

NATIONAL PREVENTIVE MECHANISM VISIT TO DOB PRI MIRNI PRISON

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.

The Human Rights Ombudsman (hereinafter: Ombudsman) visited, after prior notice, Dob pri Mirni Prison (hereinafter: Prison) on 17 and 18 March 2009. The last previous visit to the Prison was made on 14, 17 and 21 December 2007. In carrying out the tasks and exercising the powers of national prevention mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the visit was made in the presence of representatives of non-governmental organisations, i.e., the Legal-Information Centre for NGOs (PIC) and the Red Cross of Slovenia. During the visit, an inspection of living quarters was conducted and discussions were held with all prisoners who so wished. A report on the visit was drawn up and sent to the Head Office of the Prison Administration of the Republic of Slovenia (hereinafter: the Office).

The Prison is the biggest Slovenian institution for serving prison sentences. It consists of four departments in the closed part and semi-open and open departments (Slovenska vas). Male convicted prisoners serve a sentence longer than one year and a half in the Prison. There has still not been any systematic allocation of convicted persons to individual departments of the closed part (for example, by type and duration of sentence, recidivism). Persons who will be released on parole thus serve their sentence together with those who have been sentenced to the maximum possible sentence.

The Prison capacities have remained unchanged since our last visit, so that the official capacity is still 296 prisoners, of which there are 233 persons in the closed part, 40 persons in the semi-open and 23 persons in the open department. At the time of our visit there were 497 prisoners in the Prison, of which 433 were in the closed part, thus 200 more than its official capacity. The Prison management highlighted that they had faced even greater overcrowding for a period of time in 2008, when there were 526 prisoners in the Prison.

The Ombudsman has been emphasizing for a considerable time that overcrowding has an adverse effect on the living conditions of prisoners and, at the same time, it makes the maintenance of safety and public order difficult. It was established on this occasion that overcrowding in the Prison has increased since our last visit. This is of great concern. Our findings were confirmed by the Office, which highlighted as being of particular concern the fact that the overcrowding in the Prison cannot be solved by transferring convicts to other prisons, since the number of prisoners in these prisons has also been increasing. **On the other hand, it is encouraging that, as we could observe, preparation and construction works for the renovation and expansion of living quarters in the Prison have finally begun. The capacity should therefore increase to 522 beds and sentence should be served mainly in one-bed or three-bed rooms and**

no longer in group rooms. The Office also expects and hopes that the renovation of the Prison, which is now slowly in progress, will gradually improve the living conditions.

The situation regarding material conditions in the Prison had not improved noticeably since our previous visit; so we do not repeat the relevant findings. **We stressed that urgent maintenance works should not be neglected due to the planned renovation and the Office indicated that it is clear from the reports on works carried out and the funds spent for this purpose that this not the case. We reiterated that the inventory in the living units of convicts is in most cases completely worn-out and needs urgent repair or replacement. Cabinets for keeping convicts' personal belongings were also considerably too small. Convicts therefore stored their belongings in various boxes and bags, thus further aggravating conditions in the already overloaded rooms.** According to the Office and considering the fact that it is difficult to provide funds for the new construction of planned living buildings, it is not rational to replace all the current equipment with new prior to moving convicts in new living buildings. The Office has already tried to alleviate the problem of shortage of space to keep prisoners' personal belongings by a recommendation submitted to the Prison at the beginning of 2008, that a convicted person should have clothes, footwear and other personal equipment with him/her to the extent that can be kept in the appropriate cabinet, while surplus clothing and equipment should be kept either in the Prison storage or they should be sent home. According to the Office's available information, this recommendation has not consistently been implemented.

As during the previous visit, convicts frequently highlighted the poor quality of cleaning agents with which they have to clean their living quarters. In particular, it is claimed to be over-diluted. In this respect, the Office took the position that the Prison should provide a sufficient quantity of cleaning agents. At its request, the majority of supplied cleaning agents have already been diluted or, for security reasons, are diluted in the presence of a guard and according to the regulations of the producer. The Office attributes the convicts' dissatisfaction with poor quality to a false idea of all-powerful cleaning agents developed from various advertisements, resulting in an idea with uninformed prisoners that cleaning can be done without any work, although in reality, only active cleaning can be effective and this is difficult to make some prisoners understand. During our visit to the Prison, we were told that each department has its own delivery note on the quantity of cleaning agents; however, it was not possible to obtain access to it. It was concluded that our proposal that the Prison should establish a record of cleaning agents by which it could be possible to examine prisoners' complaints has not been implemented. The Office explained that the Prison keeps records on the distribution of individual items and products for personal hygiene for each convict separately and gave an assurance that, when delivering cleaning agents ordered to individual departments in the future, it will also submit a copy of the delivery note to establish their own records and monitor the delivery of cleaning agents to individual prisoners.

