



REPUBLIC OF
SLOVENIA



HUMAN
RIGHTS
OMBUDSMAN

THE REPORT

OF THE HUMAN RIGHTS OMBUDSMAN
OF THE REPUBLIC OF SLOVENIA

ON IMPLEMENTING THE TASKS OF THE NATIONAL PREVENTIVE MECHANISM

UNDER THE OPTIONAL PROTOCOL TO THE
UN CONVENTION AGAINST TORTURE AND
OTHER CRUEL, INHUMAN OR DEGRADING
TREATMENT OR PUNISHMENT

FOR 2020

2020



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Ljubljana, June 2021



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Legend:



Ombudsman's commendations



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1. IMPLEMENTATION OF THE DUTIES AND POWERS OF THE NATIONAL PREVENTIVE MECHANISM IN 2020

1.1 GENERAL

In this document, the Human Rights Ombudsman of the Republic of Slovenia (the Ombudsman) reports on the implementation of the tasks and powers of the National Preventive Mechanism (NPM) in 2020 as per the **Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment** (Optional Protocol) adopted by the UN General Assembly at its 57th session on 18 December 2002 and which has been available for signing and ratification since 4 February 2003.¹ **The Optional Protocol establishes a system of regular (preventive) visits by independent international and national authorities to places where people are deprived of their liberty,² in order to prevent torture and other forms of cruel, inhuman or degrading treatment or punishment.³** At the international level, the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) was established as per the Optional Protocol. Every state signatory to the Protocol undertakes to **establish, appoint or maintain an authority or several authorities at the national level to implement visits in order to prevent torture and other cruel, inhuman or degrading treatment or punishment (NPM).**⁴

The task of each NPM is to visit all locations in the country where persons are deprived of their liberty and inspect how such persons are treated in order to strengthen their protection against torture and other cruel, inhuman or humiliating treatment or punishment. While observing suitable legal norms, the NPM makes recommendations to the relevant authorities to improve the conditions and treatment of people and prevent torture and other forms of cruel, inhuman or degrading treatment or punishment. In this regard, the NPM may also submit proposals and comments to the applicable or drafted acts.⁵

Important additional tasks and powers were entrusted to the Ombudsman in 2006 by means of the Act ratifying the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (MOPPM).⁶ **We are certain that one of the reasons the Ombudsman has been entrusted with the additional duties and powers of the NPM was**

1 The Optional Protocol entered into force for Slovenia on 22 February 2007; see the Official Gazette of the Republic of Slovenia [Uradni list RS], No. 17/07, International Treaties, No. 3/07.

2 The place of deprivation of liberty is determined in Article 4 of the Optional Protocol.

3 See Article 1 of the Optional Protocol.

4 Article 17 of the Optional Protocol stipulates: „Each State Party shall maintain, designate or establish, at the latest one year after the entry into force of the present Protocol or of its ratification or accession, one or several independent national preventive mechanisms for the prevention of torture at the domestic level. Mechanisms established by decentralised units may be designated as national preventive mechanisms for the purposes of the present Protocol if they are in conformity with its provisions.“

5 See Article 19 of the Optional Protocol.

6 Official Gazette of the Republic of Slovenia [Uradni list RS], No. 114/06 – International Treaties, No. 20/06.

the care the Ombudsman has constantly dedicated to discussing complaints received from imprisoned persons and also its preventive role in this field, i.e., by the formed and established manner of operation when visiting facilities where persons deprived of their liberty are accommodated. Its independence (functional, personal and financial) is also important in this regard, and this is ensured with the Constitution of the Republic of Slovenia and the Human Rights Ombudsman Act.

By being entrusted with the tasks and powers of the NPM, the Ombudsman became an integral part of a generally applicable system under the auspices of the United Nations, which enforces (additional) mechanisms for the prevention of torture and other forms of ill-treatment of people deprived of liberty at the international and national levels. **This system is particularly based on regular visits to places of deprivation of liberty.** The purpose of these preventive visits is to prevent torture or other ill-treatment before it occurs.

Since 2015 a special NPM unit has been operating under the auspices of the Ombudsman which does not examine individual complaints, but visits places of deprivation of liberty and conducts other NPM tasks. The separation of both activities of the Ombudsman has thus been ensured, i.e., the preventive one conducted by the NPM and the responsive one that includes the discussion of complaints received. The need for this separation is explicitly stipulated in Item 32 of the Guidelines on National Preventive Mechanisms (SPT)⁷ adopted at the 12th session in Geneva between 15 and 19 November 2010, which stipulates that “where the body designated as the NPM performs other functions in addition to those under the Optional Protocol, its NPM functions should be located within a separate unit or department, with its own staff and budget”. The implementation of tasks and powers of the NPM is thus much more organised and effective. The improved organisation of work contributes to better preparation for individual visits, their execution and the drafting of reports on visits.

The operations of the Ombudsman's special internal organisational unit, which implements only the tasks and powers of the NPM, were also determined in 2017 by the Act Amending the Human Rights Ombudsman Act (ZVarCP-B)⁸ in Article 50c, stipulating that the work of the National Preventive Mechanism is managed by a Deputy Ombudsman authorised by the Ombudsman for a certain period.

In addition to the Deputy Ombudsman and the Head of the NPM, Mr Ivan Šelih, the following Ombudsman advisers participated in the NPM unit: Robert Gačnik, BA in Criminal Justice and Security, specialist in criminal investigation (responsible particularly for visiting prisons, police stations, alien and asylum centres), mag. Jure Markič, BA in Law (responsible for visiting social care institutions and psychiatric hospitals), and Ana Polutnik, BA in Law (responsible for visiting residential treatment institutions and other places of the deprivation of liberty of children).

⁷ Available at <http://www.ohchr.org/EN/HRBodies/OPCAT/Pages/NationalPreventiveMechanisms.aspx>.

⁸ Official Gazette of the Republic of Slovenia [Uradni list RS], No. 54/17.

1.2

COOPERATION WITH NON-GOVERNMENTAL ORGANISATIONS

Article 5 of the MOPPM determines that the duties and powers of the NPM are to be implemented by the Ombudsman. It also stipulates that non-governmental organisations (NGOs) registered in the Republic of Slovenia and organisations which hold the status of humanitarian organisations in the Republic of Slovenia and which deal with the protection of human rights or fundamental freedoms, particularly in the field of preventing torture and other cruel, inhuman or degrading treatment or punishment, may participate with the Ombudsman in the supervision of places of detention and in the examination of the treatment of persons deprived of their liberty. The organisations implementing supervision together with the Ombudsman's office are selected by the Ombudsman on the basis of a public call. Cooperation with the selected NGOs is laid down in more detail in agreements..

The MOPPM also stipulates that the persons from selected organisations which will be participating in the implementation of the duties and powers of the NPM must provide a preliminary written statement that when implementing these duties and powers they will observe the Ombudsman's instructions and regulations regarding the protection of personal and confidential data, which are also applicable to the Ombudsman, deputies and staff. The MOPPM also determines that the costs and remuneration of persons from organisations conducting tasks or implementing the powers of the NPM are covered by the Ombudsman from its budget headings in accordance with the rules issued on the basis of the prior consent of the minister responsible for finance.⁹

Based on the public call¹⁰, the following non-governmental organisations were selected at the beginning of 2019 for cooperation until 31 December 2021 with the possibility of a one-year extension: Novi paradoks (NP), Humanitarno društvo Pravo za VSE (Pravo za VSE), Caritas Slovenia (Caritas), SKUP – Community of Private Institutes (SKUP), Legal-Informational Centre for NGOs – PIC (PIC), the Peace Institute (MI), the Slovenian Federation of Pensioners' Associations (ZDUS), Spominčica – Alzheimer Slovenija (Spominčica) and the Slovenian Foundation for UNICEF (UNICEF). The cooperation also continued in 2020 with all selected NGOs, with the exception of Caritas (due to its staffing issues).

The selected NGOs conduct visits and implement the tasks and powers of the NPM with their staff trained in individual fields of supervision as members of the group appointed by the Ombudsman for each individual visit separately. Every group implementing supervision is thus composed of representatives of the Ombudsman and the selected organisations who observe the programme of visits adopted by the Ombudsman in cooperation with the selected organisations. If necessary, other circumstances demanding an immediate visit are also taken into account.

⁹ The currently applicable rules were published in the Official Gazette of the Republic of Slovenia [Uradni list RS], No. 13/17.

¹⁰ Published in the Official Gazette of the Republic of Slovenia [Uradni list RS], No. 84/18.

1.3

VISITS TO PLACES OF DEPRIVATION OF LIBERTY

In the role of the NPM, the Ombudsman visits (while observing its annual programme of visits) all locations in the Republic of Slovenia where persons are deprived of their liberty, and inspects how such persons are treated, in order to strengthen their protection against torture and other forms of cruel, inhuman or humiliating treatment or punishment. While observing suitable legal norms, the NPM makes recommendations to the relevant authorities to improve the conditions and treatment of people and prevent torture and other forms of cruel, inhuman or degrading treatment or punishment. In this regard, the NPM also submits proposals and comments to the applicable or proposed acts, as stipulated by the Optional Protocol.

Places of deprivation of liberty in the Republic of Slovenia include in particular:

- prisons and all their units, including Radeče Juvenile Correctional Facility,
- educational institutions,
- certain social care institutions – retirement homes, special social care institutions, education, work and care centres, and occupational activity centres,
- psychiatric hospitals,
- detention rooms at police stations and Ljubljana Police Detention Centre,
- Aliens Centre in Postojna and the Asylum Centre in Ljubljana,
- detention rooms operated by the Slovenian Armed Forces, and
- all other locations as per Article 4 of the Optional Protocol (for example, police intervention vehicles, etc.).

The Family Code (DZ) which became applicable on 15 April 2019 also introduced numerous innovations in the field of protecting the interests of children. Based on Article 162 of the DZ, a court may issue an interim order to protect a child's interests by means of which the child is removed from the parents and placed with another person, into a crisis centre, foster home or an institution. If severe endangerment of the child is established with probability and their interests may only be protected with the child's immediate removal from the parents, this may also be done by the social work centre before the court rules on the proposal for an interim order (Article 167 of the DZ). **Based on the foregoing, youth crisis centres were added in 2020 to the places of deprivation of liberty in the sense of Article 4 of the Optional Protocol.** The placement in the crisis centre is systemically defined as a short-term placement as per paragraph three of Article 49 of the Social Assistance Act (ZSV) and is carried out by the social work centre. There are nine youth crisis centres in Slovenia intended for children and adolescents aged 6 to 18 and one crisis centre for children under the age of 6 years old.

The Ministry of Labour, Family, Social Affairs and Equal Opportunities (MDDSZ)

agreed that placement in youth crisis centres implemented in accordance with the provisions of Articles 162 and 167 of the DZ fitted into the framework of paragraph two of Article 4 of the Optional Protocol. The placement of a child or an adolescent based on an enforceable legal act (i.e., court order or a form of a social work centre on urgent removal) means the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority (Article 4 of the Optional Protocol). Following the imposition of the measure to protect the child's interests as per the provisions of the DZ, the parents cannot arbitrarily collect the child or the adolescent during the measure and are limited when exercising their parental responsibility relating to the content of the measure. The foregoing also means that during the measure the child or the adolescent cannot wilfully leave the institution (crisis centre, institution, foster family) in which they were placed based on an enforceable legal act (court decision, form on urgent removal). The MDDSZ also informed us that youth crisis centres implement crisis placement when children or adolescents come to the crisis centre on their own (this is not a placement based on an adopted measure), at which time it must be indisputable that they understand the meaning of procedures for the protection of their interests, the significance of their opinion in these procedures and consequences of the decisions made by the competent authorities for their protection and they can, with regard to the level of their psychosocial development, participate in social care services as beneficiaries. According to the MDDSZ such placements do not fit in the framework of Article 4 of the Optional Protocol and the NPM agrees with this.

1.3.1 Visits in 2020

In 2020, we visited 51 places of deprivation of liberty and carried out two monitoring procedures regarding the return of foreign nationals (a total of 53). We visited 18 police stations, ten social care institutions (retirement homes), seven varied locations of residential treatment institutions, five prisons, five special social care institutions, three psychiatric hospitals, detention facilities of the military police, a youth crisis centre and an occupational activity centre. All visits were conducted without prior announcement (except two monitoring procedures regarding the return of foreign nationals due to the nature of these activities). There were eight control visits (during which we particularly examined the realisation of NPM recommendations given during past visits) and five thematic visits (which focused on a certain topic selected in advance).

