Section 63 of the Police Act which states that whenever a person sustains an injury due to the use of the means of restraint by a police officer, the police officer in question must, if the circumstances so permit, administer first aid and secure medical treatment. The person is taken to the nearest public health facility from the place where injury was sustained. In Slovakia, the same level of medical care is provided to all persons, irrespective of whether they are law-abiding citizens or suspects in police detention. The law on health care grants every person, except for persons remanded in custody and sentenced persons, right to appropriate medical care considering the type and degree of their health problems, to the choice of doctor or of medical facility. In the life-threatening situations or if there is a risk of imminent serious health problems, medical care is provided in the nearest medical establishment which has the necessary capabilities.

In case the detainees are taken to be examined by a doctor, police escort is present at the examination only in order to ensure safety of the attending doctor on his demand and to prevent the detainee from escaping.

Medical findings are noted down in writing and are kept in the files of persons in police custody. These files are accessible to persons concerned and their counsels. Medical data are confidential and their non-disclosure is guaranteed by the obligation of professional secrecy of police officers

Paragraph 36: *The CPT recommends that immediate steps be taken to ensure that police officers inform detained persons without delay and in a language which they understand, of all their rights, including those referred to in paragraphs 30 to 35. For this purpose, a form setting out those rights should be systematically given to such persons.*

Concerning information on rights, a distinction must be made between the rights of persons presented to, apprehended and detained by the police, and the rights of persons remanded in custody. Right to information is provided for in Section 8 of the Police Act according to which police officers who carry out police actions which infringe on individual rights or freedoms must inform the persons concerned of their rights. The CPT uses, with certain consistency, only the term of "detained person". Each person deprived of his liberty is informed of his rights before interrogation and/or before giving explanation, depending on the character of the procedure prescribed by the Code of Criminal Procedure or the Police Act. Foreigners are informed of their rights through interpreters whose presence is necessary for carrying out prescribed procedures.

As recommended, the forms containing the description of the rights of the above categories of persons will be prepared in major world languages and in other languages reflecting the demographic structure of the region concerned.

Paragraph 37: *The CPT reiterates its recommendation that the Slovak authorities introduce a code of conduct of police interrogations, dealing inter alia with the issues identified in paragraph 49 of the report on the first periodic visit.*

Concerning this recommendation we note that police investigators perform procedures prescribed in Sections 91 to 95 of the Code of Criminal Procedure, "Interrogation of Indicted Persons", depending on the procedural status of interrogated persons.

Police interrogation is provided for also in Art. 45 of Instruction No. 10/2000 of the General Director of Investigation, Criminology and Expertise Section of the Police Force on Procedures to Be Followed by the Directors of Investigation Authorities and Police Investigators in Criminal Proceedings.

Moreover, interrogation-related issues (e.g. interrogation principles, preparation, tactics, special types of interrogation, respect for human dignity, inadmissibility of torture and other degrading treatment during interrogation, etc.) are dealt with in such subjects as law, criminology, ethics and psychology of police work (see the reply to recommendation in Paragraph 17).

The Interior Ministry attaches great significance to police interrogation. For instance, a methods manual was published in 2000 in connection with racially motivated criminal offences to provide basic guidelines to police investigators in this area.

The prepared Code of Conduct of Police Officers will also set out basic principles to be followed in police interrogations. Its binding force will be guaranteed by incorporating the Code into the amended Police Act under which police officers will be obliged to respect the provisions of the Code of Conduct in the discharge of their duties.

Paragraph 38: *The CPT recommends that the records system introduced by the Minister's order No. 63/1998 on Police Detention Cells be developed in order for it to apply to all criminal suspects from the outset of their detention.*

A personal file must be created for each person to be placed in a police detention cell; the file must comprise items specified in Appendix 4, Order of the Ministry of the Interior No. 63/1998 on Police Detention Cells. They include a "Report on Placement in Police Detention Cell" in which the detainee may report any physical violence used against him, attaching his signature for confirmation.

In this connection we must mention again different status of persons who are presented to or apprehended by the police vs. persons in police custody. Minister's Order No. 63/1998 on Police Detention Cells does not prescribe the creation of a file for other persons than those placed in police cells. The right of these other persons to be protected from physical violence by police officers is provided for in a different manner (they may file information about ill-treatment with the Police Inspection Office of the Control and Inspection Service or any other competent police department, or may lodge a complaint with the control department of regional police headquarters, etc.).

The data on all persons presented to the police, apprehended, detained or arrested by the police are kept in the Book of Events in conformity with Order of the Ministry of the Interior No. 74/1997 on District Police Departments. They include exact time when the person was deprived of his liberty, his name and surname, other personal data, reason for police intervention and applicable legal provisions, time of release or time when the person was handed over to the competent authority, rank, name and surname of the intervening police officer. The creation of a separate record for these persons would result in the duplication of records that had already been made. Nevertheless, the recommendation will be followed and the data specified in Paragraph 52 of the Report on the CPT Visit of 1995 (time of arrival on police premises; when informed of rights; signs of injury, health problems, mental disorder, etc.; contact with and/or visits by next of kin, lawyer, doctor or consular officer; when offered food; when questioned; when brought before a magistrate, etc.) The Book of Events is to be made part of the Automated Police Information System.

Paragraph 39: *The CPT recommends that steps be taken to ensure that the detention of persons who are not formally detained in connection with a criminal offence (such as persons who are obliged to remain with the police under Sections 17 and 18 of the Police Act or who are detained under Section 20 of the Act) is also accompanied by the safeguards proposed by the CPT, as from the very outset of custody.*

Protection against ill treatment is guaranteed to all persons, irrespective of whether they are Slovak nationals or foreigners, and with regard to all police procedures. Legal protection from physical violence is guaranteed to persons presented to, apprehended, detained or arrested by the police through the above-mentioned legal provisions (see the reply to the recommendation under Paragraph 18).

COMMENT

Paragraph 38: *The CPT invites the Slovak authorities to review the records kept of other persons not formally detained by the police in connection with a criminal offence (e.g. those held for identification).*

Under Section 17 paragraph 1 of the Police Act, police officers have the right to request explanation from a person if such explanation is deemed to produce useful facts for clarifying a criminal offence or administrative infraction and for identifying the offender, or for the search for fugitives or missing persons or things. Police officers have the right to request that a person comes immediately or at a specified time to police premises in order to draw up a protocol or give explanation. If the person does not show up at police premises and does not offer a plausible excuse, such person may be presented to the police by a police officer for the purpose of giving explanation in conformity with Section 17 paragraph 2 of the Police Act. The police officer draws up an official record on the presentation of a person. The protocol on the provided explanation must be drawn up immediately after the person has been brought to police premises. Section 17 paragraph 7 of the Police Act provides that the person brought to the police must be either transferred to the competent law enforcement or other authority (if the police establishes the relevant grounds) or immediately released.

Police officers may perform identity checks in conformity with Section 18 paragraph 3 of the Police Act which stipulates that any person who refuses to identify himself may be brought to the police for identification. Police officers may also present a person who is unable to give his identity or credible information about his name, date of birth and address (Section 18 paragraph 4 of the Police Act). Section 18 paragraph 5 of the Police Act stipulates that if a police officer has reasonable grounds to believe that the presented person should be transferred to the competent law enforcement or other authority or to another establishment he must immediately do so or immediately release him. If the police do not establish the identity of a person within 24 hours of presenting him to the police, the person must be released (Section 18 paragraph 8 of the Police Act). The police officer draws up an official report about the procedures performed.

As recommended, control activities will comprise the checks on entries concerning persons who were presented to the police, focusing on the reasons for their presentation and on the length of time spent in police premises.

4. Detention Centre for Foreigners, Medved'ov

RECOMMENDATIONS

Paragraph 42: *The CPT recommends that the Slovak authorities persist with their efforts to develop the programme of activities at the Medved'ov Detention Centre for Foreigners. Steps should also be taken to make better use of the outdoor exercise areas. The CPT would like to receive further information on the provision of the facilities for foreigners.*

With a view to improving conditions for foreigners in the above facility and the quality of outdoors activities, the outside sports area is to be covered with grass; equipment for sports has already been purchased. Residents may spend their free time in the community rooms set up in individual blocks. These rooms were equipped with TV sets, radio receivers and table games. It is planned to open a library containing books and press from the countries of origin of resident foreigners.

As recommended, efforts will be made to improve living conditions for foreigners placed in individual detention facilities through improving material conditions or organising various free-time activities to fill in the time spent in these facilities.

COMMENT

Paragraph 45: The CPT invites the Slovak authorities to take the necessary steps to remedy the shortcomings presented under paragraph 45 concerning information provided to foreigners detained in the Medved'ov facility.

