

**NATIONAL PREVENTIVE MECHANISM
visit to
LJUBLJANA PRISON, NOVO MESTO UNIT**

Disclaimer: The following report contains only main findings regarding the visit. It was produced on the basis of the original report on the visit of the National Preventive Mechanism and the response of the authorities to it. It is intended for publishing purposes on the official Human Rights Ombudsman of the Republic of Slovenia webpage.

Pursuant to the tasks and competences of the National Preventive Mechanism under the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the Human Rights Ombudsman of the Republic of Slovenia (hereinafter: Ombudsman), accompanied by representatives of two contractual non-government organisations, the Legal-Information Centre for NGOs (PIC) and the Red Cross of Slovenia, visited Ljubljana Prison, Novo mesto Unit (hereinafter: Prison), without prior notice on 26 May 2009. During the visit, an inspection of living quarters was conducted and all imprisoned people who agreed to it were interviewed.

The Prison houses people serving a sentence of imprisonment of up to six months. It includes a detention department. The Prison's official capacity is 35 people. At the time of our visit, the Prison housed 44 people: 28 detainees, 15 sentenced prisoners and 1 person in compliance detention. The detention ward's official capacity was exceeded by as much as 75%. A representative of the Prison explained that the increase in the number of people in detention and the resulting overcrowding was primarily attributed to the introduction of the Schengen border regime and to the imposition of measures on domestic violence. The Prison had emptied one room for sentenced prisoners to accommodate detainees. This has caused a change in the activity regime in this part of the Prison; time spent outside prison cells is now also limited for the sentenced prisoners serving in the semi-open area.

Of all the Ombudsman's visits to the prisons of the Republic of Slovenia, this was the first visit where we found that, due to the shortage of space, one of the detainees had only had a mattress placed on the bare floor in the cell where he spent 21 hours per day. We described this as a completely unacceptable situation, in contravention of the UN Standard Minimum Rules for the Treatment of Prisoners, which stipulate in point 19 that "Every prisoner shall, in accordance with local or national standards, be provided with a separate bed, and with separate and sufficient bedding, which shall be clean when issued, kept in good order and changed often enough to ensure its cleanliness". Such treatment is also in contravention of the Recommendation Rec (2006) of the Committee of Ministers to Council of Europe member states on the European Prison Rules (adopted on 11 January 2006). Point 4 of the basic principles of the Recommendation stipulates that "Prison conditions that infringe prisoners' human rights are not justified by lack of resources". Furthermore, point 21 of the Recommendation (as with the Standard Minimum Rules for the Treatment of Prisoners) lays down that every prisoner must be provided with a separate bed and separate and appropriate bedding, which must be kept in good order and changed often enough to ensure its cleanliness. We suggested that the Prison and the Head Office of the Prison Administration of the Republic of Slovenia (hereinafter: Office) ensure as soon as possible that such cases would no longer occur. In this regard, the Office took the position that the

VARUH ČLOVEKOVIH PRAVIC RS

DUNAJSKA 56, 1109 LJUBLJANA TELEFON: +386 1 47 500 50 FAKS: +386 1 47 500 40
BREZPLAČNI TELEFONSKI KLIC IN INFORMACIJE: 080 15 30 E-MAIL: INFO@VARUH-RS.SI

WWW.VARUH-RS.SI

quoted international legal instruments did indeed apply but it was not possible to fully comply with their requirements in the case of that particular detainee. It was not possible to put a bed in the overcrowded living area; the only possible solution was to provide the detainee with a mattress on the floor for sleeping; the detainee was provided with clean bedding. The Prison is in no case informed in advance about an order for detention of a particular person; the Police can bring a person to prison at any time and immediate reallocation of a detainee to another facility is not possible, because the reallocation is decided by the court on the proposal of the Prison Department. In such cases, which are said to occur infrequently, there is no other option but to provide a mattress to a detainee for sleeping; the Prison has no spare beds, as its capacity is constantly exceeded. Supposedly, the Office and the Prison are not in a position to solve this problem; they can only see to it that imprisoned people are promptly reallocated to other prisons or departments where spare beds are available.