If compared to 2019 and previous years, fewer visits were conducted in 2020. The main reason for this was the COVID-19 epidemic and the observance of the measures adopted to prevent the spread of the disease, which resulted in unique challenges for the Ombudsman's operations in the role of the NPM and introduced the need to adjust the activities when discussing the protection of people deprived of their liberty. We particularly proceeded on the basis of the »do not harm« principle because we primarily wanted to enforce all

preventive measures for the members of the NPM and the people and staff in the institutions during uncertain times. Like everyone else, we particularly encountered practical problems in spring 2020, such as the lack of protective equipment (protective masks and other equipment), and then we adjusted our activities to the situations in the institutions we usually visit in the role of the NPM. In doing so, we also observed the Advice of the Subcommittee on Prevention of Torture to States Parties and National Preventive Mechanisms relating to the coronavirus disease (COVID-19) pandemic.¹¹

In spite of fewer visits to the institutions, we particularly closely monitored (when discussing the so-called broader issues¹²) the measures adopted to prevent the spread of the coronavirus disease as the people deprived of their liberty are especially vulnerable and helpless. Restrictive measures changed frequently, and they also opened numerous issues. To improve the flow of information, we decided to open a special subpage on the Ombudsman's website where we published information about the measures adopted to contain and manage the coronavirus (SARS-CoV-2) epidemic in our country and the acts enforcing such measures, including our opinions and press releases, messages from international organisations and other useful information. The Ombudsman emphasised publicly that the prevention of the spread of the epidemic must be approached in such a way that respects human rights and freedoms. If the national authorities draft measures that could encroach restrictively upon the fundamental rights, we expect them to substantiate the urgency of interventions and not only inform the public about certain measures, but also provide a detailed explanation about why it is necessary (and certainly merely temporary) to restrict the basic building blocks of a democratic state. We particularly warned against inadmissible stigmatisation due to medical circumstances.

To manage the viral infection and prevent the COVID-19 disease, it was necessary to adopt many measures in order to protect the health and safety of people deprived of their liberty. We pointed out that this must be done in such a way that human rights and fundamental freedoms are respected, as it involves a particularly vulnerable group. Any restriction of their rights must be especially carefully weighted, proportionate, legal, temporary, limited and regularly examined. It is encouraging that, in addition to restrictive measures to contain and manage the coronavirus disease in institutions limiting freedom of movement (e.g., prohibition of external visitors), measures to mitigate the distress of people detained were also adopted (e.g., more opportunities for using the telephone, enabling video calls, enabling the suspension of prison sentences for convicted people, etc.). Some decisions were also adopted whose legal bases were not entirely clear (e.g., prohibition of leaving retirement homes, prohibition of accepting visitors in prisons) or these decisions were problematic due to other aspects.

¹¹ Advice of the Subcommittee on Prevention of Torture to States Parties and National Preventive Mechanisms relating to the Coronavirus Disease (COVID-19) Pandemic – CAT/OP/10; found in the attachment.

¹² For example, we discussed in more detail the situations in retirement homes, prisons, residential treatment institutions and the residential unit of an occupational activity centre.

Some of our findings and recommendations are presented below and also in the Ombudsman's basic report for 2020.¹³ Detailed data on visits in 2020 are displayed in the table below.

General data on visits in 2020:

	POLICE STATIONS	MILITARY POLICE	PRISONS	ALIENS CENTRE - MONITORING OF FORCED REMOVALS	PSYCHIATRIC HOSPITALS	SPECIAL SOCIAL CARE INSTITUTIONS	RETIREMENT HOMES	RESIDENTIAL TREATMENT INSTITUTIONS	YOUTH CRISIS CENTRES	OCCUPATIONAL ACTIVITY CENTRES	TOTAL
NUMBER OF VISITS	18	1	5	2	3	5	10	7	1	1	53
NUMBER OF ONE-DAY VISITS	18	1	4	2	3	5	10	7		1	51
NUMBER OF TWO- DAY VISITS			1						1		2
ANNOUNCED VISITS				2							2
UNANNOUNCED VISITS	18	1	5		3	5	10	7	1	1	51
REGULAR VISITS	18	1	5			1	2	7	1		35
CONTROL VISITS					3		5				8
THEMATIC VISITS						4	1				5
EXTRAORDINARY VIS.							2			1	3
MORNING	18	1	5	2	3	4	10		1		44
AFTERNOON						1		7		1	9

When implementing the tasks and powers of the NPM, the Ombudsman engages experts who possess the widest range of recommended specialist knowledge. As selected NGOs cannot provide certain other suitable experts and because the Ombudsman does not provide the services of an expert in the field of medical care, certain external experts had to be engaged. On the basis of a public call for proposals for the purpose of recruiting doctors/expert specialists to help the Ombudsman to establish, clarify or evaluate evidence of torture or other forms of cruel, inhuman or degrading treatment or punishment, or to support the Ombudsman during visits to places of deprivation of liberty with suitable expert knowledge which the Ombudsman lacks, the Ombudsman selected two doctors/expert specialists. **In 2020, we continued our cooperation with Dr Peter Pregelj, specialist/psychiatrist, and Dr Milan Popovič, specialist in general surgery.** An individual expert selected from the list by the Ombudsman as per the type and place of an individual visit performs

¹³ The implementation of NPM duties during the epidemic was further explained by Deputy Ivan Šelih, the Head of the NPM, in the article published in the journal *Pravna Praksa*, no. 17-18, 6 May 2020.

their tasks in accordance with the orders and instructions of the Ombudsman and in cooperation with the Ombudsman's expert colleagues by participating in planned visits and providing written replies to the Ombudsman's questions in the role of the NPM and providing their own findings, particularly on the suitability of medical care and the treatment of people deprived of liberty.

The NPM drafts a comprehensive (final) report on the findings established at the visited institution after each visit. The report also covers proposals and recommendations to eliminate established irregularities or deficiencies and to improve the situation, including measures to reduce the possibilities of improper treatment in the future. The Ombudsman's representatives and the representatives of the selected NGOs participate in drafting the report on the visit. All participants, including NGO representatives, must prepare a brief report on their findings, together with proposals, which form part of the report on the implemented supervision. The report is submitted to the competent authority, i.e., the superior body of the visited institution, with a proposal that the authority take a position on the statements or recommendations in the report and submit it to the Ombudsman by a determined deadline. The institution concerned also receives the report, and a preliminary report is drafted in certain cases (when visiting social care institutions, psychiatric hospitals and residential treatment institutions). A representative of the Ombudsman is usually responsible for drafting the final report on the visit, although a person from a selected NGO may also be appointed for this purpose.

The participation of representatives from the selected NGOs during visits and when drafting final reports in 2020 is displayed in the table below:

	POLICE STATIONS	MILITARY POLICE	PRISONS	PSYCHIATRIC HOSPITALS	SPECIAL SOCIAL CARE INSTITUTIONS	RETIREMENT HOMES	RESIDENTIAL TREATMENT INSTITUTIONS	YOUTH CRISIS CENTRES	OCCUPATIONAL ACTIVITY CENTRES	TOTAL
PRAVO ZA VSE	1		1		1	2				5
FINAL REPORT	1				1	2				4
PIC	3	1	1							5
FINAL REPORT	3	1	1							5
PEACE INSTITUTE	2									2
FINAL REPORT	2									2
NOVI PARADOKS						2				2
SKUP	1		2	2			3			8
FINAL REPORT	1		1							2
UNICEF			1				4			5
SPOMINČICA					3	2				5

1.4

REALISATION OF NPM RECOMMENDATIONS

The implementation of NPM recommendations is a commitment of the State Party to the Optional Protocol. According to Article 22 of the Optional Protocol, the competent authorities of the State Party must address the recommendations of the NPM and establish a dialogue with it regarding possible measures to realise the recommendations. **All recommendations and responses from competent authorities regarding the NPM visits in 2020 are published in special tables on the Ombudsman's website pursuant to the institutions visited.**¹⁴ Following the example and good experience of some of the national preventive mechanisms, especially that of Austria, we decided in 2018 to establish special NPM recommendation overview tables. When preparing the tables, we also took into account our own experience and needs. Key words which would be used to label a particular recommendation were first determined. Twelve labels were determined: **(1) general, (2) living conditions, (3) treatment, forms of work, (4) health care, (5) activities, (6) staff, (7) contact with the outside world, (8) food, (9) treatment of unwanted behaviour, violation of the rules for living, (10) records, documentation, (10) legal protection, complaint channels, (11) relocation, discharge, (12) other.** Different categories in the table itself were then formed, so that it is immediately clear for each recommendation during which visit it was given, related to which location of deprivation of liberty, at which location, which type of visit it was, which non-governmental organisation cooperated, and whether an expert also attended the visit. The full recommendation is listed in the table, followed by a brief explanation of the recommendation if necessary; the aforementioned key word is used for a clarification of the type of a recommendation (**systemic, general, or targeted**); response to the recommendation and the comment on the response if necessary; findings from the control visit, and the response to these findings. Good practice and commendations provided during our work are also entered into the table. Based on the response received to the recommendations (visited institutions or the superior authority), we determine whether the visited institution and/or superior ministry accepted and implemented the NPM recommendations or not. The realisation of our recommendations is regularly verified during our subsequent visits to the institutions in question and, if necessary, by way of control visits.¹⁵

¹⁴ See: <http://www.varuh-rs.si/o-instituciji/podrocja-dela-varuha/drzavni-preventivni-mehanizem>.

¹⁵ The recommendation tables on our website are regularly updated, and the statistical data presented in tables published in this report capture the situation as of 15 January 2021.

1.4.1 Statistical review of NPM recommendations in 2020

Recommendations by type

	TARGETED	SYSTEMIC	GENERAL	TOTAL
ALIENS CENTRE	2		2	4
RETIREMENT HOMES		4	48	52
PSYCHIATRIC HOSPITALS			6	6
SPECIAL SOCIAL CARE INSTITUTIONS		4	19	23
OCCUPATIONAL ACTIVITY CENTRES		2	2	4
RESIDENTIAL TREATMENT INSTITUTIONS		5	12	17
YOUTH CRISIS CENTRES		3	4	7
PRISONS	85		22	107
POLICE STATIONS	80	1	19	100
MILITARY POLICE	9			9
TOTAL	176	19	134	329

Recommendations by key words

	ACTIVITIES	LIVING CONDITIONS	OTHER	RECORDS, DOCUMENTATION	TREATMENT OF UNWANTED BEHAVIOUR	TREATMENT, FORMS OF WORK	STAFF	LEGAL PROTECTION, COMPLAINT CHANNELS	FOOD	RELOCATION, DISCHARGE	GENERAL	CONTACTS WITH THE OUTSIDE WORLD	HEALTH CARE	TOTAL
ALIENS CENTRE				2		1							1	4
RETIREMENT HOMES	3	17		2	3	22					3	1	1	52
PSYCHIATRIC HOSPITALS	1	2			1	1		1						6
SPECIAL SOCIAL CARE INSTITUTIONS	5	4				3		7			1		3	23
OCCUPATIONAL ACTIVITY CENTRES		1						3						4
RESIDENTIAL TREATMENT INSTITUTIONS		5	2	1	7						2			17
YOUTH CRISIS CENTRES		1	3	1		1	1							7
PRISONS	13	40	2	1	1	12	18		4		3	7	6	107
POLICE STATIONS		21	1	47		10	5	13			2	1		100
MILITARY POLICE		1		5			2	1						9
TOTAL	22	92	8	59	12	50	26	24	5		11	9	11	329

Recommendations by response

	NOT ACCEPTED	NO RESPONSE	ACCEPTED UNREALISED	ACCEPTED REALISED	AWAITING REPLY	TOTAL
ALIENS CENTRE				4		4
RETIREMENT HOMES	3	1	23	24	1 ¹⁶	52
PSYCHIATRIC HOSPITALS			1	5		6
SPECIAL SOCIAL CARE INSTITUTIONS			10	13		23
OCCUPATIONAL ACTIVITY CENTRES					4 ¹⁷	4
RESIDENTIAL TREATMENT INSTITUTIONS			5	10	2 ¹⁸	17
YOUTH CRISIS CENTRES			3	4		7
PRISONS	7	1	65	34		107
POLICE STATIONS	5		18	60	17 ¹⁹	100
MILITARY POLICE				9		9
TOTAL	15	2	125	163	24	329

16 At the time when this report was being drafted, we still awaited the reply of the MDDSZ to the recommendation from the visit to Ilirska Bistrica retirement home.

17 At the time when this report was being drafted, we still awaited the reply of Škofja Loka residential unit of Kranj occupational activity centre to the recommendation from the visit.

18 At the time when this report was being drafted, we still awaited the reply of the Ministry of Education, Science and Sport (MIZŠ) to the recommendation from the visit to Kranj residential treatment institution.

19 At the time when this report was being drafted, we still awaited the reply of the MNZ (Ministry of the Interior) to the recommendations from the visit to Kozina and Sežana police stations.