As regards information provided to foreigners, information of rights is provided by the police officer through an interpreter at the time of placing a foreigner under detention. House rules of the detention facility are posted on notice boards in several languages; as needed, they will be supplemented by other language versions in accordance with the composition of resident foreigners.

C. Establishments for remand detention and establishments for sentenced prisoners

1. Ill-treatment

RECOMMENDATIONS

PARAGRAPH 52: THE CPT RECOMMENDS TO REMIND PRISON OFFICERS OF USING FORCE TO CONTROL VIOLENT OR RECALCITRANT PRISONERS NOT MORE THAN IS STRICTLY NECESSARY AND THAT SLAPPING PRISONERS IS NOT AN APPROPRIATE RESPONSE TO UNDISCIPLINED CONDUCT.

The delegation noted allegations of ill-treatment (violent treatment) of prisoners by prison staff which should include rough treatment, blows, slaps and pulling by the hair mostly during cell searches performed by officers in face covers of the special intervention unit of the Corps of Prison and Court Guard (hereinafter CPCG).

Searches and potential use of means of restraint are conducted in compliance with Act No. 4/2001 Coll. on the Corps of Prison and Court Guard. Each use of means of restraint is subject to reporting, control by supervisor and prosecutor responsible for inspections in CPCG establishments. Identical procedure is applied to processing of prisoners' complaints concerning ill treatment by CPCG officers

In the case of “apparent slap in the face” the means of restraint used was a hand slap in compliance with Sections 13 to 18 of Act No. 79/1992 Coll. on the Corps of Prison and Court Guard of the Slovak Republic (it has been repealed and new Act No. 4/2001 Coll. is currently valid) and a report was written about the use of this means of restraint, which satisfied all legal requirements linked with it.

A hand hit used as a means of restraint in the meaning of the law (the CPT report mentioned slap) is an isolated phenomenon in the Slovak prison system and it does not amount to a serious problem – this is supported by the fact that since 1 January 2001 this means of restraint has been used only once in all CPCG establishments.

Officers are duly trained on lawful conditions and the way of use of means of restraint. Before starting the duty they are regularly tested by guard and escort shifts commanders. A training order is annually drafted for each CPCG establishment. It covers several areas including the use of means of restraint. All CPCG officers sit tests before and are evaluated by a commission in three-year cycles. These results then serve as basis for continuing the service. CPCG officers must have a sufficient scope of means necessary for eliminating violent conduct by prisoners against other prisoners or the staff available.

No other forms of restraint but the ones that are stipulated by law and have their grounds also stipulated by law are applied against prisoners in the CPCG establishments. The prison staff fully identifies themselves with the comment by the CPT as to the use of means of restraint resulting from uncontrolled communication or verbal conflict of the staff with a prisoner. When violations of regulations, inappropriate procedures are determined measures including disciplinary of criminal proceedings are applied against offenders.

Paragraph 52: *The CPT recommends to immediately discontinue the practice of using masked officers to carry out cell searches.*

The CPT delegation also recommends to immediately discontinue the practice of cell searches carried out by CPCG officers with face covers and states that can be no justification for such a practice in a prison setting.

CPCG officers did not use face covers (this is our understanding of the described protection of special intervention unit officers) **in the past**. CPCG special intervention unit officers had only a passive presence in the searches of cells of persons imprisoned on the grounds of extraordinarily dangerous crimes committed in an organised manner. This presence was in compliance with the then valid Ordinance of the Ministry of Justice No. 209/1996 on the establishment and conditions for action by special intervention units in the CPCG SR. This ordinance is currently not valid and this practice is not applied. Currently, Act No. 4/2001 Coll. on the CPCG **stipulates conditions of exceptional circumstances under which CPCG officers may make use of protective face covers.**

Section 46 of Act No. 4/2001 Coll. on the CPCG regulates exceptional circumstances for the use of protective face cover as follows: “...if it is necessary to ensure personal safety of an CPCG officer or a close person, the CPCG officer may use a protective face cover in a service intervention against a remand prisoner or sentenced prisoner; its use is decided by the governor of the establishment. In such intervention the CPCG officer must have a CPCG badge with an identification number and inscription “Corps of Prison and Court Guards” or its abbreviation displayed in a visible way.”

Paragraph 53: *The CPT recommends that if it is considered necessary for prison officers to carry truncheons they should be hidden from view.*

The recommendation that if it is considered necessary for CPCG officers to carry truncheons they should be hidden from view shall be seen in the perspective of circumstances or the location of the service. In places with no risk of conflict situations, e.g. in first correctional group establishments for sentenced prisoners, batons are carried exceptionally. Under special conditions of remand detention, which falls under the third maximum-security category in the approved Security Policy in the Slovak Prison System, this equipment of officers is justified. The uniform (in particularly during summer months) makes it impossible to carry the truncheon hidden from view.

Practical experience shows that unlawful attacks by detainees are unexpected and therefore CPCG officers must have the truncheon immediately available. If the clubs were stored in a room, the intervention could not be taken due to the delay thus caused and the consequence could be a threat to his/her safety or the safety of another person from such attacks.

Paragraph 54: *The CPT recommends that training in control and restraint techniques be widely available to CPCG officers.*

The staff of the CPCG establishments has been duly trained in the use of means of restraint, however, pedagogic and psychological methods of eliminating violence and inappropriate behaviour are preferred. Means of restraint are the ultimate solution of a situation and CPCG officers have the obligation to always choose the most appropriate means of coercion while it may be applied only during the time of active unlawful conduct by the person against who the intervention is taken.

Inappropriate or inadequate conduct by CPCG officers is identified in order to eliminate it. Individual elements of treatment procedures are part of officer's performance evaluation and are expressed as degree of service discipline. The methodology of training optimum procedures of conflict free communication by the staff is included in the mandatory training of CPCG officers.

Specialised training courses are organised for CPCG officers with respect to their functions after the initial training. In addition, special courses on communication skills, crisis management, conflict resolution, work in multi-cultural environment, the exercise of rights and democracy in the prison system are organised in co-operation with NGOs.

The content of education of officers at the CPCG Secondary School:

- basic technical education - **6 months**
- specialised technical education - **10 months**
- specialised technical additional education - **4 weeks**
- socio-psychology training - **4 weeks**
- course for shift commanders - **6 weeks**
- language course after working hours - **10 months**
- course for court guards - **3 weeks**
- course for prison regime staff - **5 weeks**

In addition there is a life-long training for staff in CPCG establishments in place. It consists of periodic service training in the form of theoretical and practical courses including training of practical skills for searches and use of means of restraint.

A training period takes three years and it is concluded with final examinations from service and physical training including self-defence.

Service training comprises:

- technical training (tasks of protection, building entrances, professionalism and professional behaviour by CPCG officers, communication in penitentiary practice, individual forms of treatment of prisoners) – **6 hours**
- shooting training, civil protection, health protection, work health and safety in the performance of civil service, communications, human resources, topography, service physical training, self-defence, practical shooting, practical all-establishment exercise – **58 hours**

The total volume of life-long education of CPCG officers is in the range of 64 to 83 hours annually.

Paragraph 56: *The CPT recommends that the Slovak authorities conduct a review of the procedures currently used to process prisoners' complaints with a view to ensuring appropriate guarantees of independence, impartiality and thoroughness consistency.*

Article 18 of Statute No. 23/1991 Coll. implementing the Charter of Fundamental Human Rights and Freedoms as a constitutional law stipulating that: "...everyone shall have the right to address state bodies and local self-administration bodies in matters of public interest or of other common interest with petitions, proposals and complaints either individually or in association with others," is the basis for the regulation of filing petitions and complaints by prisoners. Article 27 of the Constitution of the Slovak Republic contains identical provision. Act No. 152/1998 Coll. on complaints stipulates the legal institute of complaint and the procedures for their processing, This law also regulates competencies in processing complaints. The pertinent head of public administration body is competent to handle complaints. When the subject of the complaint is the head of this authority then the next superior body processes the complaint. In the CPCG system the competence to handle complaints is with the secretariat of the governor of the establishment in the jurisdiction of CPCG establishments and the Inspection of the General Directorate of the CPCG.

Infirming complaint handling procedure is probably caused by incomplete information or it is based on complaints by prisoners. We hold that Act No. 152/1998 Coll. on complaints has been respected and observed by competent units in complaint processing and/or the procedure stipulated in Act No. 156/1993 Coll. on remand detention (Section 17) and also Act No. 59/1965 Coll. on the sentence of deprivation of liberty as amended (Section 15) has been observed by competent CPCG bodies in processing complaints and petitions by prisoners.