According to the collected data, Novo mesto Department received 20 detainees in March 2009 and 14 in May 2009; in total, there were 92 detainees received by 23 September 2009. In the period from 1 January to 23 September 2009, there were 29 detainees reallocated to other prisons, with highest numbers in March (6) and in May (5). According to the Office, the best possible solution would be to ensure additional capacity; however, the Office is not in a position to provide this, because funding for this purpose can only be ensured by the Republic of Slovenia from the budget.

The living quarters of imprisoned people still lag behind the standard defined in the Rules on the implementation of the sentence of imprisonment i.e. 7m² per person in a room with more than one bed. Dormitories with three to seven beds are still the most frequent form of accommodation. The provisions of Article 42 of the Enforcement of Penal Sentences Act remain unimplemented. The Office explained that living conditions of prisoners failed to considerably improve because there were no spatial, let alone financial, resources available. Nevertheless, the situation is gradually improving, which can be illustrated by the repairs made to the chests used by imprisoned people, installation of additional lights in the doorways and some other minor repairs. The ventilation system in the sanitary facilities used by imprisoned people has also been repaired; this repair had been ordered during our previous visit and we welcomed it. We again drew attention to the problem of separating smokers from non-smokers in living and other quarters used by prisoners. Cigarette smoke could still be smelt in the rooms visited. The Office explained that the problem could not be fully resolved, mainly due to overcrowding and the fact that there were only three larger living areas available to the prisoners at the Department; therefore, it was not always possible to prevent individuals from smoking in dormitories and cigarette smoke from coming into the rooms.

The Ombudsman has repeatedly suggested that the inner walkway of the Prison be fitted with a roof, which would allow imprisoned people to move outside in bad weather. We found that the roof cover had been installed, but is so small that we wonder whether it can serve its purpose at all.

A room situated in the basement of the Prison is (still) used as a place for isolation. At the time of our visit, the room was clean but still lacking appropriate equipment, despite our suggestion given at the previous visit. According to the Office, this is due to lack of financial resources; furthermore, there are no priority investments in this room envisaged, because it is rarely used. Our advice concerning a sign warning about video surveillance of the room that needed to be replaced was accepted and the Prison has already replaced this.

Since our previous visit, the possibilities of detainees taking a shower have somewhat improved. Now, they can shower three times a week. We, nevertheless, suggested that a possibility (also) for detainees to take a shower every day should be considered, as this is

part of basic personal hygiene and the detainees have difficulties with washing in their rooms because there is no hot water provided. In this respect, the Office estimated only that substantial financial resources would be needed to bring hot water and to install shower cabins to sanitation facilities within the living quarters of detainees. This is understandable, but other options should also be considered. It would be worth exploring the possibility of detainees taking showers in the existing facilities more often.

Some windows are still fitted with wire nets; we have already pointed out that this is not the most appropriate solution, since, due to the dense nets, rooms receive very poor daylight. In response to our previous suggestion, the Office explained that it would not be possible to completely remove the nets, because this would increase the risk of escape and the possibility of receiving prohibited objects through windows; we have (again) suggested that partial removal of window nets should be considered, as we had not proposed their total removal. This time, the Office explained that all options had been considered and that it had been established that window nets were required due to the aforementioned reasons; furthermore, there were some technical obstacles to removing thick wire nets. Window bars, which are built into walls, would have to be removed and, consequently, there would be a risk of damaging window arches because of the age and poor condition of the building.