1.5

INTERNATIONAL AND OTHER ACTIVITIES OF THE NPM

In addition to visiting places of deprivation of liberty, the NPM also conducts numerous other duties and activities. These include **the drafting of proposals and comments to applicable and proposed acts**. In 2020, we provided comments to the **amendments of the Criminal Code (KZ-1), the new Mental Health Act (ZDZdr-1) and new Communicable Diseases Act (ZNB-1)**. Regarding the latter, we expect the elimination of all deficiencies in current legal arrangements, especially when governing isolation and quarantine. Our comments were also submitted in the procedure of drafting the proposed **Act Amending the Criminal Procedure Act (ZKP-O)**. The amending act also transposes Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings, which stipulates minimum procedural safeguards. Initially, this Directive should have been transposed into the Slovenian legal order by means of the act discussing juvenile criminal offenders. At this point, we highlight again that it is time for the criminal act relating to minors to be enforced (soon) as it was already forecast upon the enforcement of the KZ-1; furthermore, the deadline for the directive to be transposed into the internal legal order expired on 11 June 2019. When proposing legislative solutions to arrange the procedural situation of minors as per the requirements of the directive, we also referred to the comments drafted by the Peace Institute, which cooperates with the Ombudsman in the implementation of the duties and powers of the NPM. We particularly supported the **amendments to the proposed ZKP-O (Article 18), which address the issues when interrogating foreign witnesses** who have crossed the state border illegally so that the course of parallel minor offence proceedings (in which they were deprived of their liberty) is also observed and, as a result, it is ensured that these persons are actually heard before the investigating judge as witnesses in pre-trial procedures (Article 149 of the ZKP).²⁰



Moreover, we also participated in the **expert discussion** initiated by the Ministry of Justice on the possible **necessary determination of a more suitable extended duration of the discussed security measure of mandatory psychiatric treatment and institutional care and the measure of mandatory treatment at liberty**, also in the light of future necessary arrangements for the long-term care of incurable persons with mental health problems. When seeking solutions to the questions raised, we found the participation of medical experts to be of key importance. The security measure of mandatory psychiatric treatment (even if carried out at liberty) is, above all, a curative measure which

²⁰ More on this in the chapter on visits to police stations.

includes medical treatment for the perpetrator. Its purpose is to eliminate the risk of the perpetrator repeating the criminal offence due to their medical condition. We thus believe that the duration should be justified by means of its purpose, which lies in the elimination of risk of a repeated criminal offence. The measure of compulsory psychiatric treatment and protection in a health care institution was initially unlimited in our legal system with the justification that it is not possible to determine in advance how long the treatment will be necessary and when the risk of the perpetrator repeating the criminal offence will cease. Later, the duration of this security measure for a person lacking criminal responsibility was limited to ten years and then to the current five years while referring to the attained developments in the manner and duration of psychiatric treatment which is now supposedly significantly shorter due to new medications or new treatment methods, whereby periodic control was more important than final temporal limitation. The shortening of the longest duration of this measure from ten to five years was also based on the finding that the time for the assessment that in individual cases recovery cannot be expected was also shortened while observing medical science. If recovery or improvement does not occur after this period, which usually enables more successful treatment at liberty due to social contacts and occupational rehabilitation, a suitable measure as per the act governing mental health may be imposed in the continuation.

In our opinion, a possible change in the duration of both measures must thus be justified based on the positions of the psychiatric profession; however, the (actual) provision of further specialist treatment of persons (if needed) with whom the longest possible duration of the measure (if duration of the latter will be limited at all) expired is even more crucial. Many problems have been established in this field and it is mandatory that the state arranges this field in accordance with the requirements of Article 5 of the European Convention on Human Rights and in doing so does not overlook positive obligations per Articles 2 and 3 of the Convention relating to the protection of the public against dangerous individuals.

Both measures interfere with the constitutionally guaranteed right to personal freedom and voluntary treatment. The statutory supervision must thus prevent the application of repressive sanctions under the appearance of health measures. As seen in the case-law of the European Court of Human Rights relating to the use of Article 5 of the ECHR, judicial protection against arbitrariness and disproportionality must also be ensured in these cases. In our opinion, the time interval for a court's periodic decision-making on whether the measure is still needed also depends on its (longest possible) duration and the objective it pursues, and also on whether a court's periodic decision-making is ex officio or if someone else (e.g., the person themselves) has the opportunity (and if so, how frequently) to instigate the decision-making.

Our comments were also submitted in the procedure of drafting the proposed **Act Amending the State Prosecution Service Act (ZDT-1E)**. We commended the status regulation of the Special Section's police officers, including the an-

anticipated solution that police officers would be transferred to the Special Section permanently. We believe that the amendments proposed to the existing legislative arrangements would contribute to the independence and impartiality of the Special Section's police officers when detecting and investigating criminal offences. We particularly commended

the arrangement of the complaints procedure against the Special Section's police officers. The Ombudsman explicitly highlighted this need in its 2016 report (pp. 270–275). The regularity of the complaints decision particularly depends on the correctly and carefully implemented preliminary procedure of resolving complaints. The proposed act anticipated that the complaints board would adopt decisions on the merits of the complaints based on the established facts, circumstances and evidence in the procedure (paragraph one of Article 202d of the proposed act). In this regard, we noticed a lack of a more detailed arrangement of the complaint resolution procedure, as we believe that referring to the sensible use of provisions of the act governing the general administrative procedure (paragraph three of Article 202b of the proposed act) is not the best solution, e.g., also relating to the complainant's application (and the Special Section's police officer against whom the complaint was made) in the complaint resolution procedure, including the possibility of their contributing to the evidence collection and the establishment of the decisive and actual situation. The complaints procedure should not be an end in itself, which is why we also lacked the arrangement of measures in the event of justified complaints. According to the Ministry of Justice (MP), our comments were observed in a way that new paragraphs three and four were added to Article 202b of the ZDT-1 and a new paragraph five to Article 202d of the ZDT-1, which govern the topical content. Nevertheless, the proposed act had not yet been adopted by the end of 2020.

We also prepared and carried out presentations for foreign delegations or local visitors (in 2020, the Ombudsman hosted representatives of ombudsmen from Bosnia and Herzegovina and Hungary and was hosted by the Croatian Ombudswoman), **and drafted replies to questions from various networks or other NPMs and bodies. We attended various education and training sessions and other meetings at which we showcased our work** some of these activities are included in the review of the NPM's other activities in 2020, which is attached to this report).

In June and December 2020, we again **participated in the training programme for newly recruited prison officers** at which Deputy Ombudsman, Ivan Šelih, presented the work of the Ombudsman to prison officers, and the Ombudsman's adviser, Robert Gačnik, presented the work of the NPM.

Within the scope of preparing to implement guidelines and obligatory instructions for preparing the police work plan and planning of supervision of the Police, **we met with the representatives of the Police and Security Directorate at the Ministry of the Interior in the relevant year (as was done in the past).**

We remained active in the South-East Europe NPM Network²¹, the purpose of which is to establish better cooperation, exchange experience and implement numerous joint activities to improve the efficiency of performing duties and powers of the NPM in South-East Europe which derive from the Optional Protocol. On 12 and 13 October 2020, Deputy Ombudsman Ivan Šelih and Ombudsman adviser Robert Gačnik attended an online meeting of NPMs, members of the SEE NPM Network, on the topic of preventing torture in South-East Europe.

The workshop was organised by the Croatian NPM as the current chair of the Network while supported by the Council of Europe, the Association for the Prevention of Torture (APT) from Geneva and the Ludwig Boltzmann Institute. The event was intended for a detailed exchange of challenges and good practice of NPMs when monitoring the realisation of rights of detained persons in the first hours of custody. Upon detention, every person is entitled to a lawyer; they have the right to inform their relatives or a third person about their detention and they have the right to medical assistance. The efficiency of torture prevention depends on the realisation of detention safeguards from the very start of police custody and suitable provision of information about these rights as great risk exists at such times for a detained person to be maltreated. In December 2020, Deputy Ombudsman Ivan Šelih and NPM members, mag. Jure Markič, Ana Polutnik and Robert Gačnik attended the second meeting of the SEE NPM Network organised by the Croatian NPM on the monitoring of implementation of NPM recommendations (especially from the viewpoint of realising detained persons' rights during police custody) and work in special situations such as pandemics and other challenges to the carrying out of the NPM mandate. On 22 December 2020, in its capacity as the chair of the Medical Group of the SEE NPM Network, the Serbian NPM organised an online meeting of the Network members regarding the discussion of prisoners addicted to psychoactive substances. The meeting focused on the exchange of experience and enhancement of NPM capacities when monitoring the treatment or discussion of persons addicted to psychoactive substances as a particularly vulnerable category of persons deprived of their liberty. The findings of the thematic visits conducted were presented by the Serbian NPM and other representatives of the Serbian prison system. Deputy Ombudsman Ivan Šelih presented the situation in Slovenia, while a member of the Slovenian NPM, Robert Gačnik, also spoke in more detail about the arrangements or provision of health care in prisons from the public health network as an example of good practice.

²¹ See <https://www.varuh-rs.si/en/activities/international-activities/see-npm-network/>.

1.6 FINANCES

Paragraph two of Article 5 of the Human Rights Ombudsman Act stipulates that the funds for the Ombudsman's work are to be allocated by the National Assembly from the national budget. Within the Ombudsman's own budget, separate funds for NPM work are anticipated in the sub-programme »Implementation of tasks and powers of the NPM«.

In 2020, EUR 127,075 was spent on wages and other staff expenses. Wages and benefits amounted to EUR 103,539, the annual leave allowance to EUR 2,351, reimbursement and compensations to EUR 3,167, and funds for overtime payments to EUR 127; other expenses paid to employees amounted to EUR 82, while employer social security contributions amounted to EUR 16.699. EUR 1,119 was spent on premiums of collective supplementary pension insurance as per the Collective Supplementary Pension Insurance for Public Employees Act. In 2020, EUR 39,868 was spent on material costs within the scope of the Optional Protocol, i.e., EUR 11,147 on office and general material and services, EUR 165 on communication services, EUR 677 on business trips, EUR 944 on other operating costs, and EUR 26,935 on commercial rentals. From the funds earmarked for cooperation with NGOs, EUR 5,479 was spent in 2020, of which EUR 2,378 was for other operating costs and EUR 3,101 for current transfers to NGOs and institutions.

2020 NPM FINANCES			
	Funds allocated (AB) in EUR	Applicable budget (AP) in EUR	Used funds in EUR
Implementation of the tasks and powers of the NPM	196.500	180.668	172.422
Wages	135.000	135.000	127.075
Material costs*	50.000	39.971	39.868
Cooperation with non-governmental organisations	11.500	5.697	5.479

1.7

CONCLUSION

It is encouraging that the NPM did not establish any cases of torture during the visits in 2020. With recommendations for improving the situation, the NPM again pointed to examples which could denote inhuman or degrading (ill-) treatment of persons deprived of their liberty. In addition to the most important preventive effect of these visits, the purpose of which is to prevent torture or other ill-treatment before it occurs, we also discovered that **the living conditions and treatment of persons deprived of liberty has improved in many institutions visited in 2020 specifically due to NPM recommendations.** For the most part, we are pleased with the response of the competent authorities (particularly of institutions visited) to our findings and recommendations for improving conditions as they regularly respond to them and express readiness for cooperation. We highlight that further enhanced and in-depth cooperation of the competent ministries, especially in the areas in which systemic changes are needed, is required for the improvement of the situation of persons who were deprived of their liberty in any way.



Regarding the **visits to retirement homes**, we point out that the following **recommendation was accepted and realised** by means of which we recommended to the MDDSZ and the Ministry of Health (MZ) to draft clear management protocols in case of threat of infection in a specific retirement home and anticipate in them measures, which will be proportionate with the risk of incoming infection to that specific home (so that the measures are not adopted generally for all retirement homes in the Republic of Slovenia, particularly when restricting people's basic rights). **Adopted, but not yet fully realised was also the recommendation** addressed to the MDDSZ and the MZ, which were urged to adopt suitable (constitutionally compliant) legal bases as soon as possible for urgent restrictions of basic human rights which must occur in order to prevent the spread of the communicable disease if the epidemiological situation in individual retirement homes or other social care institutions worsens. As in previous years when visiting retirement homes, we especially discovered **that problems remain when obtaining legal bases for detention in the homes in which resident protection is not implemented by means of classical locking of the ward** (irrespective of the lock type). In the past, the NPM has stated its opinion several times that the method of restricting resident personal freedom is irrelevant, but the fact that the restriction actually occurs is problematic. We continued to notice that **procedures for the verification of secure wards at the MDDSZ are being implemented, but are (too) slow.** The lack of staff was also evident during visits in 2020, a problem which further intensified during the COVID-19 epidemic. We (again) highlight the NPM warnings regarding lowering the number of multi-bed rooms (in which four or more residents are accommodated in one room), and the issue of the





functioning of the emergency call system – if such system is established at all – that was noticed several times. **Nevertheless, it is encouraging that a number of examples of good practice were also noticed during the visits to retirement homes.**



During **thematic visits to special social care institutions in order to determine overcrowding in secure wards**, we recommended to the MDDSZ while supported by the Government of the Republic of Slovenia that the Ministry immediately finds suitable solutions for the untenable situation of overcrowding in secure wards of social care institutions. We further pointed out **that the established situation which derives from the visits conducted in 2020 undoubtedly reveals the violation of rights of people accommodated in secure wards**. What is more, intolerable conditions in such wards, which have been present for a long time (ten years and more), can certainly be defined as **ill-treatment of residents**, for which the institutions or the staff in secure wards are not solely responsible. This is the responsibility of the state, which fails to provide suitable conditions to prevent (further) overcrowding in secure wards. We also recommended that the MDDSZ find **suitable solutions for the placement of minors to secure wards** because their placement in the wards intended for adults is not acceptable. During thematic visits to special social care institutions, we examined the situation at the time of serious epidemiological conditions upon the risk of introduction and spread of the SARS-CoV-2 infection. Considering the findings upon the visit (July 2020), we noticed **a lack of detailed (uniform) instructions from competent ministries relating to the conduct in visited institutions and particularly suitable legal bases for the adopted restrictive measures linked to the SARS-CoV-2 epidemic and prevention of the spread of the relevant virus**. We recommended that the MDDSZ, and also the Government of the Republic of Slovenia, adopt clear instructions in the event of a possible new SARS-CoV-2 spread or another infection risk for the residents which will determine detailed management procedures for social care institutions, and to also adopt suitable legal bases for measures the institutions will have to adopt to prevent the infection introduction or its spread (e.g., also the restriction of residents' personal freedom). It was further pointed out that the fundamental guideline when adopting legal bases must be the principles of proportionality and (utmost) protection of people's fundamental rights, especially their personal freedom.