In CPCG establishments, appeals against imposed disciplinary punishments are subject to a two-stage procedure – in case of remand prisoners the procedure follows provisions of Section 22 of Act No. 156/1993 Coll. on remand detention and Section 37 para. 2 of Decree of the Ministry of Justice No. 114/1994 Coll. issuing the Rules of Remand Detention as amended and also Act No. 59/1965 Coll. on the sentence of deprivation of liberty as amended and Decree of the Ministry of Justice No. 125/1994 Coll. issuing the Rules of the Sentence of Deprivation of Liberty.

The allegation that complaints are returned to the Prevention and Security Unit of the CPCG establishment to which the complaint related is probably a misunderstanding or a consequence of inaccurate interpreting. **Prevention and Security Unit is neither tasked not competent to handle complaints as its organisational structure and services description show.** It is tasked with assignments in the field of preventing illicit and criminal activity, criminal conduct and in operational investigations. The description of the services also states that it performs other activities determined by the governor of the establishment. This means that a Prevention and Security Unit officer may be tasked by the governor of the establishment to check criminal activity if a review of the complaint by a competent body established that it is founded. However, this can happen only when the complaint is proved to be founded.

In 1999 a publication describing filing of applications with the European Court of Human Rights was distributed to all CPCG establishments. The publication also includes the Convention for the Protection of Human Rights and Fundamental Freedoms and it is equally available to the staff and the prisoners.

COMMENTS

Paragraph 54: The CPT reminds that significant emphasis should be put on acquiring and developing interpersonal communication skills. Building positive relations with the prisoners should be recognised as a key feature of a CPCG officers' vocation.

Position to this comment has been extensively given to the recommendation in paragraph 54.

REQUESTS FOR INFORMATION

Paragraph 54: The CPT requests additional information on initial and ongoing training of CPCG officers.

Position to this comment has been extensively given to the recommendation in paragraph 54.

Paragraph 56: *The CPT requests information in respect of 1999 and 2000:*

- *the number of complaints lodged concerning ill-treatment by prison staff and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;*
- *an account of those complaints and the outcome of proceedings (allegations, brief description of the findings of the relevant court or body, verdict, sentence/sanction imposed).*

Control over lawfulness of remand detention and of the sentence of deprivation of liberty and review of complaints and/or petitions filed by prisoners is carried out in several ways. Firstly, there is an internal sectoral control carried out by:

- a. the Minister of Justice and persons authorised by the Minister,
- b. the Director General of the CPCG and persons authorised by the Director, in particular staff members of the General Directorate Inspection.

External independent control is also performed by two entities:

- a. the Prosecution Authority is carries out supervision in places where personal liberty is restricted, regularly (once in a month) while the prosecutor has the right to visit all places where personal freedom is restricted without any limitations and at any time and to talk with detained persons without the presence of a third person,
- b. the members of the National Council of the Slovak Republic, who enjoy the same rights as prosecutors when performing control with the exception of the right to suspend, change or cancel decisions made by state administration authorities in the field of the prison system, and thus, of course, also to release a person unlawfully detained from the place of imprisonment, carry out the so called civil control.

There are conditions for and laws guaranteeing filing of petitions and complaints by prisoners in place. Lockable letterboxes accessible to everyone are in each CPCG establishment – one is for the governor of the establishment and a separate one is for the prosecutor overseeing CPCG establishments. Prisoners make commonly use of them without restrictions.

In order to improve the control over the rights of prisoners both the law on remand detention and the law on sentence of deprivation of liberty give the prisoners a broad scope of rights with respect to filing complaints and/or petitions with various state administration authorities like the President of the Slovak Republic, Prosecution General of the Slovak Republic. Ministry of Justice, National Council of the Slovak Republic, regional and district prosecution authorities, General Directorate of the CPCG. In addition, prisoners have the addresses of the President of the European Committee for the Prevention of Torture and Inhuman Treatment or Punishment, of the European Court of Human Rights in Strasbourg available in each establishment. When discussing the Initial and second Follow-up Report by the Slovak Republic to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment with the members of the UN Committee against Torture (Geneva, May 2001) the delegate representing the prison system confirmed that the prisoners will have similar contact to the President of the UN Committee against Torture.

Complaints or petitions by prisoners are delivered in closed envelopes and the CPCG establishment has the duty to secure and register them without any delay. Due attention is paid to prisoners' complaint, petition verification procedures. Complaints against ill treatment by prison staff filed by prisoners are thoroughly examined and verified, usually personally, in order to have appropriate guarantees of independence, impartiality and consistency for the complaint review procedure. All complaints are registered in a central logbook separately from other written documents so that information necessary for checking complaint processing can be retrieved from these records.

Anonymous complaints are also verified provided they include concrete information giving grounds to believe that a regulation has been violated. If the claimant requests to have his/her identity screened or if such measure is in the interest of due complaint processing then a copy without any indication allowing identification of the complainant is used in the examination of the complaint. A complaint may not be handled or examined by those persons with respect of who the complaint is filed. Complaint review is performed in such a way as to allow determination of the facts of the case and its compliance or conflict with regulations. **The persons with respect of who the complaint is filed must always present his/her statement.** The complainant is informed, in writing, on the results of the review including the determination of the complaint as founded or unfounded. In case of founded complaint the notification of complaint processing also includes statement of measures taken to remedy shortcomings.

Personal contacts with prisoners needed to process their complaints are conducted without the presence of any third person. The CPCG is interested to create for the prisoners conditions stipulated by laws that allow an objective, impartial and independent verification of the facts of all their complaints by competent authorities.

In 1996 altogether 21 complaints against ill-treatment of prisoners by officers were lodged, in 1997 - 13 complaints, in 1998 - 14 complaints, in 1999 – 12 complaints and in 2000 – also 12 complaints while none was founded.

Most complaints are addressed to and filed with other authorities – ministries, prosecution authority, justice, National Council, and alike. Upon request the establishments present statements concerning the complaints for these authorities and they take no position as to their justification. To illustrate, we submit that in 2000 prisoners manifestly lodged 265 complaints – out of them 15 complaints (i.e. 6 %) were proven founded. As of 10 August 2001 the number of registered complaints is 197 – 15 complaints are in the review process; 12 complaints were proven founded.

2. Conditions in detention

RECOMMENDATIONS

Paragraph 62: *The CPT recommends that the standard determining the living space in cells/dormitories for several persons be raised to at least 4 m² per one prisoner and that official capacities and occupancy levels of cells and dormitories at Bratislava and Košice establishments be reduced accordingly. Ideally, cells measuring 9 m² should be used to accommodate only one prisoner.*

As to the statement that in some cells prisoners have limited living space it should be noted that for instance at the Bratislava establishment 16 m² cells were occupied by 5 accused; at the Košice establishment cells of 14 m² were occupied by 4 remand prisoners and a cell of 42 m² was used by 12 convicts. In this context it should be also noted that under the valid laws the governor of a CPCG establishment could **exceptionally** decide to exceed the capacity for **a period necessary**. This happens in exceptional cases when accomplices involved in one criminal case should not be placed together in order to prevent collusion and consequently, marring the purpose of remand detention. With respect to the 42 m² cell we submit that it does not present standard accommodation. It is the only cell of this size and the Roma community, which is used to live in bigger groups keeping together, is much interested to be housed in it. In this case the minimum space of 3.5 m² stipulated by law was also observed.

After partially analysing the possibilities of increasing living space of 3.5 m² to 4 m² it has been found that in both CPCG establishments the occupancy level would go down by approximately 40 %, which is currently absolutely unacceptable for the Slovak prison system. It should also be mentioned that the CPCG know of no facts indicating that prisoners would complain of overcrowded accommodation rooms. Nevertheless, the CPCG has continually been monitoring this sensitive issue.

Paragraph 62: *The CPT recommends that the plans refurbish Bratislava establishment be given a high priority and that those plans include providing in-cell sanitation with adequate partitioning; in-cell lavatories at the Košice establishment should also be suitably partitioned.*

Separation of sanitary facilities in cells with partitions has been continuously carried out. In older CPCG establishments reconstruction works are done and lavatories are now being appropriately separated with walls. At the Bratislava establishment partitioning of sanitary units will be completed in the framework of the comprehensive reconstruction of this CPCG facility that is planned and approved by the CPCG General Directorate for the 2001 – 2004 period. Funds of some SKK 60 million earmarked in the CPCG budget will be included in the CPCG draft budget.

In the period from 1995 to 2000, i.e. from the time of the first CPT mission, it was necessary to allocate funds to other important aspects linked with the functioning of the Bratislava establishment. Till the reconstruction is completed partitioning shall be ensured with the existing fabric screens. It should be noted that this measure is also quite costly because prisoners constantly damage the screens. The situation at the Košice establishment is considered satisfactory because the in-cell sanitary unit is partitioned off with a 1.2 m high wall.