The Prison only provided work to seven prisoners and to none of the detainees and those in compliance detention. Four convicted people were engaged in assembling small elements within a public-utility institute, one was engaged in housework, one performed sanitary work, while one worked under a contract outside the Prison. The Ombudsman has been drawing attention to the significance of work to imprisoned people for quite some time; we have again suggested to the Prison that efforts should be made to provide opportunities for work to any imprisoned person who wishes to work and is capable of working. The Office agreed and particularly emphasised the problems in the provision of work to detainees and people for whom the competent court has imposed compliance detention. The latter can, at any time during the execution of compliance detention, pay a fine and be released; a detainee can also request the permission of the competent court to perform work to the general benefit or to the benefit of humanitarian organisations or local communities instead of serving compliance detention. The Prison lacks appropriate facilities where detainees could perform work. We noticed that rooms in the basement, previously used by the Police for detention of people, were unused; the Office explained that their renovation would require substantial financial resources, which were not available.

The development and education centre in the Prison organised various activities. Five prisoners were enrolled in primary education; there were individual lessons planned for one prisoner who had already completed seven years of primary school. As part of a life-long learning programme intended only for prisoners and people serving a compliance-detention sentence, workshops were held on various topics (e.g. ecology and manufacture of items made of waste material). Detainees make a decision on the enrolment on an individual basis.

During recreation time, imprisoned people can play table tennis; twice a week, those who wish can use a small sports hall. It is equipped with weights, a table-tennis table and an exercise bike, which was, as on our previous visit, not fitted with a battery for function monitoring. A ventilation device has been installed since our last visit, but the air in the facility was stale. Some prisoners said that these conditions prevented them from visiting the fitness facility. The Office assessed these allegations as unfounded, since data were produced to show that the vast majority of detainees participated in sport activities; some individuals were said to refuse to participate in recreational activities because they preferred to sleep between 7.30 and 9 am. The battery in the exercise bike was changed immediately after we had pointed this out.

Prisoners may make telephone calls every day between 7.30 and 9.00 pm. Visits of up to two hours are allowed on Tuesdays, Sundays and public holidays. Visits behind glass screens are allowed twice a week and may not exceed one hour. Prisoners under a closed regime may receive visitors inside the Prison, while others are allowed to receive them in the yard in front of the Prison. The Prison has considerable problems with its neighbours, who complain about visitors' cars parked in front of their homes. The fact that sanitary facilities are situated inside the Prison causes additional problems, because visitors are said to frequently urinate outside. We proposed that options are considered for a solution acceptable for visitors, as well as for neighbours. The Office replied that parking facilities located in front of the Prison building were planned several years ago, as well as spatial arrangements concerning parts of the land bordering the Krka river. The Prison would in this way obtain an outdoor area for recreational and sport activities, for walks and also for visits. However, the project was not implemented because the required financial resources had not been allocated in the budget. For the time being, the Prison intends to resolve the problem by erecting a fence around lawns, but so far no financial resources have been allocated for this purpose.

The Prison provides detainees with two hours of exercise in the open area daily (three hours to minors). In addition, detainees may use the fitness room three times a week (for 45 minutes). They are also allowed to receive visitors once a week behind a glass screen. Saturday visits last one hour, while Wednesday visits are 15 minutes longer. They may also use the telephone once a week, as a rule for 10 minutes. The Prison also allows an additional 5 to 10 minutes for calls to relatives; calls to lawyers and institutions are not limited in time. We commended this arrangement.

At the time of our visit, the Prison employed 26 people: 1 Head of the Department, 1 commander, 1 teacher, 1 guard (working as a secretary), 5 operational heads, 14 guards (3 of which were attending a training programme), 2 assistant guards and 1 instructor. Since our last visit, the number of guards has increased by 2; nevertheless, the majority of guards had reached the maximum annual overtime working hours by September of last year. We again pointed out that compliance with employment legislation is a precondition for regular and unhindered work, as well as for good relations between employees and imprisoned people. The Office agreed and stressed that the Government of the Republic of Slovenia had authorised an increase in the number of employed people in the Prison Administration of the Republic of Slovenia and an additional 41 workers would be employed soon, mostly in prisons. New workers will fill the vacancies, mainly in the security and education sections, and may also be employed in new work posts in prisons, should the prisons propose the opening of new work posts. Currently, the number of additional posts in the Prison is not known, because a proposal for four new posts is still pending approval.