In 2020, the NPM **visited an occupational activity centre for the first time** and **highlighted again the insufficient legal basis for restricting visits and, above all, exits of residents in social care institutions**. We are certain that the adoption of Article 87 of the Act Determining Temporary Measures to Mitigate and Remedy the Consequences of COVID-19 is not a suitable legal basis if a resident or a staff member in an institution has not (yet) been infected. We thus recommended that the MDDSZ provide suitable legal bases that will enable social care institutions at risk to adopt suitable proportionate measures to protect their residents and service users. Based on the findings of the occupational activity centre, we notified the MDDSZ that the **existing staffing standards are outdated**, which was particularly evident due to the lack of

staff during the epidemic (e.g. when ensuring the ongoing presence of a staff member in the grey zone), and we also called on the prompt continuation of activities of the working group and subsequent renewal of staffing standards as only then will it be possible to observe the current (topical) needs of social care institutions and their service users. In the event of a repeated increase of SARS-CoV-2 infections or other infections in the future and while bearing in mind the plans for renovation, we advised the occupational activity centre to consider its options of establishing a grey zone at the premises in which each room would have its own toilet and the bathroom would be available only for potentially infected service users. Since, when examining users' accommodation in the grey zone in the past, there was a lack of legal basis for confinement at these premises, we recommended the occupational activity centre to only accommodate users in the grey zone when a suitable legal basis exists for this (the same also applies for users' isolation in the so-called red zone), whereby it should also ensure a prompt diagnosis of possible infection of thus accommodated users. We should be aware that the exclusion of users with special needs (with mental disorders) from their regular living environment and isolation from other users increases their stress and may lead to various negative conditions, e.g. restlessness, aggression, apathy, feeling of being punished, and consequently to a worsening of their health condition.

In 2020, the NPM also **visited a youth crisis centre for the first time**. During the visit, among other issues we determined that **the operations of youth crisis centres are not governed in detail in regulations**. **The response of the MDDSZ, which undertook to examine the operations of youth crisis centres from the aspect of new duties imposed by the Family Code (DZ)** and subsequently form an operating concept proposal for youth crisis centres which would be uniform for all crisis centres and compliant with the applicable legislation in the field of social care, is encouraging. We also recommended that the MDDSZ verify the suitability of staffing standards for youth crisis centres and amend them if needed. We also noticed that temporary placements based on the DZ in practice last more than 21 days because of lengthy judicial proceedings. It was thus recommended to the Ministry of Justice (MP) and MDDSZ to examine the arrangements as per the DZ and find a suitable solution which will prevent the lengthy placement of children or adolescents in youth crisis centres, which is the result of judicial proceedings, as this intervenes in their concept of operations.



Residential treatment institutions were the only type of institutions in the field of education and care during the declared epidemic for which the temporary prohibition of gathering of people due to containment and management of the COVID-19 epidemic did not apply as per the adopted government ordinances on the temporary prohibiting of gatherings of people in educational institutions and universities and independent higher education institutions. We recommended that the MIZŠ carefully monitor the situation in all residential treatment institutions in Slovenia, advise them on protective measures, intervene when acquiring suitable premises for isolation of infected persons, help them obtain the necessary protective equipment, and particularly provide ad-

ditional staff if needed by individual residential treatment institutions to provide care for children and adolescents and assistance for their staff at the time of the declared epidemic. It was furthermore recommended that the MIZŠ and the MDDSZ arrange cooperation between social work centres and residential treatment institutions by means of suitable instructions (guidelines, protocols) when admitting adolescents into institutions or how the admission procedure of an adolescent to an institution should be carried out (e.g., information visit and an interview, reading the documentation on the adolescent, etc.). We also recommended that the MIZŠ actively approach the issue of substance abuse among adolescents in residential treatment institutions in cooperation with other competent ministries.



When **visiting psychiatric hospitals**, we particularly examined the observance and realisation of recommendations from our past visits. We found **that several recommendations were accepted but not yet realised in practice**. We thus expressed our expectations that the hospitals visited would focus on these recommendations and their realisation in the future.

During the **visits to prisons**, a total of one hundred and seven (107) recommendations were given, of which eighty-five (85) were targeted and twenty-two (22) general. The recommendations referred to living conditions (40), staff (18), opportunities for activities (13), treatment of prisoners and forms of work (12), contacts with the outside world (7), health care (6), food (4), general (3), other (2) and one recommendation relating to record-keeping and documentation and one regarding the treatment of unwanted behaviour. The unrealised ones particularly dealt with the recommendations that require more time for their realisation or elimination of the established deficiencies. **At this point, it should be noted that all prisons, except Koper Prison, are situated in old and unsuitable facilities which are inappropriate for the modern methods of serving a prison sentence.**



During the visits in 2020, we were also able to determine that **police stations or the Ministry of the Interior (MNZ) realise the NPM recommendations**. When visiting police stations in 2020, one hundred (100) new recommendations were given, of which eighty (80) were targeted, one systemic and nineteen (19) general. The recommendations involved record-keeping and documentation (47), living conditions (21), legal protection and complaint channels (13), treatment and forms of work (10), staff (5), general (2) and one recommendation relating to contacts with the outside world and one regarding other issues. It is encouraging that many NPM recommendations from visits to police stations were accepted and also realised or those that are yet to be realised require more time for their realisation or the elimination of established deficiencies (e.g., installation of the video surveillance system in interview rooms and rooms for receiving persons deprived of their liberty, provision of equipment for audio and video recording of interviews).

In 2020, the NPM carried out a partial monitoring of forced return of foreigners from the country for the first time in two cases (subject to prior an-

nouncement). In both cases of (only) partial monitoring of forced return of foreigners from the country, we were able to ascertain that **both forced returns were conducted professionally, legally and cordially while observing the rights of persons undergoing police proceedings, especially the foreigners' personality and dignity.** In both cases, a total of four recommendations were given, of which two were targeted and two general. The recommendations dealt with record-keeping and documentation (2), treatment and forms of work (1) and health care (1). **All four recommendations were accepted and realised.**



In 2020, the NPM also paid **an unannounced visit to the military police**, which organisation falls under the auspices of the General Staff of the Slovenian Armed Forces of the Ministry of Defence of the Republic of Slovenia (MORS). We highlight that upon this visit to the military police, **we encountered for the first time as the NPM that we were not allowed immediate access to the premises** we intended to inspect, i.e., the premises of the military police. Nevertheless, access was later enabled after a lengthy wait and the planned visit was then carried out. We particularly emphasise in the report that complications at the start of the visit were inadmissible and denoted an obstruction of work of the NPM or the Ombudsman who must have free access to all the places of deprivation of liberty at all times. We recommended that the competent authorities inform everyone who may be involved in the visit of the NPM or another international supervisory institution with the procedure to take place upon the visit. The MORS and the General Staff of the Slovenian Armed Forces explained that the recommendation was realised, and everyone was informed of the possibility of supervision. The recommendations referred to the harmonisation of documentation for detention implementation and the activities anticipated in the event of detention by the military police with the applicable legislation or relevant forms and police practice. Whereby it should be mentioned that the military police has not detained any military personnel for several years.



2.

VISITS TO PLACES OF DEPRIVATION OF LIBERTY

2.1

VISITS TO SOCIAL CARE INSTITUTIONS (RETIREMENT HOMES)

The year 2020 presented a great challenge for the NPM's work and visits to institutions with a particularly sensitive population due to the SARS-CoV-2 epidemic, initially merely due to the risk and then the actual introduction of infection among the residents and staff members in a number of retirement homes. Despite the foregoing and while consistently observing the 'do no harm' principle (by cancelling visits in the epidemiologically most serious periods, visiting homes with a good epidemiological situation, but above all, with consistent use of all the necessary protective equipment), the NPM visited ten retirement homes and tried to further improve conditions for the residents who require institutional care in their advanced age due to illness, weakness or other reasons. Two retirement homes were visited for the first time and these visits were unannounced. A total of 30 recommendations were given, of which two visited homes realised a combined 19 recommendations. Ten recommendations were accepted, but are yet to be realised. We especially point out that one recommendation was not accepted in view of the response received. In five other retirement homes, we examined the observance of recommendations given by the NPM during its previous visits; these were unannounced control visits. In addition to verifying the realisation of recommendations provided in the past, we issued 14 new recommendations, of which three were realised, nine are yet to be realised and two were not accepted. The NPM carried out two unannounced extraordinary visits to retirement homes and gave eight recommendations, of which two were realised, four are yet to be realised and we have not (yet) received the response to two recommendations at the time of drafting this report.

As in previous years when visiting retirement homes, we especially discovered that **problems remain when obtaining legal bases for detention in the homes in which resident protection is not implemented by means of classical locking of the ward (irrespective of the lock type)**. Other forms of protecting residents (usually with the help of staff) are considered as personal accompaniment by the homes while observing the Guidelines on working with persons with dementia in institutional care drafted by the Ministry of Labour, Family, Social Affairs and Equal Opportunities (MDDSZ). Despite the requirement of the guidelines that such a concept of protection does not restrict personal freedom, we determined during these visits that the staff stop and return to their ward the residents who wish to leave the home. **In the past, the NPM has stated its opinion several times that the method of restricting the residents' personal freedom is irrelevant, but the fact that the restriction**



actually occurs is problematic. As the homes that implement protection in such a way usually do not obtain a legal basis for detaining residents, the restriction of personal freedom is unlawful; in the extreme case, such conduct by the staff could even be understood as a criminal offence.



Unacceptable restriction of personal freedom was also highlighted during the SARS-CoV-2 epidemic when certain retirement homes, in addition to the regularly applicable forms for the prevention of the entry of infection, by restricting or prohibiting visits, also prohibited exits with no legal (legislative) basis for healthy residents who were not in contact with infected ones. There was thus no basis for the measures anticipated by the Communicable Diseases Act in the event of epidemic (isolation or quarantine).



Later, the legal basis was, also as a result of our endeavours, provided in Article 87 of the Act Determining Temporary Measures to Mitigate and Remedy the Consequences of COVID-19 (ZZUOOP; Official Gazette of the Republic of Slovenia [Uradni list RS], No. 152/2020), but it only applied to the homes in which the residents and the staff had already been infected.



We continued to notice that the procedures for the verification of secure wards at the MDDSZ are being implemented, but are (too) slow (more on this in the Ombudsman's report for 2020). An insufficient number of (verified) secure wards continues to cause problems and overcrowding at certain secure wards. Despite the past promises of the MDDSZ, the solution is unfortunately not on the horizon.



The lack of staff was also evident during visits in 2020, a problem which further intensified in the COVID-19 epidemic. The insufficient number of staff working at night when, frequently, no one is permanently present at secure wards was also pointed out several times. The shortage of staff is undoubtedly also the reason for the residents' early retirement to their beds in the evening, which is why they wake up more frequently during the night, thus increasing the use of sleeping pills. This was previously established during thematic visits to retirement homes in 2019, and no significant progress was noticed in this area during this year's visits. **We (again) highlight the NPM warnings regarding lowering the number of multi-bed rooms (in which four or more residents are accommodated in one room), and the issue of the functioning of the emergency call system – if such system is established at all – that was noticed several times.** Regarding the functioning of the call system, we were informed several times by the staff that the system does not achieve its objective because dementia patients do not understand what the buttons are used for. Based on such information, we recommended that more effort and care be dedicated to the suitable education of residents about the use of buttons or the presentation of the functioning of the system to the residents and also their relatives if necessary. Clarifications and the presentation must be adjusted to the residents with dementia and relating to the success of forwarded clarifications it would be sensible to regularly implement such activities and adjust them accordingly to individual residents' ability to understand.