The CPT recommendation to build sanitary units at the Bratislava establishment will be implemented under the overall reconstruction of this establishment. The situation at the Košice establishment can be considered satisfactory because the sanitary unit in the cell is partitioned off with a 1.2 m high wall. Building complete walls around the unit would make the access rather difficult – the possibility of locking oneself inside – mainly in case of suicide attempts and of other exceptional events.

Paragraph 63: *The CPT recommends to take steps – including, if necessary, the removal of any legal obstacle that may currently exist – in order to develop appropriate programmes of activities for all prisoners, having regard to the above remarks paragraph 63.*

In the new law on remand detention differentiated treatment of remand prisoners taking into account the grounds for detention shall be introduced. The Slovak prison system shall analyse the recommendation to soften the remand detention regime. Currently, differentiated categories of remand prisoners (including the juvenile accused) in which it would be possible to allow participation in interest activities to limit negative impact of detention on personality, are considered. The new law on remand detention envisaged in the framework of the new codification of the Criminal Procedure Code will only provide a legislative solution for this problem. According to the legislative plan of the Slovak Government this act should be adopted not later than 2003.

The CPCG realises that the long exposition of the sentence of deprivation of liberty is a serious problem and therefore a research project monitoring and evaluating the effects of long sentences is currently being drafted. The result of the research should be the identification of the effects of this sentence on prisoners and also on prison staff. Before tasking with the drafting of the project discussions were held at the level of the CPCG Director General and Minister of Justice College for the Prison System even before the CPT delegation visit. **It should also be noted that in February 2002 the College of the CPCG General Director will discuss an analysis the objective of which is a comprehensive evaluation of the current situation in remand detention with a view to problem areas and prospects of remand detention in the coming years.**

For completeness sake it should be also added that organising activities for the remand prisoners in both visited CPCG establishments and also other remand prisons in Slovakia is exceptionally difficult, in particular with view to the purpose of detention (Act of the NC SR No. 156/1993 Coll. on remand detention). The Slovak legislation does not know the institute of open detention and therefore in the Slovak Republic every remand prison has the obligation to prevent any potential contact among the remand prisoner accomplices to avoid frustration caused by the establishment, of the results of investigation of the crime by authorities involved in criminal procedure. Therefore remand prisoners have mainly access to books from the library of the establishment and receive disciplinary rewards for good behaviour in the form of extraordinary visits outside the regular intervals. This is applied mainly to juvenile accused. Remand prisoners have also the possibility to attend pastoral activities. Radio broadcasting is available in every cell. The stations played are regularly changed. Remand prisoners can also educate themselves by individually studying technical literature, reading dailies, journals and fiction and they can also play various games in their cells.

One can only agree with the view that television availability would, undoubtedly, contribute to eliminating monotony of remand detention. However, this is a project requiring extensive funds and modification of the conditions in the individual remand detention establishments, which are significantly diverse. This project has been implemented while renovating the establishments and the leadership of the CPCG is working on these issues.

Paragraph 64: The CPT recommends that all remand prisoners at the Bratislava establishment have at least one hour of outdoor exercise every day (including the weekends and holiday periods).

Paragraph 64: The CPT recommends that the possibility of enlarging the exercise areas at the Bratislava establishment. Outdoor exercise facilities should be sufficiently large to enable prisoners to exert themselves physically.

As to the outdoor exercise facility and its availability during weekends and holiday periods it should be noted that according to the law a remand prisoner has the right to one hour of exercise on a voluntary basis. **The CPCG service bodies have adopted measures and ensured exercise availability at the Bratislava establishment also during weekends and vacations.**

The exercise area at the Bratislava establishment located in a rather confined built-up area cannot be enlarged. The situation should improve after complete reconstruction of the establishment. Under this effort roof exercise area should be made and thus offer another possibility for active exercise while the original exercise area will be preserved.

3. Health care services

RECOMMENDATIONS

Paragraph 67: The CPT recommends to make further efforts to reinforce the provision of psychiatric/psychological services at the Bratislava establishment and to fill as soon as possible the vacant post for a psychiatrist at the Košice establishment.

Paragraph 67: The CPT recommends that the number of full-time nurses at the Bratislava and Košice establishments be increased.

The medical and paramedical staffing level at the Bratislava establishment is fully sufficient for the provision of health care. In case of health care staff sickness or other justified absence from work (vacations, rehabilitation, spa treatment) there may be a higher work load and the activities would have to be performed by someone else.

Health care staff is at the CPCG establishment medical centre till 03.00 p.m. In emergency cases first aid medical service or rapid medical assistance are called after working hours as agreed separately between the CPCG establishment and an external doctor. When necessary transport of the sick detained person into a special contracted health care centre is organised.

Presence of doctors or paramedical staff after working hours and during weekends would require significant increase of the number of doctors and additional funds to pay over time.

If in the view of the doctor from the medical centre the psychiatric care is insufficient it can be improved by extending the existing volume of 40 hours in a months contracted from a psychiatrist for the Bratislava establishment. Increasing the volume to 50 hours in a month in 2002 has been negotiated with the relevant psychiatrist. Having currently 5 psychologists working with the Psycho-Diagnostic and Counselling Centre at the Bratislava establishment no problems in psychological services are anticipated.

The vacant post for a psychiatrist at the Košice establishment is not filled because there is lack of interest on the side of civilian medical doctors in an employment with the CPCG. No activity to acquire a doctor was successful so far. In order to give more accurate data we note that the psychiatric department has **clinical** psychologists and a therapeutical educator in addition.

Compared with the number of patients per 1 medical doctor in civilian life the CPCG health care staffing levels is sufficient or even better than the standard.

The paramedical staffing level (nurses) is fully sufficient at both CPCG establishments. Psychiatric care at the Bratislava establishment could be increased by increasing psychiatrist's contracted volume. This measure is in the competence of the establishment and steps will be taken. The vacant post for a psychiatrist at the Košice establishment will immediately be filled as soon as any psychiatrist shows interest in the position in the recruitment procedure.

Paragraph 68: *The CPT recommends that immediate steps be taken to ensure that someone qualified to provide first aid (preferably with a nursing qualification) is always present, at the Bratislava and Košice establishments, including at night.*

Paragraph 68: *The CPT recommends that steps be taken to ensure, at the very least, nursing cover on Saturdays and Sundays, for a minimum of eight hours each day; it would be preferable for a doctor also to be present on weekends.*

No problems requiring special measures have been registered in health care provided after working hours. The current system can be considered satisfactory and appropriate. Presence of paramedical staff during the weekends would require significant funds and so far no such need has been observed.

Paragraph 71: *The CPT recommends that the Slovak authorities verify that all prisoners are guaranteed the provision of the medication required by their state of health; this implies that the funds allocated to CPCG establishments be sufficient to enable medication to be provided free of charge to prisoners who do not have the necessary resources to pay for it themselves.*

Medical doctors with attestation qualifications who document all medical examinations of prisoners with entries into their health care sheet work in medical facilities. Based on objective findings other examinations or laboratory tests are planned or immediately carried out. Examinations end with determining the diagnosis and necessary treatment.

Under Section 12 of Act No. 277/1994 Coll. on health care as amended treatment of aliens is ensured. When aliens and also our nationals lack money to pay for medication the CPCG establishment in which the person is placed pays this item. This amount is kept in books as a receivable.

Prisoners have the administration of medication based on the objective finding guaranteed. Prisoners may be dissatisfied when the doctor does not prescribe medication according to their wishes or determines a form of application the patients are not satisfied with for various reasons (medicaments applied with syringes cannot be traded), pills are often abused as a hard drug substitute.

Administration of medication is regulated in Act No. 98/1995 Coll. on the Rules of Medical Treatment as amended and its provisions also apply to persons in remand custody or serving the sentence of deprivation of liberty. Under Section 8 paragraph 1 of this Act medication is **free of charge** to imprisoned persons including foreigners in institutional (hospital) health care on the basis of health insurance (all persons in remand custody or serving the sentence of deprivation of liberty are insured with the exception of foreigners).

Under Section 8 paragraph 3 of Act No. 98/1995 Coll. on the Rules of Medical Treatment as amended imprisoned persons get medicaments **free of charge or for a partial payment of the price** in **outpatient** health care for imprisoned persons. In case an imprisoned person in outpatient care gets prescription for a medicament which is partially paid for he/she **must** pay this amount in the same way as any other insured person – Ordinance of the Government of the SR No. 7/2000 Coll. issuing the List of Pharmaceuticals and Medicaments Paid or Partially Paid from Health Insurance.

Under Act No. 98/1995 Coll. on the Rules of Medical Treatment as amended prisoners are also provided medication fully or partially covered by the insurance company. **Other medication must be paid by the imprisoned persons in the full scope.** When a medical doctor prescribes the prisoner medication which must be paid for the provisions of Instruction of the General Directorate of the CPCG SR No. 8/1999 stipulating the rules for cash free shopping by remand and sentenced prisoners are adhered to in the establishments.