We also established that there were no pyjamas on the list of personal linen that can be taken to be washed. We proposed that the Prison should also provide for washing them, in particular since changes have been made regarding restrictions on the number of packages that prisoners may receive annually. The Office explained that convicted persons in the Prison can have up to two pyjamas washed, which should be sufficient, since otherwise there could be unnecessary additional loading of the already overloaded prison laundry.

During inspection of the premises for spending annual holidays, it was found that they are badly maintained. There were no bulbs in the rooms, water was leaking from the kitchen refrigerator and the cooker was in poor condition. The Office confirmed our findings, adding that the Prison has eliminated all defects in light fixtures and the range has been taken to be overhauled. However, the Office attributed the established situation to old premises and an inappropriate attitude of prisoners towards the inventory. Its position is that the Prison, according to regulations in force, should recover the damage caused from prisoners who

damage inventory intentionally or through grave negligence. The Ombudsman has already, on several occasions, made this proposal.

A significant number of complaints by prisoners referred to beds. We could see for ourselves that many of them are sunken, torn and worn-out. When talking to the Prison management we were told that convicts may replace old mattresses with new ones, but convicts claimed otherwise. We therefore proposed that the Prison should again inform convicted persons of the procedure of replacing old worn-out mattresses and the Office agreed to the proposal. It also stated that practice shows that beds currently in use are not best suited. As a consequence, the offer on the market has been examined and testing of various kinds of beds has already been carried out and, based on the information collected, a standard for buying new beds will be established.

We commended the installation of control video cameras in corridors on the ground floor of the first department since the veracity of various statements by prisoners can thus be proved. We proposed that the Prison should keep records more than 30 days, since complaints are also lodged after this time. Our proposal has been supported by the Office, which considers the records to be important evidence in dealing with prisoners' complaints, because of the damage caused by the use of coercive means, in damage suits for harm caused when using coercive means, self-wounding and mutual physical settlement.

Isolation rooms n, up to the date of our visit, had been used 19 times in 2009. They were both in poor condition. One stank of sewerage and, in the other, the wall lining was peeling. A special record on accommodation in these two rooms (name, decision number, date and hour of commencement and completion of placement) is kept. When examining the record, it was found that, in some cases, no completion time of placement was indicated. This was considered to be unacceptable since, in this way, the record does not reveal how long a certain person actually stayed in the isolation room. We proposed that guards should be warned to be more consistent in completing the sections in the record and this proposal was also supported by the Office; it confirmed that the Prison had already taken the necessary steps.

According to Article 236 of the Enforcement of Penal Sentences Act, a prisoner may be removed from common living and other quarters and placed in a special room. The second paragraph of the same article restricts the stay in such a room to a maximum of 12 hours. Despite that, it was established during the visit that a prisoner had been placed there for several days in succession without any interruption. We drew attention to the fact that no legal basis could be provided for that. The Ombudsman believes that a person who is excited and upset or if fear of self-damage exists, this person should be provided with medical assistance. The Office agreed that, in the case presented, the law was violated and such a violation could result in at least state liability for damages. It is the position of the Office that other appropriate solutions should be found, maybe even intensive, professionally conducted discussions, which should be carried out outside the special room, thus interrupting the stay in the special room. The Prison itself would prefer an amendment to the act allowing exceptional extension of the stay in the special room or the active involvement of the health services, which, with the help of suitable professionals, could take over a convicted person for further consideration.

In the first department of the Prison, there are premises with a stricter protection regime. Convicted persons who are extremely liable to escape, those whose behaviour seriously disturbs other prisoners and those who are threatened by other prisoners are placed there.