On the other hand, we were also pleased to notice **examples of good work and good practices by the staff that certainly contribute to better living conditions for residents, which is especially highlighted in the continuation.**



More details about the visits conducted in 2020

As already stated, the NPM made two unannounced regular visits in 2020, i.e. to Tezno Maribor Retirement Home (Dom Tezno) and Gornji Grad Retirement Home. A number of good practices were noted in Dom Tezno. Among other things, we commended the decorations in common areas in the spirit of the forthcoming holiday (Valentine's Day) and the participation of residents in daily activities. A transparent plan of weekly activities was found on the wall in the dementia ward, and we also commended the colourful table indicating time, providing proverbs, various advice for relatives and other useful information. We further commended the activities in Dom Tezno to renovate the dementia ward, including the conservatory, which will undoubtedly contribute to an additional increase in the residents' quality of life in this ward. We also commended direct distribution of meals according to the residents' wishes in the ward, as this enables the adjustment of portion sizes to the wishes and needs of individual residents. We also commended controlled introduction of animals in the activities of the home, which in our opinion has beneficial and therapeutic effects for dementia patients, and we particularly commended the appropriate conduct of the staff towards the residents.



During its visit to Dom Tezno, the NPM gave 17 recommendations, of which **Dom Tezno accepted and has already realised eight, he same number of recommendations were yet to be realised according to the response received and one recommendation was not accepted.** Dom Tezno thus realised the recommendations referring to the repair of a damaged switch, provision of soap in all toilets and rescheduling more activities to the afternoon, weekends and national holidays. Dom Tezno also accepted and realised the recommendation to install a collection box for complaints and commendations in the dementia ward, consider the provision of paper and pens in the vicinity of the collection box, regularly empty the collection box (no more than 14 days), examine the complaints received and record them accordingly. As special protection measures (SPM) are some of the most restrictive methods for limiting personal freedom, we were pleased to receive a clarification from Dom Tezno that it had realised recommendations relating to dealing with wheelchair braking when residents cannot independently release the brake and with regard to suitable completion of records that must be completed when SPM is implemented. **It must be emphasised however that Dom Tezno failed to accept the recommendation,** to observe legal provisions of the ZDZdr and the Constitutional Court Decision no. U-I- 294/12-20 of 10 June 2015 relating to the admission of residents in the secure ward either with or without their consent. In its response, the home highlighted the position that it did not have a (verified) secure ward for dementia patients, and we were unable to agree with such a clarification. **Dom Tezno accepted eight recommendations, but**





has not yet realised them. These recommendations referred to the additional marking of residents' doors (with a picture or an object) which would facilitate their orientation, the installation of beds that would facilitate the use of buttons for light and call bell, and the placement of wardrobes in residents' rooms after the renovation of the ward. We recommended that Dom Tezno focus on individualisation when decorating individual rooms, provide private areas for contacts with visitors, ensure suitable access to outdoor areas and invite advocates of persons with mental disorders to suitably introduce themselves to the residents, their relatives and the staff. We will pay special attention to the realisation of these recommendations during our next visit.



When visiting Gornji Grad Retirement Home, we commended the marking of room doors with photos which help residents to orientate in the ward and recognise their rooms, while tables in the dining room are marked for a similar reason. When the NPM visited the home, the residents' rooms were nicely decorated and the overall impression of the secure ward was friendly and homely, which we also commended. We approved of the graphical display of individual activities which enables dementia patients to become familiarised with anticipated activities and entertainment prepared by the staff, and also the activity folder in which residents' products can be seen, such as colourings and solved tasks. We commended the realisation of over one hundred events in 2019, and especially the staff's conduct towards the residents, which was respectful and dignified. The staff addressed the residents in plural and knocked on the door before entering their room. The NPM gave 13 recommendations to further improve the living conditions, of which **as many as 11 have already been realised.** These recommendations included the installation of a larger notice board and (a graphic and descriptive) display of activities taking place in the current week, additional decoration of hallways and common areas, and the rearrangement of outdoor areas in a way that would enable residents to move more independently. We advised that attention be paid to the buttons of call bells being active again after maintenance works, that satisfaction surveys for residents enable descriptive replies and that the staff strive for better responsiveness of relatives to satisfaction surveys. We also recommended that the legal instruction on the form/statement regarding consent to detention in a secure ward be supplemented and to pay more attention when wheelchair brakes are applied as a resident's inability to release the break while wearing a seat belt denotes the use of SPM. We recommended the installation of a collection box for complaints, the display of house rules in a visible place and the establishment of contact with regional advocates of persons with mental disorders who should introduce themselves to the residents, their relatives and the staff. **Two recommendations are yet to be realised.** These refer to the staff paying attention to residents who show with their actions that they wish to leave the ward and the timely submission of a notification to the court about the intended detention of a resident in a secure ward.



In 2020, the NPM carried out five unannounced control visits to retirement homes. As already mentioned, we gave 14 new recommendations during these visits, of which three recommendations were realised, nine were accepted but not yet realised and two were not accepted.

When visiting Dom Tisje in Šmartno pri Litiji, we commended the suitable provision of protection for residents outside secure wards and the (maximum) use of mobile incontinence aids as they simulate a natural state to the greatest extent possible. Three new recommendations were issued during the visit, **which have not yet been realised in accordance with the response.** We advised that attention be paid when restricting residents' personal freedom at open (residence) wards (suitable legal basis must be obtained for such restriction if at all admissible), when observing Article 29 of the ZDZdr, which governs SPM when a resident is restricted in a braked wheelchair with a seat belt and also with regard to obtaining a court order before accommodating a resident in the secure ward and the timely submission of proposals to the court to extend detention.



During the visit to **Dom Podsabotin of Nova Gorica Retirement Home**, we issued five recommendations, of which **he visited institution has accepted and already realised three.** The recommendations referred to the suitable marking of the collection box for complaints and its installation in a way that allows the submission of complaints for the residents in wheelchairs, the installation of house rules and the list of advocates and complaints channels on a notice board and suitable display of (all) weekly activities. **Dom Podsabotin accepted two recommendations, but has not yet realised them,** i.e., to only admit a resident to the secure ward if the legal basis has been acquired beforehand (resident's consent or court order) and to inform the staff about mandatory conduct if the consent is revoked in addition to harmonisation of the consent form with paragraph three of Article 74 of the ZDZdr.



During the visit to the **Dr Janko Benedik Home in Radovljica (Dom Radovljica), we particularly commended** questionnaires intended to establish the level of satisfaction of the residents, their relatives and the staff, including the analysis of survey results. The analysis was detailed and well-developed and the NPM believes that it could be a good indicator of individual deficiencies in all fields included in the survey. From a total of four (new) recommendations, Dom Radovljica accepted two, which have not yet been realised. These refer to the need for enhanced effort and care to educate the residents on the use of emergency buttons or the presentation of the system's functioning to the residents and also their relatives if necessary, and a notification to the home's physicians (general and psychiatrist) on the necessity of always indicating the purpose of prescribed medications and their temporal limitation. It is of some concern that Dom Radovljica failed to accept two recommendations. One involved a discussion with physicians about the necessity of providing an opinion about accommodating residents on a secure ward before the accommodation itself, including the acquisition of an opinion before the court is informed of the need for detention. On that note, we especially pointed out that, in the case of social care institutions, the ZDZdr only governs detention on the basis of the already issued court order and not before. Furthermore, the recommendation dealing with the observance of provisions of the ZDZdr and the Constitutional Court Decision no. U-I-294/12-20 of 10 June 2015, which govern the procedure of admitting residents to a secure ward either based on consent or without it, was also not accepted.





When visiting the **Pegasus Home in Rogaška Slatina**, we gave **two new recommendations, which were accepted but have not yet been realised as per the home's response**. One recommendation proposes the protection of displayed antique items, which are particularly important for the residents as they give them a sense of homeliness, from rain and other inclement weather conditions in order to preserve them for as long as possible, and the other recommendation refers to the attention required in cases when only relatives sign the consent for accommodation in the secure ward. For persons who are unable to give their consent or who do not agree to stay in such a ward, suitable judicial proceedings must be instigated in order to assess the need for accommodation in the relevant ward, which, as determined upon this visit and in the NPM's opinion, can be defined as a secure ward in accordance with the ZDZdr.



When visiting the **Zimzelen Retirement Home in Topolšica**, **no new recommendations were given, but we commended the good practice** of the staff forming a team of residents from individual wards who are mobile enough to go for a walk. They encourage them to exercise as much as possible in order to maintain their psychophysical condition. Residents who are active during the day sleep better at night. They usually do not go to bed early in the evening due to their activities and do not wake up or get up so frequently during the night.

In 2020, the NPM also carried out two unannounced extraordinary visits. During these, we issued a total of eight recommendations, of which two were realised, four have not yet been realised, and we have not received a response relating to two recommendations (the MDDSZ failed to respond in one case, and in the other, we were still awaiting a reply when drafting this report).



The purpose of the visit to the Dr Jože Potrč Home in Poljčane (Dom Poljčane) was to examine the conduct during the Sars-CoV-2 (COVID-19) epidemic, particularly the restrictions adopted in order to prevent residents from becoming infected in the open wards of Dom Poljčane, and to establish legal bases for (possible) restriction of the residents' personal freedom. We issued three recommendations during the visit, which were addressed to the MDDSZ (and partly also to the MZ). **By means of one recommendation that was adopted and realised**, we advised the MDDSZ and the MZ to draft clear management protocols in case of threat of infection in the specific retirement home and anticipate in them measures which will be proportionate to the risk of incoming infection to that specific home (so that the measures are not adopted generally for all retirement homes in the Republic of Slovenia, particularly when restricting people's basic rights). **Adopted, but not yet realised was also the recommendation** addressed to the MDDSZ and the MZ, which were recommended to adopt suitable (constitutionally compliant) legal bases as soon as possible for the urgent restrictions of basic human rights which will have to occur in order to prevent the spread of the communicable disease if



the epidemiological situation in individual retirement homes or other social care institutions worsens. **It must also be mentioned that a suitable basis was later adopted, but only for retirement homes where the residents and the staff had already been infected (Article 87 of the Act Determining Temporary Measures to Mitigate and Remedy the Consequences of COVID-19).** With regard to the recommendation to take immediate action if residents' personal freedom is restricted in individual retirement homes in the Republic of Slovenia with no legal basis and prevent such instances either as an owner in the case of public institutions or as a concession provider in the case of concessionaires, the MDDSZ **did not respond, so we have no information relating to the adoption or realisation of this recommendation.**



In 2020, we also paid an extraordinary visit to Ilirska Bistrica Retirement Home (Dom Ilirska Bistrica). The reason for this visit was the notification by Dom Ilirska Bistrica to the Ombudsman that a new placement would occur in the already overcrowded secure ward based on the decision of Piran Local Court. We thus wanted to examine the (current) overcrowding in the secure ward, residents' living conditions in the overcrowded ward and the measures already adopted by Dom Ilirska Bistrica in cooperation with other stakeholders (the court, the MDDSZ) to prevent overcrowding from occurring (in the future). We issued five recommendations during the visit, of which the one stating that the date and day of the week written on the notice board should always be correct has already been realised. Three recommendations were accepted but have not yet been realised. These refer to re-examining the residents' needs for a larger or an additional ward where special protection and care would be ongoing, and they would not be able to leave the institution on their own accord – a secure ward. We also recommended that, in cooperation with the MDDSZ, Dom Ilirska Bistrica at the time of currently increased needs (overcrowding of the secure ward already points to these needs) finds solutions with other retirement homes in the region for at least the temporary relocation of residents, which would prevent overcrowding in the secure ward of the relevant home and thus improve the living conditions of residents in need of such accommodation. The recommendation that Dom Ilirska Bistrica acts in accordance with the provisions of the ZDZdr on detaining residents in secure wards and obtains a suitable legal basis for detention (written consent of the resident if they are able to provide it or a court decision) in case of a possible restriction of the residents' personal freedom on the third floor (even if this is done by staff intervention: stopping, returning to the ward, deterring from their intended direction) was accepted, but not yet realised. One recommendation was addressed to the MDDSZ, i.e., to actively seek solutions which, by establishing a sufficiently large network of secure wards in individual retirement homes, would prevent the occurrence of overcrowding in the existing secure wards. **At the time of drafting this annual report, we still await the response of the MDDSZ.**



2.2

VISITS TO SPECIAL SOCIAL CARE INSTITUTIONS

In 2020, the NPM carried out **thematic visits to special social care institutions in order to examine the overcrowding in secure wards**. On 7 July 2020, the NPM visited **Dom na Krasu Dutovlje and the Marof Unit of the Idrija Retirement Home** (this is a combined unit of the retirement home intended for adults with mental health problems) and on 8 July 2020, the NPM visited **Dom Nina Pokorn-Grmovje, Hrastovec Social Care Institution and Dom Lukavci**. During thematic visits, the MDDSZ was given **four recommendations** which were not realised before the preparation of this report. On 18 August 2020, the NPM also conducted an **unannounced regular visit to the Veržej Unit of Dom Lukavci**, which is intended especially for dementia patients. During the visit, **19 recommendations** were issued, of which the Veržej Unit realised 13 and six were still waiting to be realised.