Legal assistance has not been ensured to imprisoned people. This task was carried out by a psychologist in addition to her other tasks. According to the Office, the Prison ensures legal assistance in the scope defined by Article 211 of the Enforcement of Penal Sentences Act by providing free assistance to prisoners regarding protection of their rights, as stipulated in this Act and its implementing regulations. The Prison does not employ a lawyer to provide legal assistance to prisoners; it is supposedly provided by the President of Novo mesto District Court, who carries out weekly inspections in the Prison; on these occasions, she has conversations with prisoners if they so request.

There were no complaints relating to quality and accessibility of healthcare. A general practitioner visits the Prison on Mondays and Thursdays for two hours, or according to needs. A medical technician visits the Prison three times a week based on a contract. He also prepares therapy, which is administered by guards. The Ombudsman has been drawing attention to this inappropriate arrangement for a long time. A psychiatrist, employed by the Community Health Centre Novo mesto, visits the Prison twice a month.

VARUH ČLOVEKOVIH PRAVIC RS

DUNAJSKA 56, 1109 LJUBLJANA TELEFON: +386 1 47 500 50 FAKS: +386 1 47 500 40
BREZPLAČNI TELEFONSKI KLIC IN INFORMACIJE: 080 15 30 E-MAIL: INFO@VARUH-RS.SI

WWW.VARUH-RS.SI

Inclusion of aliens in health insurance is a specific problem because of a requirement to previously obtain a unique personal-registration number. There are also problems with prisoners of Roma origin; very frequently, they have large families, with family members covered by their insurance. When the insurance status changes, the previous insurance is terminated for all covered by it. The Office says that it is facing organisational and other problems with the reorganisation of the health care of imprisoned people; nevertheless, the Office believes that a decision to include imprisoned people in the public healthcare network was an appropriate and, in the long term, a good solution. These are initial problems typical of any major system reorganisation and will be gradually solved by the introduction and upgrading of computerised information systems and modernisation of administration.

The Prison also housed aliens; for this reason, we underlined that (at the very least) house rules and the daily schedule should be written in various languages, not only in Slovenian and English. In this regard, the Office stated that the Prison complies, as far as possible, with the provisions of Article 209 of the Enforcement of Penal Sentences Act, according to which a prisoner not familiar with the official language must be acquainted with documents and work in his/her language and follow the course of proceedings through an interpreter. The latter is particularly problematic; we were explained that the employees also speak Serbian and English and that in the case of an alien speaking a language not spoken by the employees, the Prison does not provide interpreters. We drew attention to the fact that this situation causes additional stress to imprisoned people and drew attention to the possibility of asking the diplomatic/consular mission of the country of the alien for help, a practice used by some other prisons. The Office claimed that this was regular practice, but applied only when imprisoned people express their consent to communicate with the mission.

There is no shop within the Prison. Shopping is done on Mondays and Thursdays by the instructor or guard on the basis of previously collected orders. There were no comments by imprisoned people on this.

Food is delivered to the Prison by an external company on the basis of a contract. There were some complaints by imprisoned people about (too) meagre daily rations and their packaging; a warm main course is described as making salad scalded and not tasty. According to the Office, the Prison has checked the quality of salad on several occasions but did not find it to be tasteless. Nonetheless, the supplier was informed about these complaints and explained that meals were transported in containers with thermal barriers preventing the salad from warming up during transport due to the heat emitted by warm food. The Office established that the complaints of some imprisoned people relating to the small quantity of meals are unfounded as the meals even surpass the norms.

At the time of our visit, the library was being renovated. We have found no regulations among the library material relevant to imprisoned people and drew particular attention to this shortcoming. We received an explanation that regulations are posted on bulletin boards; the Ombudsman believes that some copies should also be available in the library for imprisoned people to borrow. The Office agreed that it would be beneficial to introduce a library borrowing system, as is applicable to other library material, to regulations; imprisoned people would thus be bound to return material to the Prison library and be held liable for its loss or damage.