In our view administration of medication by persons other than medical staff does not amount to a violation of medical confidentiality because the package with the medication has only the name of the medicaments and dosing specified.

***Paragraph 73:** The CPT recommends that the Slovak authorities review existing procedures applied when, during admission to the establishment or a medical examination after a violent episode in the establishment, it is determined that the accused/sentenced prisoners have injuries, in the light of the foregoing remarks in paragraph 73.*

The CPCG recognises the validity of the comment by the CPT delegation concerning medical examination during free days and after 3 o'clock p.m. In the framework of the new codification of criminal legal provisions the CPCG will initiate provisions stipulating the delivery of persons into remand detention only after medical examination carried out by state health care facilities. **In the CPCG establishments measures have been taken for calling a service doctor also after 3.00 p.m. and during free days in justified cases (sudden deterioration of health condition or upon an instruction by a competent CPCG officer).**

First aid medical service or rapid medical assistance ensure health care provided in the CPCG establishments outside regular working hours, which is fully sufficient. Employing a medical doctor for 24 hours in each CPCG establishment would require an increase of the number of doctors by approximately 40 – 50 persons and it would also have significant consequences for the state budget. **Extensive experience clearly confirms the appropriateness of the current system.**

Under Section 21 of Act No. 98/1995 Coll. on the Rules of Medical Treatment as amended **medical first aid, institutional emergency, rapid medical assistance and air rescue service** are provided on the basis of health insurance. **First aid and rapid medical assistance** to imprisoned persons are covered under Section 4 paragraph 3 of Decree of the Ministry of Justice of the SR No. 359/1996 Coll. on the organisation and provision of health care in the Corps of Prison and Court Guard of the SR. Medical service for imprisoned persons in penitentiary establishments is secured on a **permanent** basis either by part time hired medical doctors, as explained above, who are called to see the patient or the CPCG establishment arranges urgent transport to a doctor.

When providing these services to aliens they pay for it from their own funds. When an alien has no funds the concerned CPCG establishment pays for the health care from the state budget.

The examining doctor describes objective findings and information concerning the injured person and circumstances of the injury in case of use of violence before imprisonment of the person or during the stay in the establishment. It is not general practitioner's task to assess and compare trauma development with the findings on prisoner's body. In difficult cases this would be the task of a forensic expert. The doctor enters any determined injury caused by ill-treatment into medical documentation and reports the finding to the competent CPCG establishment officer. Statement describing the injury is issued to authorities involved in criminal procedure.

Paragraph 77: *The CPT recommends that the Slovak authorities take necessary steps to address issues concerning medical confidentiality aspects referred to in paragraphs 74 to 76.*

Medical examinations are usually conducted in the absence of any non-medical staff. The doctor decides about the presence of a CPCG officer.

Clients presenting danger to their surrounding are brought to medical examination by CPCG officers and their presence in the medical centre is necessary.

Medical documentation of prisoners is stored at the CPCG establishments medical centres. Medical staff has access to these rooms and non-medical staff only in their presence. In justified cases other officers (shift commander) may enter these rooms. These persons are under the confidentiality obligation.

COMMENTS

Paragraph 72: *The CPT believes that after the presence of nursing staff (and doctors) is ensured during weekends at the visited establishments a medical interview or examination of arriving inmates would be carried out on the day of admission.*

Answers given in previous paragraphs and the humanisation trends indicate that health care for imprisoned persons is one of the priorities of the Slovak prison system.

4. Other issues

RECOMMENDATIONS

Paragraph 78: The CPT recommends that the Slovak authorities revise the list of authorised means of coercion in the light of the remarks in paragraph 78 and issue more detailed guidance on their use.

The CPT delegation visited Slovakia at a time when Act No.79/1992 Coll. on the Corps of Prison and Courts Guard was still in effect. This law did not consistently regulate conditions for the use of all means of restraint. This is one of the reasons why a new CPCG law is needed.

Considering the amendment efforts concerning means of restraint legislation the recommendation to review the list of means of restraint and of their use is not relevant anymore. The list of means of restraint is given in Section 31 of the currently valid legislation – Act No. 4/2001 Coll. on CPCG. Their structure and conditions for their use reflect the security situation in the Slovak prison system. Sections 33 to 43 of the mentioned law exactly stipulate the conditions for using individual means of restraint. Means of restraint are usually used in unexpected situations requiring a quick response. Use of shock gas and electric shock delivering devices is sufficiently regulated in Section 33 of Act No. 4/2001 Coll. on the CPCG, which, inter alia, states that use of these means of restraint also serves to ensure one's own safety and safety of other persons against unlawful assaults. The law strictly defines the conditions for using means of restraint. The regulated mode of use of these means is the result of many years of penitentiary practice and experience.

Section 33 of the quoted law states:

„para. (1) An officer of the Corps is authorised to employ self-defence grips and holds, hits and kicks, tear agents, clubs, tomfu and shock and gas paralysing devices to

- a) ensure his/her safety or the safety of another person against unlawful assaults when this assault is not discontinued after warning and there is an immediate danger of assault, or the assault continues or all facts indicate that it is to continue,
- b) prevent disorderly conduct, fights, intentional damaging of property or any other rough conduct disturbing the rules or public order,
- c) produce a remand or sentenced prisoner who is actively resisting,
- d) prevent violent entry by unauthorised persons into guarded building of the Corps or places where entry is forbidden.

para. (2) An officer of the Corps is authorised to employ grips and holds also when bringing a remand or sentenced prisoner resisting in a passive way.”

It is not possible to regulate the conditions for the use of means of restraint in more detail. Practical experience clearly shows that the use of means of restraint differs from case to case. The choice of the concrete means of restraint should be left to the officer who assesses the concrete situation of intervention (number of persons against who is intervened, their physical fitness, manifestations of aggression, location of intervention, etc.).

On the other hand, provisions of Section 45 of the quoted law determine exactly against whom the means of restraint may be applied and these provisions are strictly followed.

Striking with firearms or making use of firearms inside CPCG establishments is absolutely impossible because entering the CPCG buildings with any weapon is strictly forbidden and permanently checked. Officers guarding the CPCG establishment and officers in escorts outside the establishment have only arms when on duty.

Shock weapons can only be used in exceptional cases (Section 40 of Act No. 4/2001 Coll. on the CPCG). Statistical data prove that they were not used in the last 10 years.

Neither shock gas paralysing devices have been used. Electrical paralysing devices used in the CPCG are types commonly available in the shops in the Slovak Republic and they are not the AIR TASER type. Statistical data show that an electric shock delivering devices was used back in 1997 against an exceptionally aggressive prisoner and in 2000 against a prisoner who lost control over his conduct and attacked CPCG officers in a brutal way. Electric shock delivering devices are given only in cases where there is justified reason to believe that the CPCG officer could be subject to an assault by the person to be produced or to participate in a service act.

Officers are duly trained on lawful conditions and the way of use of means of restraint. Before starting their duty they are regularly tested by guard and escort shifts commanders. A training order is annually drafted for each CPCG establishment. It covers several areas including the use of means of restraint. All CPCG officers sit tests before and are evaluated by a commission in three-year cycles. These results then serve as basis for continuing the service.

CPCG officers must have a sufficient scope of means necessary for eliminating violent conduct by prisoners against other prisoners or the staff available.

Each use of means of restraint is subject to reporting, control by a supervisor and prosecutor responsible for inspections in CPCG establishments.

Paragraph 81: The CPT recommends to substantially increase the visit entitlement for remand prisoners (for instance to 30 minutes each week).

The CPT delegation indicates that there is no differentiation as to the visits for remand prisoners who are in collusion detention (stricter regime is justified) and other remand prisoners. However, it is necessary to note that potential stricter conditions of remand collusion detention are determined by a competent authority involved in criminal procedure as may be necessary for the needs of criminal activity investigation where any contact of the remand prisoner with the outside world is permitted and secured by these authorities.

Increasing visit intervals and visit duration is organisationally unfeasible in all remand establishments because there is lack of CPCG officers and at the same time there are **limited rooms for this purpose available**. Implementation of this requirement would mean increasing financial requirements which is not in compliance with the annual ordinance of the Government of the Slovak Republic stating not to adopt decisions affecting financial requirements (e.g. Order No. 805/2000 paragraph C. 51).

The reason for visits without direct contact in remand detention is a higher risk of infiltration of drugs and other unapproved items (so called Swedish hair, plastic explosives, or other weapons). Under current legislation governor of CPCG establishment may allow open visit for sentenced prisoners. Similar solution will also be adopted for remand detention, e.g. for visits by embassy staff, contact with minors during the visit, and alike.

Mutual visits of remand and sentenced prisoners is very questionable and it would put too high demands on organisational aspects. It would certainly put the purpose of the detention in peril. The CPCG has no knowledge of any availability of such possibility in other countries.