Thematic visits focused (again) on examining overcrowding in the secure wards of special social care institutions and a combined social care institution with two (unverified) secure wards. Based on regular, control and similar thematic visits, the NPM has highlighted the unacceptable situation caused by overcrowding in the secure wards of special social care institutions several times in the past. The Ombudsman also highlighted this unsustainable situation in its several annual reports. The alarms raised by the judiciary and the institutions themselves are resounding, too. In the past, the state authorities, particularly the competent ministry (MDDSZ), gave a number of promises regarding seeking solutions, opening new wards and even an imminent settlement of this issue. In April 2019, the Ombudsman was given a guarantee by the then minister that the problems would be resolved in six months at the latest. Unfortunately, this deadline expired some time ago and we determine that the situation in this field has actually not changed. It is true that two new wards opened and certain existing institutions were renovated; however, the condition of the institutions visited in July 2020 revealed that these measures were certainly not enough. **Dom na Krasu is faced with permanent and ongoing overcrowding. The situation in Dom Lukavci and Hrastovec Social Care Institution is similar. Despite the opening of a new ward primarily intended for dementia patients, occasional exceeding of capacities in Dom Nina Pokorn-Grmovje reveals that no suitable solution exists (yet). Individual combined social care institutions evidently also encounter occasional overcrowding, while we have highlighted the overcrowding in the secure wards of individual retirement homes several times in the past.** The institutions visited received new court decisions on the admission of residents and it seemed that some of them will not be accommodated for some time due to



overcrowding. On this note, it should not be overlooked that these are persons (at least some of them) who are awaiting admission in an environment which cannot efficiently and safely care for them due to their health condition.

There is no doubt that exceeding capacity results in a worsening of living conditions for all residents on the ward and not merely for the newly accommodated ones. Similarly, the burdening of the staff, who are already faced with the daily challenges of working with the most demanding residents, overload, and the fear of possible new (violent) reactions from individual residents, increases significantly. And that is not all. Exceeding the capacity only worsens the unacceptable situation due to the necessity of dealing with residents who have diverse mental health problems which staff and residents themselves highlight as a special challenge and occasionally an unresolvable issue leading to conflicts and verbal and even physical violence. In overcrowded wards, it is possible to find residents with intellectual disabilities, residents with various mental illnesses, residents coming from the Unit for Forensic Psychiatry who have committed criminal offences in the past, and occasionally dementia patients if they are not accommodated in a special dementia ward. **In the past and even nowadays, we have encountered accommodation of minors in the institutions intended for adult residents. The Ombudsman has previously pointed out the unacceptability of such accommodation and the urgency of finding suitable solutions; after the recent meeting with several ministers in February 2021, it seems that this issue will finally be addressed.**



While supported by the Government of the Republic of Slovenia, we urged the MDDSZ to immediately find suitable solutions for the untenable situation relating to the overcrowding in secure wards of social care institutions. We further pointed out that the established situation, which derives from the relevant thematic visits, undoubtedly reveals the violation of rights of people accommodated in secure wards. **Even more. Intolerable conditions in such wards, which have been present for a long time (ten years and more), can certainly be defined as ill-treatment of residents, for which the institutions or the staff in secure wards are not solely responsible. This is the responsibility of the state, which fails to provide suitable conditions to prevent (further) overcrowding in secure wards.**



We also reminded the MDDSZ that the Government of the Republic of Slovenia was instructed in the Recommendation of the National Assembly when discussing the Ombudsman's Special Report on violations of human rights of persons with mental disorders with their involuntary admission and treatment in secure wards of social care institutions (Official Gazette of the Republic of Slovenia [Uradni list RS], No. 60/17) to promptly draft amendments to the Social Assistance Act and the ZDZdr and ensure suitable spatial capacities in social care institutions and sufficient staff capable of providing suitable social care services until the enforcement of the amended acts.

In its response to the report on the visit, the MDDSZ clarified that it was acquainted with the overcrowding of secure wards and aware of the unaccept-

able situation which the secure wards of special and combined social care institutions are faced with and it was thus striving to form and find appropriate solutions. To this end, the MDDSZ convened a meeting with the directors of special and combined social care institutions on 30 September 2020. The directors were provided with an explanation of the purpose of the meeting, which aims to pursue the expansion of capacities in secure wards for adults with mental health problems and adults with several disorders. The MDDSZ particularly highlighted that, as per paragraph six of Article 5 of the Rules on staff, technical and premises requirements for institutional care providers and social work centres providing mental health services, and on the verification procedure thereof (Official Gazette of the Republic of Slovenia [Uradni list RS], Nos. 97/09, 84/12 and 85/14), each special social care institution for adults implementing institutional care for persons with mental health problems must ensure conditions for the accommodation of at least five persons who are admitted to the special social care institution on the basis of a court decision. Certain combined social care institutions were also asked to implement or ensure capacities in secure wards. At the end of the meeting, the directors of special and combined social care institutions were instructed to draft plans (including a timeline and financial assessment) for establishing additional capacities in secure wards, whereby it was explained to them that funds for the establishment of secure wards were secured in the 2021 budget.

For the most part, special and combined social care institutions drafted clarifications from which it is evident that no possibilities exist for establishing (additional) secure wards within the existing buildings in which the relevant institutions implement institutional care and within the local environment in which they operate. New, separate units will have to be organised while observing the planned deinstitutionalisation for persons with mental health problems as an expansion of community services, which means that a longer timeline than initially envisaged will be required.

The MDDSZ explained that it was aware that current needs also have to be addressed and additional capacities provided in the short term, which would, in accordance with the feedback received, only be possible within the framework of Impoljca Retirement Home, where a secure ward (five accommodations) was to be established in spring, but this was not realised due to the COVID-19 epidemic because the anticipated unit was used as a red zone, which the institution had to establish in accordance with the algorithms or protocols for conduct and management of infections in case the virus entered the institution.

In decision no. U-I- 477/18, Up-93/18 of 23 May 2019 (Official Gazette of the Republic of Slovenia [Uradni list RS], No. 44/19), the Constitutional Court decided on the violation of human rights due to overcrowding in secure wards and the unconstitutionality of the ZDZdr. The Court ordered the National Assembly to eliminate the determined unconstitutionality of the ZDZdr within nine months of the publication of the decision in the Official Gazette of the Republic of Slovenia, whereby we determined **that the unconstitutionality of the ZDZdr was not eliminated within the set deadline.** With the relevant



decision of the Constitutional Court, immediate action was also imposed on the Government of the Republic of Slovenia. The Constitutional Court decided that the Government must adopt urgent organisational measures without undue delay by means of which it will provide appropriate spatial capacities and staffing adjustments in social care institutions. **As the ministry responsible for social care institutions, we asked the MDDSZ to inform us of the relevant measures drafted for the Government of the Republic of Slovenia as per the decision of the Constitutional Court of the Republic of Slovenia. We also recommended the MDDSZ to find appropriate solutions for accommodating minors in secure wards as their placement in the wards intended for adult residents is not acceptable.**

Relating to the decision of the Constitutional Court of the Republic of Slovenia, the MDDSZ explained that it was actively engaged in the drafting of the proposal to the ZDZdr (comments on the proposed act were submitted to the competent MZ before and during the public discussion). The minister issued a decision to appoint a working group at the MDDSZ relating to staffing standards and regulations with regard to retirement homes and special social care institutions. The working group, appointed by the Government of the Republic of Slovenia to establish a specialised unit to discuss persons with profound mental disorders and which is ensured administrative and technical support by the MDDSZ, also continues its work. In March 2020, twelve new accommodations were ensured in the secure ward of Dom Lukavci.

The MDDSZ agreed that appropriate solutions must also be found for accommodating minors in secure wards. Special social care institutions for adults are not intended for the institutional care of minors and lack suitable expert and trained staff. They also do not implement the educational programmes to which minors are entitled. The search and formation of suitable solutions for minors involve a systemic issue which must be addressed in a broader sense and it is thus necessary that all competent ministries approach it as a priority. **We further add, as already stated, that considering the conclusions drawn at the Ombudsman's meeting with several ministers (the MDDSZ, the MZ, the MP and the MIZŠ) in February 2021, actual developments in resolving this issue were anticipated, which we will closely monitor in the future.**



During thematic visits, we also examined the **situation in special social care institutions at the time of serious epidemiological conditions when risking the introduction and spread of the SARS-CoV-2 infection.** When carrying out these thematic visits (July 2020), we notice **a lack of detailed (uniform) instructions from competent ministries relating to the conduct in the visited institutions and particularly suitable legal bases for the adopted restrictive measures linked to the SARS-CoV-2 epidemic and prevention of the spread of the relevant virus.** The Communicable Diseases Act stipulates certain measures (isolation, quarantine) which proved to be unsuitable in the event of this epidemic and in seeking solutions to prevent the entry and spread of the infection in social care institutions as they failed to serve as a (legal) basis for (almost) all restrictions in social care institutions.



We recommended that the MDDSZ, and also the Government of the Republic of Slovenia, adopt clear instructions in the event of a possible new SARS-CoV-2 spread or another infection risk for the residents that will determine detailed management procedures for social care institutions, and to also adopt suitable legal bases for measures the institutions will have to take to prevent the introduction of infection or its spread (e.g., also the restriction of the residents' personal freedom). It was further pointed out that the fundamental guideline when adopting legal bases must be the principles of proportionality and (utmost) protection of people's fundamental rights, especially their personal freedom.

The MDDSZ explained that, in cooperation with the MZ and to manage a (possible) new wave of the SARS-Co-V-2 epidemic, it drafted detailed instructions or management protocols in case of suspicion of infection and infection with the virus, which provide social care institutions with clear instructions and determine precise conduct procedures. At the time of the declared epidemic, all providers were ensured direct assistance and support in cases of suspected infection and when dealing with direct infection cases in specific institutions. Within the framework of intervention acts, the MDDSZ or the Government of the Republic of Slovenia adopted several legal bases (e.g., provision of funds for additional employment, legal basis for allocation of employees to other employers or providers, provision of funds for external accommodation (when establishing red zones), legal bases for possible restricting of contacts with residents, etc.) to prevent the introduction and spread of infection, facilitate response and management in the event of infection and help social care institutions deal with the consequences.



During our unannounced regular visit to the Veržej Unit of Dom Lukavci, we determined that **the residents' living conditions (these are mostly dementia patients, but also those with associated mental disorders) were very good. The unit is new, modern and the equipment of the premises is also of high quality. We particularly commended the residents' participation in daily activities, such as making of coffee, and the efforts of the staff to create a pleasant living environment for the residents in the unit's common areas. We also commended the markings on doors where, in addition to residents' names and surnames, we noticed photographs or pictures of various items that help residents to find their rooms if they become disoriented. We particularly commended the staff's empathy in approaching the residents in a friendly and encouraging manner and always knocking before entering their rooms. They also assist the residents if they wish to use electronic communication or a computer.**



As stated above, 19 recommendations were given during the visit to the Veržej Unit. With regard to the response of Dom Lukavci, which we received based on the preliminary recommendation, it was evident that **Veržej Unit had already realised 13 of them**, which is certainly noteworthy. The realised recommendations include additional decorating of hallways with the residents' hand-made products, the upgrade of the call system, which would enable the recording of

frequency of calls and the speed of staff response, rearrangement of activities throughout the day and all days of the week, informing the residents about the activities and motivating them during the activities and also when these are not scheduled. The Veržej Unit also realised the recommendations regarding organising conversation groups and the inclusion of animals in the residents' lives. It is certainly vitally important that the Veržej Unit realised the recommendation to fully comply with the legal provisions of the ZDZdr referring to the procedure of admitting residents to the secure ward either with their consent or without it as detention in such a ward denotes an infringement on the resident's personal freedom. The recommendation to provide suitable aids (paper, pen) next to the collection boxes for complaints, commendations and proposals was also realised, including the advice to empty these boxes periodically at short intervals as it can otherwise occur that a complaint is no longer topical when the time comes to resolve it. It is important that the residents have access to documents on complaints channels and the document detailing their rights and obligations. Although the ZDZdr determines the right to an advocate as one of the rights of persons with mental disorders, this remains a mere dead letter if the residents are not aware of the advocates and their function. We thus recommended that the Veržej Unit invite the advocate working in its area for a visit to introduce themselves to the residents accordingly. We were informed by the MDDSZ in its reply that this recommendation had already been realised, too. We also highlight the expert's recommendation that, when administering potentially risky combinations of medications, which are not compliant with the recommendations on the use of medications in their fundamental characteristics, such administering should be entered in the medical record. We discerned from the reply to the preliminary report that the psychiatrist visiting the Veržej Unit was informed of this recommendation. From the response of Dom Lukavci to the preliminary report, we determined that **six recommendations are yet to be realised**. The recommendations on the arrangement of the surrounding area of the Veržej Unit and possible installation of a suitable overhanging roof are certainly of such nature that require more time for their realisation. As the Veržej Unit also verifies and analyses the satisfaction survey results from residents, their relatives and the staff, we proposed that such analysis be done separately for this unit if this is reasonable with regard to the number of returned surveys in the Veržej Unit because spatial separation from the central buildings of Dom Lukavci certainly justifies a separate analysis. We also recommended that the satisfaction survey is adjusted more to the staff and thus improve their responsiveness, which so far was only half completed. We also emphasised the participation of residents in the work and preparation and the publication of special house rules which would apply especially for residing in the Veržej Unit in accordance with its specifics. **Considering all unrealised recommendations, it must be noted that Dom Lukavci has already commenced their implementation and it may be expected that they have already been, or they will be, realised in the near future, which certainly deserves special commendation.**



2.3

VISIT TO AN OCCUPATIONAL ACTIVITY CENTRE

For the first time in 2020, the NPM visited an occupational activity centre, i.e., on 16 December 2020, we visited the Škofja Loka residential unit of Kranj occupational activity centre (unit). This was an unannounced extraordinary visit with the purpose of examining the unit's conduct at the time of the Sars-CoV-2 (COVID-19) epidemic, especially the restrictions adopted to prevent the users from becoming infected and to determine legal bases for (possible) limitation of the users' personal freedom.