On the Ombudsman's initiative, a few years ago, institutions began to issue written decisions to convicted persons when placing them under a stricter regime; however, as of December 2007, the Rules Amending the Rules on the implementation of the sentence of imprisonment (Official Gazette of the Republic of Slovenia /Uradni list RS/, no 112/2007) entered into force,

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which specifies that a decision on the accommodation under the first paragraph of Article 6 of the Rules on the implementation of the sentence of imprisonment shall be recorded in the prisoners' personal plan. The Prison is obliged to verify once a month whether grounds for keeping a convict in a stricter regime continue to apply. These findings must (only) be recorded in personal plans according to the rules. The Ombudsman has pointed out (for example, Annual Report for 2007) that these changes (underlined in the amendment of the Enforcement of Penal Sanctions Act (ZIKS-1C), with the possibility of deciding on certain aspects of serving a sentence of imprisonment only by recording them in the personal plan, without issuing a special decision about that) are terminating beneficial modifications when placing convicts in a stricter regime of serving the sentence of imprisonment. The Ombudsman's position is that a convicted person in a stricter regime must be informed of the grounds for such a decision by a written decision, since this allows him to consider possible changes in behaviour and, at the same time, enables the application of complaint avenues. Failing that, a convicted person might be deprived of the (effective) right of appeal; however, subsequent checking of the conditions for this measure at the request of a convicted person himself/herself is also difficult. Furthermore, it should be stressed that prisoners must have the possibility of demanding a test of the correctness and legality of the measure imposed in any case of encroachment on his/her rights, except for deprivation of liberty itself.

During this visit, the majority of prisoners placed in a stricter regime asked about the reasons that they had been placed in a stricter regime at all. This confirmed that prisoners are not sufficiently informed of the reasons for such a placement, and particularly not of the possible right of appeal against such a decision. We examined some personal files of convicted persons placed in a stricter regime and established that the grounds recorded for placing them in a stricter regime of serving the sentence of imprisonment are sparse, without necessarily any specific reasons for such a placement, no records of a decision on the placement in a stricter regime in the personal plan contained legal advice on the right of appeal and no records on the (monthly) verification of reasons for such a placement. The Ombudsman believes that such records in a personal plan do not meet their purpose, since they are mere formalism, without content. **We proposed to the Office that it should, within its competences and authorities, verify all cases of placing convicted persons of the Prison in a stricter regime and to the Prison that, in future, it should better substantiate in the records in personal plans the placement in a stricter regime, including legal advice on the right of appeal.**

The Office agreed that the records in the personal plan should be more comprehensive and more substantive, but was more cautious regarding the inclusion of the legal warning on the right of appeal. It believes that a collision of legal and pedagogic logics is essential and to some extent, mutually exclusive. The legal logic requires the highest standard of human rights possible, whereby each restriction is provided with the right of appeal. The relationship between a prisoner and institution is formal and the decision is the one that enables consideration of a possible change in behaviour. As a last resort, communication is carried out through decisions, appeals, replies to appeals and similar up to the exhaustion of legal remedies. A pedagogic logic should be built on the basis of a relationship of trust, since this is the condition for personality changes necessary for an independent and high-quality life. A legally over-formalised pedagogic process may be counter-productive; it is therefore necessary to find an appropriate balance between them. According to the Office, it is a fact that records in the file including decisions were formerly mostly written by educators, whereas recently, due to a lack of staff, they have been written by social workers and psychologists. The Office wonders whether an appropriate number of lawyers should in the future be employed in the prison system, thus raising legal standards relating to the protection of human rights.

It was established that only one telephone booth is installed in each department and a large number of prisoners complained that this was not enough. In view of the number

of persons in departments, we considered such complaints justified and, additionally, we did not forget that the Office, in reply to our report on the visit to the Prison dated 2007, stated that a new telephone line in the Prison is under renovation to ensure better provision of telephone conditions. This time, the Office explained that it is in the process of finding appropriate solutions with a national operator. It is considered especially encouraging that the operator found a commercial interest and, therefore, changes for the better are expected. The capacities of telephone connections should already have been renovated and increased and optical connections to the Prison should already have been provided. The installation of telephone booths is expected shortly since Telekom has responded to the invitation to visit locations for their installation.

At the time of our visit, the closed department had sufficient surface areas available intended for outdoor activities. The Ombudsman hopes that the planned construction will not overly reduce this available area. Convicts can also use fitness rooms for their recreation, but these are very modestly equipped.

In the first department, we also examined rooms intended for free-time activities. Convicts who made wooden and clay products there said that the Prison provides all the necessary equipment for such activities. Since we consider that organised free time activities for convicts are an important aspect of serving the sentence of imprisonment, it was proposed that the Prison should attract to them as many convicts as possible.