More open visiting arrangements for remand prisoners shall be taken into account in the new remand detention law envisaged in the framework of the efforts to newly codify the Criminal Procedure Code. It should be made possible in particular with respect to non-collusion remand detention, juveniles and visits conducted by minors. Amendments of the relevant legal provisions are in progress currently.

Increasing visit intervals to once a week is organisationally unfeasible in all remand establishments because there is lack of rooms and human resources (68 CPCG officers more would be needed) and it would also mean increasing financial requirements which is unrealistic. In the current situation the law gives the governor of CPCG establishment the right to allow more visits in justified cases. This right has been made use of. It is also necessary to add that many members of the family have problems to pay the costs of travel to the place of remand detention or establishment for sentenced prisoners because the distance is usually 100 and more kilometres.

Paragraph 81: The CPT recommends that both remand and sentenced prisoners be granted access to a telephone.

The requirement of granting access to a telephone both for remand and sentenced prisoners is also difficult with view to the technical aspects in remand establishments. The same applies to organising telephone calls (avoiding meeting of accomplices, increase of CPCG officers number and financial resources needed to ensure monitoring and recording of calls).

Currently sentenced women in Nitra-Chrenová establishment and sentenced men serving their sentence of deprivation of liberty in open and semi-open establishments are permitted to make telephone calls.

This way of contact with the outside world will be legislated in the new law on remand custody and sentence of deprivation of liberty after comprehensively evaluating the experiment in the establishment concerned and open and semi-opened establishments, and this possibility is already partially covered in the drafted amendment of the relevant legal provisions.

Paragraph 85: The CPT recommends that prisoners undergoing administrative segregation be provided with purposeful activities and guaranteed appropriate human contact.

Paragraph 85: The CPT recommends that a prisoner in respect of whom a segregation measure is adopted or renewed be informed in writing of the reasons for that measure (it being understood that the reasons given could exclude information which security requirements reasonably justify withholding from the prisoner).

Paragraph 85: The CPT recommends that a prisoner in respect of whom such a measure is envisaged be given an opportunity to express his views on the matter.

Paragraph 85: The CPT recommends that a prisoner in respect of whom such a measure is adopted or renewed be able to contest the measure before an appropriate authority.

Paragraph 85: Paragraph 85: The CPT recommends that decisions concerning the segregation of a prisoner be fully reviewed at least every three months.

Each disciplinary sanction is always imposed in a written decision where the procedure stipulated by law is applied. Circumstances of disciplinary violations are thoroughly examined, the level of fault is always determined in such a way that the prisoner has the possibility to give a signed written statement, and the prisoner is informed of the possibility to lodge a complaint against the imposed disciplinary sanction.

As the remark of not providing blankets and sheets to prisoners undergoing disciplinary segregation at night does not specify the establishment and persons and the check itself it should be noted that prisoners are **provided mattress and also blankets, sheets, pyjamas and personal items at night**. During the day these items are stored in cabinets at disciplinary cells and therefore there is no reason for not providing them. The situation could have occurred because the prisoner did not want to have a blanket and sheet at his/her discretion or the bed linen was in the process of replacement. Nevertheless, this issue will be paid attention **and these items will always be provided to prisoners at night and their delivery will be checked**.

Act No. 156/1993 Coll. on remand detention makes individual placing of a remand prisoner to a cell possible. However, it seems that the measure is interpreted wrongly because it is not isolation. Individually placed remand prisoner has the same rights and duties as other remand prisoners. Remand prisoners may be placed to cells by one if the conditions in the CPCG make it possible. Remand prisoner may be placed alone in a cell upon his/her own request. In case of hunger strike they are also placed to cells individually. The placement procedure is strictly regulated in Section 5 of the remand detention law and in Section 11 of the Remand Detention Rules. Juveniles are placed separately from adults, remand prisoners whose cases are linked or who are subject to joint criminal proceedings, etc. are also separated; these steps are in compliance with the law.

Unfounded administrative segregation is impossible. Temporary placement of one prisoner in a cell may be applied as a security measure. This provision is also included in the current draft of relevant legislation.

Legal provisions regulating the conditions for remand detention and for the sentence of deprivation of liberty do not have the term isolation (disciplinary, administrative) and the CPT probably understands them as disciplinary punishments of prisoners (the term “isolation” is used in health care where in case of infectious and contagious diseases health and lives of other persons must be protected).

Disciplinary sanctions and their handling with respect to remand prisoners is regulated in Sections 19 to 21 of Act No. 156/1993 Coll. on remand detention and in Sections 34 to 37 of Decree of the Ministry of Justice No. 114/194 Coll. issuing the Rules of Remand Detention.

Disciplinary sanctions imposed on sentenced prisoners are regulated in Sections 19 to 24 of Act No. 59/1965 Coll. on the sentence of deprivation of liberty and Sections 63 to 74 of Decree of the Ministry of Justice No. 125/1994 Coll. issuing the Rules of the Sentence of Deprivation of Liberty.

Solitary confinement (disciplinary isolation in CPT’s terminology) up to 15 days in case of adults and up to 10 days in case of juveniles is a disciplinary punishment imposed on sentenced prisoners. This punishment can only be imposed when the circumstances of the violation were duly cleared and accused’s guilt is proved. **Before imposing any disciplinary sanction the accused must have an opportunity of presenting a statement.**

The accused has the right to file written appeal against the decision imposing a disciplinary sanction within three days from notification of the decision. This appeal has a suspensive effect. The appeal has no suspensive effect with respect to the solitary confinement sanction and when immediate serving of this punishment is necessary for the discipline and order in the establishment. Disciplinary sanction of solitary confinement can be imposed on an accused only in case of exceptionally serious violation of the law and decree regulating remand detention. A report on the disciplinary violation is made and the sanction imposed is entered in the personal file of the accused person. Doctor examines accused’s fitness for the solitary confinement punishment before starting and then every three days the doctor examines fitness for continuing the punishment. The accused may take one-hour exercise a day. He/she can also purchase toiletries and have written and personal contact with defence lawyer and legal representative.

Disciplinary sanction imposed in the form of isolation (placing to cells by one) is, similarly to the one in case of the accused, solitary confinement the only difference being that in case of sentenced prisoners it may take as much as 20 days. Other two forms of disciplinary sanctions include placing to closed section after work time and all-day placing to a closed section. Imposition of disciplinary sanctions and medical examinations by a doctor are identical for remand and sentenced prisoners. Sentenced prisoner may be pardoned serving disciplinary sanction, prior to its imposition, which cannot be appealed against, when it is considered unnecessary with respect to prisoner’s conduct. When a sentenced prisoner shows effective correctional efforts while serving the sanction the remaining part of the disciplinary can be dropped. Pardoning and dropping punishment serving is understood as completed punishment serving. The sentenced prisoner has the right to file written or oral complaint against the decision imposing a disciplinary sanction within

three days from notification of the decision. The sentenced prisoner is informed of the imposition of the disciplinary sanction before its serving to make it possible for the sentenced prisoner to give a statement. Disciplinary sanction can be imposed only when the guilt of the prisoner was proved beyond any doubt. The sentenced prisoner may occupy a cell alone when there are serious security concerns or when there are no two prisoners serving punishment except for solitary confinement where prisoners are as a matter of principle placed individually.

Establishment's doctors and psychologists monitor disciplinary punishments of placing to a closed section and solitary confinement. In 2000 individual psychological services at intervention level, crisis intervention, psychological counselling and psychotherapy were delivered to a total of 956 accused and 3,192 sentenced.

Sections with special supervision providing the function of separated accommodation of sentenced prisoners having a negative influence on other sentenced prisoners, presenting a threat to officers' safety, attempting or planning escape, addicted to drugs, etc. are set up at individual establishments for the sentence of deprivation of liberty in compliance with Section 106 of Decree of the Ministry of Justice No. 125/1994 Coll. issuing the Rules of the Sentence of Deprivation of Liberty. Total capacity exploitation level was 51.8% in 2000 while in average 108 sentenced prisoners could be accommodated there, however, the reality was in average 56 sentenced prisoners. The grounds for staying at the section are regularly reviewed once month and psychologist, pedagogue and section educator are also present. The decision concerning continuing or dropping the punishment of the sentenced prisoner is decided by the governor of the CPCG establishment.

COMMENTS

Paragraph 81: *The CPT once again expressed its wish to invite Slovak authorities to move towards more open visiting arrangement for remand prisoners.*

Position to this comment is given under recommendation of Paragraph 81.