During the visit, the NPM issued **four recommendations**. Two were addressed to the visited institution and two to the MDDSZ. When drafting this report, we still awaited the response to the recommendations given and thus cannot report on their realisation.

Kranj occupational activity centre is a public social care institution. It was founded by the Government of the Republic of Slovenia and has been an independent institution since 1 January 2000. Kranj occupational activity centre implements social care services of management, care and employment under special conditions and the service of institutional care. Its users are adults with mental disabilities who acquired the status of a disabled person when reaching the age of 18.

Upon the visit, we noticed that the **unit was locked and passage through the main door was possible only upon staff approval**. The basis for such limitation was first the decision of the director of the occupational activity centre no. 1000-1/2020-30 of 15 October 2020, which was based on Article 5 of the Instructions by the director of the occupational activity centre on the organisation and implementation of visits during the measures to prevent transmission of the SARS-CoV-2 (COVID-19) infection in the institutional care of Škofja Loka residential unit of Kranj occupational activity centre, which was after the entry into force of Article 87 of the Act Determining Temporary Measures to Mitigate and Remedy the Consequences of COVID-19 (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos. 152/20 and 175/20) and several notes on the unchanged situation replaced by the decision of the director of the occupational activity centre no. 1000-1/2020-36 of 3 December 2020. The relevant decision was also applicable at the time of the NPM visit and it stipulated that visits be implemented outdoors – outside the institution's premises and on the ground floor room provided for such purpose at the side entrance to the building. A visit may exceptionally be permitted in a room if a user is unable to attend the room for visits even if accompanied by a staff member. In which case, prescribed personal protective equipment is provided to the visitor, who is also assisted when putting on the equipment. Visits are only permitted if announced in advance and limited to one healthy person at a time. They can only take place while observing appropriate social distance of no less than one metre and a half and the avoidance of physical contact. **The decision also determined that, relating to the current local epidemiological condition, users' exits from the unit must be limited to the most urgent tasks that cannot be postponed.**

We established that the restriction of the users' personal freedom occurred in the first and second decision as the exists from the unit were (severely) limited.

There was no suitable legal basis for such restriction in the first decision and the aforementioned Article 87 of the Act Determining Temporary Measures to Mitigate and Remedy the Consequences of COVID-19 was also not an appropriate legal basis for the decision of 3 December 2020 as the Act anticipates the restriction only if infection occurred in a specific social care institution, which did not happen (yet) according to our discussion partners.

In the past, the Ombudsman had already pointed out to the MDDSZ the insufficient legal basis for restricting visits and, above all, exits of users or residents from social care institutions. We are certain that the adoption of Article 87 of the Act Determining Temporary Measures to Mitigate and Remedy the Consequences of COVID-19 is not a suitable legal basis if a resident or a staff member in an institution has not (yet) been infected.

The fact is that institutions where infection has not been detected yet, but where the epidemiological situation in their surrounding area is poor, which increases the risk of introducing the infection to the institution, do not have an appropriate legal basis for adopting restrictions.

We thus recommended that the MDDSZ provide suitable legal bases that will enable social care institutions at risk the adoption of suitable proportionate measures to protect their residents and users.

Based on the findings of the occupational activity centre, we notified the MDDSZ that **the existing staffing standards are outdated, which was particularly evident due to the lack of staff during the epidemic** (e.g. when ensuring ongoing presence of a staff member in the grey zone), and we also called on the prompt continuation of activities of the working group and subsequent renewal of staffing standards as only then will it be possible to observe the current (topical) needs of individual social care institutions and their users.

During the visit to the occupational activity centre, we viewed the residents' living premises and **commended the personalised decoration in the rooms.** We also examined the so-called grey zone (intended for potentially infectious users) and premises prepared for the establishment of the red zone (intended for infected users). It was thus determined that four rooms were prepared in the grey zone,

which shared toilet facilities while the bathroom was located outside the grey zone, which was assessed as inappropriate.

In the event of a repeated increase of SARS-CoV-2 infections or other infections in the future and while bearing in mind the plans for renovation of the unit, we thus advised the occupational activity centre to consider its options of establishing a grey zone at the premises where each room would have its own toilet and the bathroom would be available only for potentially infected users. As, when **examining users' accommodation in the grey zone in the past, there was a lack of legal basis for confinement at these premises,**

we recommended the occupational activity centre to only accommodate users in the grey zone when a suitable legal basis exists for this (the same also applies for user isolation in the so-called red zone), whereby it should also ensure a prompt diagnosis of possible infection of the users thus accommodated.

We should be aware that the exclusion of users with special needs (with mental disorders) from their regular living environment and isolation from other users increases their stress and may lead to various negative conditions, e.g., restlessness, aggression, apathy, feeling of being punished, and even to worsening of their health condition.



2.4 VISIT TO A YOUTH CRISIS CENTRE

In 2020, the NPM also **visited a youth crisis centre for the first time**. Following the entry into force of the Family Code (DZ), we specifically determined that the placement of children and adolescents in youth crisis centres could as per the DZ fall within the framework of paragraph two of Article 4 of the Optional Protocol. The MDDSZ, which is responsible for youth crisis centres, confirmed that paragraph two of Article 4 of the Optional Protocol is used in the event of placement implemented as per Article 162 (according to which a court issues an interim order to protect a child's interests by means of which the child is removed from the parents and placed with another person, into a crisis centre, foster home or an institution) and Article 167 of the DZ (according to which a social work centre removes a child from the parents and places them with another person, into a crisis centre, foster home or an institution in the event of a severe threat even before the court rules on the proposal to issue an interim order).

Youth crisis centres operate as organisational units of social work centres. There are nine youth crisis centres in Slovenia intended for children and adolescents aged 6 to 18 and one crisis centre for children under the age of 6 years old.

The first visit to a youth crisis centre was carried out on 4 and 6 August 2020. We visited Ljubljana Youth Crisis Centre (KCM Ljubljana), which is an organisational unit of Ljubljana Social Work Centre. This was a regular visit, during which we made **seven recommendations. Three were addressed to the MDDSZ, one to the MDDSZ and the MP and three to KCM Ljubljana.**

During the visit, we became acquainted with the work of the KCM Ljubljana and discovered that the placement of children and adolescents into youth crisis centres on the basis of provisions of the DZ severely encroached upon their concept of functioning. Youth crisis centres should specifically be intended for short-term placements during which a more permanent solution for a child or an adolescent is being arranged in cooperation with the competent social work centre. The MDDSZ clarified that the placement into a crisis centre was systemically defined as a short-term placement. Following the example of similar foreign programmes, the assumed living period was 21 days, which in the 25 years of crisis centre operations has proved suitable. **Temporary placements as per the DZ usually take more than 21 days due to lengthy judicial proceedings.** It was thus recommended to the MP and MDDSZ to examine the arrangements as per the DZ and find a suitable solution which will prevent that



lengthy placement of children or adolescents in youth crisis centres, which is the result of judicial proceedings, intervenes in their concept of operations.

In its response to the final report on the visit, the MDDSZ explained that the NPM finding particularly referred to judicial proceedings and not to the possible unsuitability of legal and systemic arrangements of measures intended to protect a child's interest in the DZ. The MP summarised the NPM finding in its response, stating that lengthy placements in youth crisis centres occur in cases when a child is placed in the crisis centre as a result of an urgent removal or when they are placed in the centre on the basis of a final interim order of the court and no decision on the measure to protect a child's interests of a more permanent nature has yet been made as per Article 174 or 175 of the DZ. While observing the fact that the court may decide on the interim order based on a proposal or ex officio, the MP sees the solution for the relevant issue in the social work centres which monitor the case and could file a proposal with the court to issue a new interim order, in which they could propose to the court that a child who was initially placed in the crisis centre be placed or relocated, for example, into an institution or a foster home. Such placements are also possible as per the applicable legislation on the basis of an interim order, and the court may in accordance with the current arrangements (at any time during the proceedings) issue another interim order (of a different type or with a different content) if it is determined during the implementation of the first order that it contradicts the child's interests. The MP also added that **family court judges will be informed in the information bulletin for judges that placements in crisis centres are actually intended for short-term placements, usually of up to 21 days.**

During the visit, among other issues, we determined that the operations of youth crisis centres are not governed in detail in regulations. In 2010 (once the crisis centres became part of the service for coordination and assistance to victims of violence based on the Domestic Violence Prevention Act), the MDDSZ issued the Clarifications and expert guidance for operations of crisis centres and intervention service within the regional service for coordination and assistance to victims (no. 0075-14/2010-1 of 14 September 2010), which represent the only (more detailed) basis for functioning of youth crisis centres. We thus recommended that the MDDSZ examine the need for a comprehensive regulation of operations of youth crisis centres by means of regulations or to (at least) supplement accordingly the clarifications and expert guidance for operations of crisis centres due to new responsibilities of youth crisis centres as per the DZ. **The MDDSZ undertook to examine the operations of youth crisis centres from the aspect of new duties imposed by the DZ and subsequently form the operating concept proposal for youth crisis centres, which would be uniform for all crisis centres and compliant with the applicable legislation in the field of social care.**

We also recommended that the MDDSZ verify the suitability of staffing standards for youth crisis centres and amend these if needed. The MDDSZ explained that the Association of Centres for Social Work, which, as per Article



68c of the Social Assistance Act (ZSV), holds the public authorisation to determine standards and also norms for implementing individual types of tasks with the minister's consent, including the tasks of youth crisis centres, had already formed a proposal that anticipated an increase in the staffing standards on which the MDDSZ should have provided an opinion by the end of February 2021.

When visiting the KCM Ljubljana, we learned of the problems arising when dealing with children and adolescents and which are the result of placing children and adolescents who do not actually belong to the youth crisis centre and the incompatibility of children with different problems. We discovered that children and adolescents who are in the crisis centre voluntarily have a greater motivation to resolve their situation, and more problems have been noticed with children and adolescents who are there involuntarily.