At the time of our visit, 187 convicts were assigned to work in the public utility institute Pohorje (JGZ Pohorje); although 130 of them actually came to work. Sixty-four convicts did housework and two worked for the Revoz company. The Prison could not provide work for 102 convicts and 7 of them rejected any work. The number of convicts involved in the work was relatively high compared to other prisons and we commended that. **We also proposed that the Prison should provide work for other convicts who want to work and are capable of working.** The Office explained that the current economic situation is also reflected in the employment of prisoners and this should also be taken into consideration. All prisons are confronted with fewer orders and, as a consequence, there is less work for prisoners. The Office estimates that the issue of work must be paid significant attention and time. To this end, expert consultation devoted exclusively to the issue of the work of prisoners was organised last year. One of the conclusions of the consultation was that other possibilities (public utility units, therapeutic workshops etc) should be sought, in addition to the existing public utility units. In order to realise the above goals, appropriate financial resources should be provided and, in this respect, sympathy and support from the Government of the Republic of Slovenia.

We ourselves could verify the veracity of statements by convicted persons regarding the poor condition in cloakrooms and sanitary facilities of JGZ Pohorje. In a cloakroom facility, cabinets of approximately 25 x 30 cm size, were installed, but most of them were damaged and inappropriate for safe keeping of prisoners' belongings and clothes. In sanitary rooms, the floor was dirty, it stank of faeces and some of equipment was missing. According to the Office, the competent persons in JGZ Pohorje have been informed and advised of our findings.

We commended the education system in the Prison. One hundred and eighty convicts participated in various forms of education (programme »The Bridge to Education«, computer course, English language course, education for hotel and restaurant industry work, primary school programme, etc). We recommended that the Prison should continue with the education of prisoners in the future and, at the same time, we proposed that it should encourage other convicts to participate in education. **The education acquired is one of the**

key aspects of re-socialisation and may offer better employment opportunities after the sentence has been served.

According to the Prison's estimate, the presence of illicit drugs is a major problem. About half of convicted persons have problems of addiction to drugs or alcohol. Drugs are channelled, in one way or another, into the prison through visits. In connection with this problem, the Office further explained that the drug-free department itself, which is located in each living department (except for the first one), carries out its function only to a certain degree, since all the programmes dealing with addiction are currently carried out with a single therapist, which results in the prolongation of waiting periods to be able to be included in more demanding programmes of treatment. In addition to the lack of spatial capacities to be arranged in drug free department, as stipulated in Article 53 of the Rules on the Implementation of the Sentence of Imprisonment, the Prison is also plagued by a shortage of appropriate staff.

Smoking in the Prison is allowed only in corridors; it is forbidden in bedrooms and living rooms. According to the Prison, an attempt is made to deal with infringements at the time. Ventilation devices enabling air suction are installed in corridors.

Health care of convicts is provided by Trebnje Health Centre, which has a qualified nurse and five general practitioners available (from Monday to Friday, four hours a day). They alternate according to a monthly schedule. At the time of our visit, the Prison employed two general practitioners and three nurses with secondary school qualification (present from Monday to Friday from 7.00 am to 7 pm) d. During weekends, healthcare is provided through the duty service within Trebnje Health Centre. A dentist is available twice a week and also a psychiatrist.

Convicts expressed dissatisfaction in relation to access to a general practitioner. Most criticisms were aimed at the schedule of outpatient work in departments, since a particular block has access to a physician only on a specific day.

Outside this schedule, access to a physician is not possible except for urgent cases when they are received by external healthcare institutions. The Office provided only a short explanation for the above and other findings as to the healthcare, namely that, by entering the public healthcare network, the relationship changed between prisons and physicians as healthcare service providers. Physicians were contractual partners and all activities were coordinated directly with them. The partners of prisons are, at present, healthcare centres, meaning that coordination is more complex. The Office gave an assurance that it will do its best, together with prisons, to negotiate optimal healthcare for prisoners.

Several convicts also mentioned that, in most cases, they have to buy medicines prescribed by a physician themselves. It was proposed that, in order to avoid possible difficulties, the Prison will inform prisoners of the lists of medicines that are free of charge and those that are subject to payment. The Office gave an assurance that Trbovlje Health Care Centre will be asked to submit a list of medicines that are subject to payment. At the time of our visit, the number of guards in the Prison was 114. According to the Prison management, at least additional 54 guards are needed in order to work normally. In 2008, guards worked 20,000 overtime hours and provided 3047 court escorts. Guards are also responsible for distributing medication. The Ombudsman has several times drawn attention to this inappropriate arrangement. The Office agreed with that it would be necessary, as soon as possible, to provide an appropriate number of staff. It added that both the parent ministry and the Government of the Republic of Slovenia have been calling attention to this issue for several years.