REQUESTS FOR INFORMATION

Paragraph 81: *The CPT would also like to be informed as to why it is necessary for officers monitoring a particular visit to be masked.*

Current legislation does not regulate use of face covers by CPCG officers during visits. Uniformed officers take care of visits of the accused, in case of sentenced prisoners visits are commonly conducted at the presence of educators or pedagogues in civilian clothes. CPCG officers, the so called masked ones from special intervention units were exceptionally present during visits – in case of visits to persons accused of committing exceptionally dangerous organised crimes. This has only been done twice according to the then valid Ordinance of the Ministry of Justice No. 209/1996 on the establishment and conditions for action by special action units in the CPCG. This practice is currently not applied because Act No. 4/2001 Coll. on the CPCG stipulates conditions of exceptional circumstances under which CPCG officers may use protective face covers.

D. Establishments under the competence of the Ministry of Labour, Social Affairs and Family of the Slovak Republic

1. Preliminary remarks

REQUESTS FOR INFORMATION

Paragraph 90: The CPT would like to receive information about the medium to long-term strategy of the Slovak authorities to address the problems posed in view of uncertainty as to the outcome of property disputes concerning social services homes and, more particularly, about developments concerning the Velký Biel and Okoč homes.

The Bratislava Regional Authority works intensively on finding a solution given the outstanding restitution dispute concerning the above home. Possible options include extending the lease, purchasing the compound and its subsequent reconstruction, or moving the social services establishment to a different location.

In this connection the Bratislava Regional Authority has applied for a loan from the Development Bank of the Council of Europe – i.e. a loan from the CE Social Development Fund for 2002 – 2004. The Bratislava Regional Authority expects that one of the above options will be implemented in the 2002 – 2004 period in the framework of the development programme of public works in the Bratislava Region. The budget proposal for 2002 also counts with this option.

Section 34 para. 8 of Act No. 303/1995 Coll. on Budgetary Rules provides that a budgetary organization (i.e. organisation fully financed from the state budget) as a leaseholder can make capital investment designed to improve the technical condition of the leasehold if the lease period extends beyond four years after such investment. The social services home for adults at Velký Biel does not meet this statutory requirement.

2. Residents regarded as "difficult"

RECOMMENDATIONS

Paragraph 100: The CPT recommends that the Slovak authorities take immediate steps to ensure a significant increase of staffing levels at social services homes at Okoč and Velký Biel, in the light of the remarks made in paragraph 100. In particular, the number of nurses with relevant specialist qualifications should be increased at each establishment, and rehabilitative services (psychology, physiotherapy) should be provided at Okoč.

In the framework of the measures taken to deal with the shortcomings identified by the CPT delegation during its visit to social services homes, the competent authority (founding institution) replaced the directors of both homes.

To ensure human and dignified conditions in the Social Services Home for Adults at Veľký Biel, its capacity was reduced in 1998 from 200 to 130 places. The reduction is spread over several years and takes place through natural attrition. The Social Services Home currently houses 153 residents. Capacity cuts have not been matched by a decrease in the staffing level which the current organisation chart sets at 82 employees. This means that the same number of staff members who had initially cared for 200 residents are now providing care to a lower number of residents.

The Bratislava Regional Authority operates within the limits of allocated budgetary resources and binding staffing quota; under the relevant Government Resolution it may not overstep these resources or quota. Its repeated applications for increasing the staffing levels in social services establishments, lodged each year with the Ministry of Finance, have been unsuccessful.

Also the Trnava Regional Authority is aware of the need to increase the staffing level at the Okoč Social Services Home. Its repeated demands for increasing the staffing levels not only at the Okoč Social Services Home but also at other social services homes have not been met.

In connection with drawing up the budget for 2002, the Trnava Regional Authority has requested that the staffing level be increased by 5 employees, to be assigned to the education and medical sections of the Okoč Social Services Home, with a corresponding increase in wage resources.

Paragraph 101: *The CPT recommends that the Slovak authorities take all necessary steps to resolve rapidly the outstanding property disputes. In the event of the existing premises remaining in use as social services homes, they should be entirely renovated. In the meantime, efforts should be made to provide accommodation areas with adequate decoration, and to keep all of the premises clean and in a good state of repair.*

As regards the reservations concerning aesthetic appearance of accommodation premises and inadequate sanitary facilities, the shortcomings in these areas are due to the fact that financial allocations received from 1997 onwards have not been sufficient to meet the needs of the establishment.

Unpleasant smell in the establishment was brought to the attention of responsible staff members who were also reminded of their obligations in the area of hygienic standards and procedures. The situation at the Social Services Home for Adults in Veľký Biel has improved.

Regarding the Social Services Home at Veľký Biel it needs to be mentioned that because of the outstanding property dispute and inadequate layout of the establishment, which does not meet the requirements for this kind of facility, there is no other solution for unit 1 but to continue using the corridor as the day area. The bars separating the "closed" section of the unit were removed and all windows were lined with security films.

Paragraph 102: *The CPT recommends that efforts should be made to develop activities with a therapeutic and rehabilitative value for all residents; it is very important that wholly dependent and bed-bound residents also benefit from appropriate stimulation.*

Pending restitution proceedings do not permit making any structural changes to the premises of the Okoč Social Services Home for Children and Adults used as accommodation and day areas for organised and voluntary hobby activities and rehabilitation.

As regards educational programmes and targeted cultural, recreational, rehabilitative activities and hobbies, residents with physical disabilities can be provided adequate care in the "bedrooms" and in the park surrounding the home, as far as the limited personnel resources allow it.

The appointment of a new director at the Okoč Social Services Home for Children and Adults on 1 June 2001, who is a person with professional experience in special education, is a prerequisite for improving the quality of life of its residents.

Based on a visit to the Social Services Home at Okoč by the representatives of the Ministry of Labour, Social Affairs and Family and an inspection carried out by the Trnava Regional Authority, the **Director** of the establishment was **recommended** to:

- verify compliance with special qualification requirements (director of the institution, head nurse, head of education)
- make sure that the job description of the social worker includes the work with residents, cooperation with the staff of health and social sections, and cooperation with other employees of the establishment
- strive for improving the standard of education provided to all the residents of the establishment
- establish cooperation with Prof. K. Matulay Social Services Home, Lipského 13, Bratislava whose professional staff in the autism section, in addition to taking care of autistic residents, provides professional counselling and supervision services also to the staff of other social services homes that have residents with this diagnosis
- provide additional training in psychiatry to medical staff of the establishment which is necessary because of specific health impairments of its residents
- set up a committee that will regularly oversee individual sections (kitchen, educational sections, medical section, financial section), giving special attention to the serving of meals.

The head of the social affairs department at the Trnava Regional Authority was recommended to:

- increase the frequency of regular inspections focused on the standard of social services provided in the aforesaid institution in conformity with Section 67 para. (e) of Act No. 195/1998 Coll. on Social Assistance.

Shortcomings in this area can be addressed only by ensuring adequate staffing and financing that will make it possible to expand the range of activities of the residents of social services homes and to improve their conditions. Regional authorities in Bratislava and Trnava and other regional authorities in the Slovak Republic have repeatedly asked the Ministry of Finance for increasing staffing levels in social services homes.

All regional authorities in Slovakia have analysed the situation and prepared a comprehensive overview of the number of nurses employed in social services establishments who should receive additional training in psychiatry. Additional training will be organised by the Health Ministry's chief specialist on psychiatry.

Regional authorities in Slovakia will assign their specialists on methodology of education with the task of re-assessing education plans and plans of cultural, hobby and recreational activities in social services homes with a view to applying an individual approach which is better geared to the needs of individual residents, even in the situation of less than adequate number of professional staff.

Paragraph 102: *The CPT recommends that the Slovak authorities review the use of psychotropic drugs in unit 1 at Veľký Biel.*

Psychotropic drugs are administered only when prescribed by attending physician (psychiatrist) based on the health condition of the resident.

The attending physician has access to complete medical files and records on administered medications.

Only an independent medical expert may give a comment on the appropriateness of the treatment.

Paragraph 103: *The CPT recommends that net-beds cease to be used as a tool for managing agitated residents or patients.*

Concerning the use of net-beds, the Ministry of Health's chief specialist on psychiatry in cooperation with the Ministry of Labour Social Affairs and Family drew up a "Professional Guideline for Regional Authorities and Social Services Establishments concerning the Use of Net-beds for Residents with Mental Disorders and/or Behavioural Disorders Placed in Social Services Establishments".

The Guideline has been distributed to all social services establishments in Slovakia through their competent regional authorities.

Paragraph 4 line 8, added to the Guideline on 26 June 2001, stipulates that patients must be examined by a team of psychiatrists within 24 hours from being placed in a net-bed.

The Department of Social Affairs of the Trnava Regional Authority has checked the records in accordance with the Guideline; its result was positive.

Before the end of 2001 the Department of Social Affairs of the Trnava Regional Authority plans to organize a professional seminar for medical staff and educators to enable them to gain knowledge and skills necessary for managing difficult situations. (Note: In May 2001 the Ministry of Labour, Social Affairs and Family organised, in cooperation with the Slovak National Centre for Human Rights, a Slovak-wide professional seminar on "Respect for Human Rights in the Provision of Social Services in Social Services Establishments".

The Ministry of Health has not yet created specialised institutions for persons suffering from mental and behavioural disorders whose health condition warrants the placement in such institutions. (The creation of specialised medical institutions for adults at the mental hospital at Plešivec and Serafínov is expected in 2002; a specialised medical institution for children is to be created in 2003.)

This is the reason why social services establishments continue to practise limited use of net-beds in conformity with the "Professional Guideline...".

However, there has been a change in the Social Services Home at Okoč – for instance, the use of net-bed for resident J. K. has been reduced to a minimum – apparently also thanks to the changes in the forms and methods of work.

Due to spatial and financial constraints, it is not possible to implement the CPT recommendation that aggressive, agitated, disturbed or autistic residents be placed in suitably equipped rooms of adequate size (capacity constraints – because of reduced capacity, residents cannot be moved to another social services establishment, and financial constraints – reconstruction, gradual reduction of capacity, and outstanding restitution disputes conducted in respect of both establishments).

According to the Health Ministry's chief specialist on psychiatry, net-beds constitute a more humane means to manage a patient than other means. Consequently, and considering the fact that due to inadequate layout of social services homes it is not possible to place the residents whose health condition has acutely deteriorated, resulting in endangerment of such clients or of their environs, in separate rooms of adequate size, the existence of net-beds in these establishments at the present is considered to be inevitable.

Paragraph 104: The CPT recommends that the cage bed be removed from the Okoč home.

For information sake, the isolation room did not have an iron door, but included an area separated by an approx. 2-meter high plaster partition wall; in place of a door it had a bar structure that allowed the light to penetrate, although to a lesser extent. The isolation room was sporadically used for temporary placement of aggressive residents until they ceased to act aggressively or were transferred to the Mental Hospital at Pezinok. As for A. K., she was placed in the isolation room because of aggressive conduct 40 hours prior to the CPT visit.

The isolation room is no longer used for the above purpose; it is used as a storeroom for various supplies. Residents whose condition deteriorates or who become agitated are placed by professional staff into net-beds for a short period subject to a written consent of a psychiatrist; detailed entries on the use of net-beds are made in their medical records.

There is no cage bed at the Okoč Social Services Home for Children and Adults.

OBSERVATIONS

Paragraph 103: The CPT points out that more suitable means than net-beds can be found to ensure the safety of persons with impaired mobility or nocturnal disorders (such as disorientation/sleep-walking).

The Ministry of Labour, Social Affairs and Family, in conjunction with the Ministry of Health, are preparing the proposal of a systemic solution, i.e. the use of a multidisciplinary approach to providing care to persons with mental disorders and/or behavioural disorders. Personal safety of these persons may be ensured through improved individual care (medications, special pedagogical procedures, etc.). Point B.3 of Slovak Government's Resolution No. 473 of 30 May 2001 sets out the task to increase the number of employees directly involved in the provision of social services in social services homes; financial resources needed for the implementation of this task will be provided for in the budget proposal for 2002.

3. Living conditions of more autonomous residents

REQUEST FOR INFORMATION

Point 107: *The CPT would like to receive the views of the Slovak authorities concerning the need to set up adequately remunerated multi-disciplinary staff teams to address the varying needs of the physically handicapped, the mentally retarded and the mentally ill and providing additional care according to Section 20 para. 7 of Act on Social Assistance.*

The Ministry of Labour, Social Affairs and Family agrees with the opinion of the CPT that a multidisciplinary approach is required to ensure adequate care for residents placed in social care homes.

In conformity with Point B.3 of Government Resolution No. 473 of 30 May 2001 concerning the "Report on the Current Situation in Financial, Material, Technical and Specialised Human Resources in the Area of Social Services and Care Provided to Persons with Mental Disorders and/or Behavioural Disorders in Social Services Establishments, including the Analysis of their Potential Transformation from Organisations Fully Financed by the State Budget to Subsidised Organisations", the Minister of Finance was entrusted with the task to ensure that the 2002 budget chapters for regional authorities comprise allocations for increasing the levels of nursing and specialised staff in social services homes, with a corresponding increase in wage resources and contributions to insurance funds, in accordance with the possibilities of the State budget.

Under Point B.4 of the Resolution, the Minister of Finance was also entrusted with the task to initiate the creation by 30 June 2001 of an inter-ministerial commission addressing the restitution claims, with a view to making an inventory of disused real property in State ownership and preparing a proposal for its use as a replacement for real property subject to restitution proceedings.

The Minister of Labour, Social Affairs and Family was instructed to submit by 30 September 2001 a draft conceptual solution of problems in the area of social services and in the care for persons with mental disorders and/or behavioural disorders in social services establishments.

4. Seclusion and other means of restraint

RECOMMENDATIONS

Point 109: *CPT recommends that a policy concerning the use of means of restraint in social services homes be drawn up*

Seclusion is no longer used as a special measure to handle serious cases at the Social Services Establishment at Veľký Biel. Aggressive states are controlled by medication or, in acute cases, patients are hospitalised in a mental hospital. Resident A.K. currently receives pharmacological treatment and can move about freely within the limits of the ward.

- *Concerning observations of the "Report" about resident A.K. placed in the Social Services Home for Adults at Veľký Biel:*

The resident was placed in the above-mentioned room on a recommendation from house psychiatrist because of uncontrollable conduct (she was restless, aggressive, very agitated); she was breaking windows in the ward, attempted to cause an injury to herself and other residents, as well as to staff members. In 1998 she attacked and caused a serious bodily injury to her roommate to whom she inflicted several head wounds. The treatment of the wounds required hospitalisation. She caused a serious injury to her roommate in spite of round-the-clock supervision ensured in the ward.

Resident A.K. was provided following care by professional staff during her placement in isolation room:

- she was washed and cleaned twice a day (she was exchanged diapers and showered as needed, 3 to 4 times a day), always dressed in clean clothing which the resident, due to her behavioural impairment, shredded and tore to pieces. Since resident A. K. is incontinent both as regards bladder and bowel movements, she was given fresh clothing, i.e. underwear, clothes and shoes, several times a day
- she was served meals 4 times a day in the presence of professional staff
- she was administered medications regularly as prescribed by the doctor
- she was checked at one-hour intervals by professional staff; any changes in her conduct were reported and the staff on duty entered them in writing into the report
- she was given a thorough hygienic treatment twice a week (bathing, nail clipping, washing hair, etc.).

Since the CPT visit, A.K., diagnosed with severe mental retardation and behavioural disorders, received psychiatric treatment at the Pezinok Mental Hospital between 23 and 27 October 2000. Since that time she has been repeatedly hospitalised at the Pezinok Mental Hospital whenever her condition acutely deteriorated.

OBSERVATIONS:

Paragraph 110: *The CPT trusts that once the staffing levels at Okoč and Velký Biel are increased in line with the recommendation set out in Paragraph 100, the practice of using other residents to restrain a resident will cease.*

The Ministry of Labour, Social Affairs and Family agrees with the opinion of the CPT that residents of social services homes should not be restrained with the help of other residents and is confident that the quality of these homes will be greatly improved as a result of the implementation of point B.3 of Government Resolution No. 437.

During the visit of the representatives of Social Affairs Department of the Trnava Regional Authority to the Social Services Home for Children and Adults at Okoč, the staff was reminded that any participation of other residents in placing a resident in a net-bed is prohibited.

5. Further remarks

REQUEST FOR INFORMATION

Point 111: The CPT would like to be informed of developments in the supervision of social services establishments.

Amendment to Act No. 195/1998 Coll. on Social Assistance has extended the competence of the Ministry of Labour, Social Affairs and Family to include State supervision over the provision of social services (Section 66 (k)), in particular as regards the observation of fundamental human rights and freedoms of persons placed in social services establishments. (The National Council of the Slovak Republic passed the amendment on 30 November 2000).

A Slovak-wide professional seminar on the "Observation of Human Rights in the Provision of Social Services in Social Services Establishments", held on 22 May 2001, gave also information concerning the mandate of the CPT which, in conformity with the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, examines the treatment of persons deprived of their liberty with a view to strengthening the protection of these persons from torture and from inhuman or degrading treatment or punishment.

The Regional Prosecution Office requested information from the Social Affairs Department of the Trnava Regional Authority concerning the form in which the Regional Authority participates in ensuring the protection of residents and the respect for human rights. The Social Affairs Department provided the requested data concerning the scope and focus of controls performed by the Trnava Regional Authority in social services establishments, including photocopies of all records and protocols from such controls.