At the time of our visit, three psychologists, three social workers, 13 pedagogues, a therapist for free-time activities and a therapist for addiction treatment were employed within the

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education service. Two advisors-pedagogues were temporarily employed. The Prison management explained that certain working posts within the education service are still vacant. Each pedagogue treated between 40 and 50 convicts. The Ombudsman believes that this number is considerably too high, in particular, if pedagogues are to carry out their work in so called »small groups«. Having been provided with such information, we were not greatly surprised at the number of complaints from prisoners about the work of and access to the education service. We pointed out that appropriate treatment of convicted persons will only be possible if appropriate staff is provided and this proposal was confirmed by the Office, adding that the Ministry of Justice has been calling attention to this for several years.

Convicted persons have also frequently highlighted lack of access to the Prison management. There was practically no response to requests addressed to the management for discussions on problems. We indicated that the Ombudsman believes that it is worth encouraging prisoners' requests for talks and that it would be appropriate that each convicted person, when asking for a discussion, should receive feedback information about to whom he can refer and a time when he can discuss his problems. The Office gave the opinion in this regard that the response of the Prison management to prisoners' requests for talks is optimal considering the prison overcrowding and all the tasks that have to be carried out.

In 2009, up to the date of our visit, coercive means were used five times, in three cases to prevent physical disputes and in two cases because of refusal of an order.

The majority of convicts confirmed a correct attitude of the guards towards them which we commended. Complaints about violence and threats from other co-convicts caused great concern. We emphasised that it is necessary to prevent possible conflicts between convicts using all reasonable means. If no appropriate safety is guaranteed in the Prison in which a threatened convict is located, it is necessary to take appropriate action, including transfer to another prison if so required. The Office completely agreed with the proposal. It was added that poor living conditions have a strong influence on the occurrence and incitement of violence in the Prison and the Prison will have to prevent and manage violence among prisoners by internal transfers of convicts and by transfers to other prisons and, last but not least, by imposition of other measures under applicable law, until living conditions have been improved by the construction of new living units.

Ninety-one convicts had supervised visits on the day of our visit, and others in other forms (unsupervised, bed-sitting room etc). Since we received a lot of complaints from convicts about not knowing why their visits are supervised, we asked for an explanation of the criteria applied for allowing unsupervised visits and the method of implementing supervised visits. The Office explained that convicted persons are granted privileges of unsupervised visits if they strive actively to achieve success in fulfilling their personal plan, follow the house rules, if they are adequately well-ordered and are not prone to escape. The type and manner of committing the criminal offence, possible new criminal proceedings that are currently pending against the convict and other circumstances that show a risk of abuse of such privileges are also considered.

Supervised visits are conducted in a building intended for visits, behind plexi-glass screens. Convicts communicate with visitors through headphones (the convicted person has one headphone and on the other side, there are three headphones for visitors). In addition to a physical barrier, there is also a guard in the premises. The reason for the presence of a guard is to prevent inventory damage, the exchange of objects and to maintain public order and peace, as well as to prevent conflicts among convicts. The room is not equipped with a video camera.

At the time of our visit, there were several aliens in the Prison, particularly citizens of the former Yugoslav republics. The Office gave an assurance 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 can follow the course of proceedings through an interpreter.

We again noted some complaints about food. With regard to complaints about (too) modest meals, the Office explained that food in the Prison, as in other institutions, is prepared according to prescribed standards. An analysis of the application of food standards for prisoners made by the Office shows that all institutions follow the standards prescribed for the energy value of food (9.500 – 11.500 kJ for male and juvenile prisoners and 8.500 - 10.500 kJ for female prisoners). Specifically, the Prison achieves the upper limit of the specified energy value (11.279 kJ).

Many convicts highlighted high prices in the canteen and the fact that a price list is not published. When examining the prices, we did not notice wide deviations from prices in other stores; however, we proposed that appropriate price transparency should be provided. **This is also important for convicts who do not have direct access to the canteen (for example, those who are accommodated in the first department). According to the Office, our proposal is entirely acceptable and can be implemented, since the Prison has the right to require this from the vendor.**