We commended the general organisation of the KCM Ljubljana, including the organisation of documentation kept when dealing with individual children and adolescents and the general functioning of the crisis centre. The children and adolescents to whom we spoke expressed their satisfaction for the most part with the tidiness of the premises and their treatment. As the KCM Ljubljana still used certain forms and documents (Agreement on staying in the youth crisis centre, the Rules of the youth crisis centre) intended for children and adolescents, which were based on the concept of voluntariness and short-term placement, we **recommended that the KCM Ljubljana correct or amend them accordingly so that they will also be suitable for children and adolescents who were placed into the youth crisis centre on the basis of the DZ** (i.e., in cases of involuntary placement and when a child or an adolescent cannot be removed from the crisis centre when they disregard the rules). **In its response to the report, the KCM Ljubljana explained that the NPM recommendations were observed, and the forms and documents had already been amended accordingly.**

2.5

VISITS TO RESIDENTIAL TREATMENT INSTITUTIONS

In 2020, the NPM visited two institutions intended for children and adolescents with emotional and behavioural problems and disorders. **Višnja Gora Educational Institution** was visited on 4 February 2020 when we visited four educational groups and on 11 February 2020 when we visited residential groups in Brežice and Novo mesto, which operate within the institution. **Kranj Residential Treatment Institution** was visited on 28 September 2020. On that day, we visited Stražišče, Kranj and Mlaka residential groups and Škofja Loka residential group on 30 September 2020. All visits were regular and unannounced. **During the visits, the NPM gave a total of 17 recommendations, of which five were for the MIZŠ, one for the MIZŠ and the MDDSZ, and eleven were addressed to the visited institution. Five recommendations were systemic and twelve were general.**

When visiting residential treatment institutions, we particularly inquired whether, after the enforcement of the Family Code (Official Gazette of the Republic of Slovenia [Uradni list RS], Nos. 15/17, 21/18 – ZNOrg, 16/19 – ZNP- 1, 22/19, 67/19 and 200/20 – ZOOMTVI; DZ) or the Non-Contentious Civil Procedure Act (Official Gazette of the Republic of Slovenia [Uradni list RS], No. 16/19; ZNP-1)²² when a court decides on the placement of a child or an adolescent into an institution, changes occurred in the admission procedure of the institution. According to the previously applicable arrangements, when social work centres decided on the placement of children and adolescents into residential treatment institutions, the procedure involved an ongoing communication between the social work centre and the residential treatment institution prior to, or during, the admission. The social work centre was up to date with the number of vacancies in the institution and the adolescent usually visited the institution together with their parents prior to the admission when the procedure was still underway and made first contacts, familiarised themselves with the environment, activities, forms of work and rules of conduct in the institution. Based on the informative interview with the adolescent, their parents and representatives of the social work centre, the residential treatment institution obtained an insight into the adolescent's motivation for the placement, and by means of the visit and the interview, the adolescent was able to reduce their fear and prejudice about life in an institution. The experience of visited institutions differs. In one institution, we were informed that **communication between the subjects participating in the decision-making of placing an adolescent into an institution or during the admission itself (i.e., between the**



²² The DZ has been in force since 15 April 2017 and the majority of provisions has been applicable since 15 April 2019. The ZNP-1 has been in force and applicable since 15 April 2019.



social work centre, the court and the residential treatment institution) has been poor after new arrangements came into force. They expressed concern that overcrowding would occur in institutions due to poor communication and, in particular, admissions will take place which will not be beneficial for the adolescents or their subsequent life in the institution.

The DZ and the ZNP-1, which govern the measure and procedure of placing a child or an adolescent into an institution, do not govern in detail how the admission itself should take place. As we were informed that the draft Act on the Intervention for Children and Youth with Emotional and Behavioural Disorders in Education consists of provisions on the procedure of placing a child or an adolescent into a residential treatment institution (or an expert centre), visiting the institution, and discussing and signing an agreement on mutual cooperation, we expressed our expectation that the draft proposal would be submitted to the Government of the Republic of Slovenia for discussion as soon as possible. **It was furthermore recommended that the MIZŠ and the MDDSZ arrange cooperation between social work centres and residential treatment institutions by means of suitable instructions (guidelines, protocols) when admitting adolescents into institutions or specify how the admission procedure of an adolescent to an institution should be carried out (e.g., information visit and an interview, reading the documentation on the adolescent, etc.).** Both ministries agreed that good practice of cooperation between social work centres and residential treatment institutions must be maintained and further encouraged, and they were also of the opinion that it would be sensible to invest all efforts in the adoption of the new act. The ministries kept their promise and the Government of the Republic of Slovenia submitted the relevant draft act to be discussed and adopted by the National Assembly of the Republic of Slovenia on 30 September 2020. **The Act on the Intervention for Children and Youth with Emotional and Behavioural Disorders in Education (Official Gazette of the Republic of Slovenia [Uradni list RS], No. 200/20; ZOOMTVI), which was passed on 17 December 2020 and entered into force on 13 January 2021, thus inter alia governs the informative interview held with the child or the adolescent and their parents by expert workers of the social work centre (except in the event of an urgent removal of a child by the social work centre) together with expert workers of the expert centre.**



We were informed in the institutions visited about the difficulties they face when dealing with adolescents who abuse psychoactive substances. The management of the relevant problem exceeds the programmes of residential treatment institutions and so the latter frequently seek external help in health institutions and NGOs involved in reducing the harmful consequences of abusing psychoactive substances or in helping people who use them. **We thus recommended that the MIZŠ actively approach the issue of substance abuse among adolescents in residential treatment institutions in cooperation with other competent ministries.** We will pay special attention to this issue in the future when visiting residential treatment institutions and to the realisation of this recommendation.

We also advised the MIZŠ to draft a suitable legal basis for the rules of conduct in the institutions (in educational and residential groups), educational measures for individual violations of these rules and the procedure of correctional action, and to draft or propose to the competent authorities a suitable legal (legislative) basis that will allow responsible persons in residential treatment institutions to order testing for the presence of psychoactive substances. When drafting the ZOOMTVI, the MIZŠ observed both recommendations.

When visiting Kranj Residential Treatment Institution after the end of the epidemic, which was declared in spring 2020, we especially focused on their experience and problems during the epidemic. **Residential treatment institutions were the only institutions in the field of education for which the temporary prohibition of gathering of people due to containment and management of the COVID-19 epidemic did not apply as per the adopted government ordinances temporarily prohibiting gatherings of people in educational institutions and universities and independent higher education institutions.** During the declared epidemics, these institutions remained open, and living and education took place based on the observance of preventive measures. It was explained in Kranj Residential Treatment Institution that initially (only) two residential groups were operating during the spring epidemic. Children and adolescents were accommodated in them who, unlike the majority of others, were unable to go home. All residential groups prepared for the possible isolation of a child or an adolescent due to the suspicion of infection or actual infection with coronavirus (SARS-CoV-2). The employees conveyed that they have sufficient stock of protective equipment, but they had problems in obtaining protective equipment from the civil protection forces in spring when the epidemic was declared because residential treatment institutions were supposedly not on the list of recipients of such equipment. Relating to the foregoing and in view of the epidemic declared again when drafting the report on the visit, we recommended that the MIZŠ **carefully monitor the situation in all residential treatment institutions in Slovenia, advise them on protective measures, intervene when acquiring suitable premises for isolation of infected persons, help them to obtain the necessary protective equipment, and particularly provide additional staff if individual residential treatment institutions needed it to provide care for children and adolescents and assistance for their staff at the time of the declared epidemic.** When drafting this report, we have not (yet) received a response from the MIZŠ.²³

In Višnja Gora Educational Institution, we issued six recommendations, of which four were accepted and already realised. These recommendations referred to the updating and redesigning of the website, organisation of children's and adolescents' personal folders, replacement of destroyed or worn-

²³ Due to the special circumstances in 2020 with which the institutions where persons whose personal freedom is limited reside were dealing because of the COVID-19 epidemic, the Ombudsman dedicated special attention to these institutions and the persons residing in them. Relating to the operations of institutions intended for children and adolescents with emotional and behavioural problems and disorders, we asked the MIZŠ for clarifications on their operations and the organisation of their work during the COVID-19 epidemic, supply of protective equipment, etc. More on this can be found in the Ombudsman's report for 2020.

out furniture and the purchase of an oven in Brežice residential group. Two recommendations were accepted by the institution but were still to be realised upon the received response. The institution has not yet realised the recommendation to adopt uniform general rules of conduct and educational measures for violations of these rules, to arrange the complaints procedure and publish it accordingly (on notice boards and the website) and to install desk lamps on adolescents' desks (these were lacking at the time of the visit). We particularly commended Višnja Gora Educational Institution enabling adolescents with emotional and behavioural problems and psychiatric disorders and their families to receive psychotherapy in the institution.

Kranj Residential Treatment Institution was issued with five recommendations. The recommendation referring to providing information for children and adolescents or their parents and guardians (information on the website and in a brochure), the provision of more opportunities to decorate rooms and select the colour of walls and the maintenance of equipment and devices had already been realised by the institution. The institution accepted two recommendations, but these have not yet been realised according to the institution's response. These referred to the unification and recording of educational rules and measures in the event of their violations and their publication on the institution's website and notice boards in individual residential groups or in other ways that will make them accessible to the children or the adolescents and their parents at all times. We commended Kranj Residential Treatment Institution for the planning and organisation of numerous activities and for encouraging children and adolescents to join in with extracurricular activities, for the organisation and transparency of documentation that refers to the treatment of an individual child or adolescent and that which refers to the work in a residential group, and for the institution's cooperation with various associations, organisations and especially the child's or adolescent's parents.

2.6

VISITS TO PSYCHIATRIC HOSPITALS

In 2020, the NPM **carried out three visits to psychiatric hospitals**. During all three visits, we particularly examined the observance and realisation of recommendations given during the previous visit. These were **unannounced control visits**.

When visiting the **Intensive Child and Adolescent Psychiatry Unit of Ljubljana University Psychiatric Clinic on 3 June 2020**, we determined while examining the observance of 13 recommendations given during our regular visit on 18 July 2019 that the Unit accepted and realised (only) three recommendations and even failed to accept one. However, from the response to the preliminary report, we were able to discern that **the Unit realised an additional seven recommendations, i.e., a total of ten recommendations, which is certainly commendable**. **We pointed out the three recommendations which the Unit accepted but has thus far failed to fully realise** and expressed our expectation that it would particularly focus on these recommendations and their realisation in the future. These recommendations involve additional decorations of the Unit (to make the premises more homely for the young patients) and the provision of a room where young patients could meet the advocates of persons with mental disorders or other visitors. The latter is particularly important as there would be no further need to restrict visits due to a lack of space. During this visit, we also gave several new recommendations. **The recommendation relating to the permissibility of sports bras or possibly their purchase by the Unit based on a suitable safety assessment of use for each female patient to (also) ensure personality and dignity through this important piece of clothing was accepted by the Unit**. During the day, female patients will be able to use their sports bras, which their relatives will deliver upon their admission. This practice proved to be sufficiently safe. **The recommendation that the water should run longer in the shower to facilitate patients' personal hygiene was also accepted** if it is not possible to ensure that patients close and open the shower tap themselves due to safety precautions. **The Unit had already realised the recommendation that (un)sweetened tea is available to the patients at all times** as maintaining hydration is an important element of maintaining somatic health. **The Unit also listened to the recommendations that young people, provided that there are no safety concerns relating to their illness, should be enabled (more) contact with animals**, including with the help of associations providing such services (e.g. the Slovenian Society for Dog-Assisted Therapy, Tačke pomagačke), **and that young patients spend as much time as possible outdoors if weather permits it** while observing the patient's safety assessment. To maintain suitable control, we recommended





that a record is introduced from which it would be possible to (quickly) determine how long a patient has been in the fresh air. We particularly highlighted the issue of assessing the introduction of SPM when a patient refuses to be treated and immediate implementation of supervision in all such cases. **The Unit's position that the use of SPM is (truly) the last option when treating a patient, is introduced in accordance with the expert guidelines and never outside of indications, is impellent.** The introduction of SPM is never induced due to refusal of medications. In agreement with the physician, a patient decides on their own whether, when and which medications they will take, provided that their judgement is not impeded to the degree that they cannot make such decisions.



When visiting **Ormož Psychiatric Hospital on 11 August 2020**, we examined the compliance with 17 recommendations given during our previous control visit on 8 August 2019. We discovered that **four recommendations had been accepted and realised.** However, we also determined that the hospital **accepted twelve recommendations but has thus far failed to fully realise them, so we expressed our expectation that it would particularly focus on these recommendations and their realisation in the future.** It must be highlighted that the hospital **evidently failed to accept one recommendation.** During its 2019 visit, the NPM recommended that the hospital should, despite individual reservations, consider the installation of call bells (wireless if no other option exists) and thus provide better safety for its patients. We understand that the realisation of such a recommendation (introduction of a call system) may take more time. Nevertheless, we expressed our expectation that Ormož Psychiatric Hospital would reconsider the acceptance and realisation of this recommendation.



During **the control visit to Begunje Psychiatric Hospital on 2 September 2020**, we focused on the observance of 21 recommendations given during the regular visit on 3 October 2018. We discovered that the hospital had **accepted and realised nine recommendations.** We must point out that the hospital **accepted twelve recommendations but has thus far failed to fully realise them,** so we expressed our expectation that it would particularly focus on these recommendations and their realisation in the future.

2.7

VISITS TO PRISONS

In 2020, the NPM visited five prisons or their units and **Celje Juvenile and Adult Prison**. All visits were regular, i.e., to Maribor Prison on 12 and 13 February 2020, Murska Sobota Unit of Maribor Prison on 18 June 2020, Nova Gorica Unit of Koper Prison on 17 September 2020, Celje Juvenile and Adult Prison on 23 September 2020 and Slovenska vas Semi-Open Unit of Dob pri Mirni Prison on 9 December 2020 and were **unannounced**. The external expert/doctor, who cooperates contractually with the NPM, attended the visit to Celje Juvenile and Adult Prison.

A total of **one hundred and seven (107) recommendations** were given during the visits, of which eighty-five (85) were targeted and twenty-two (22) general. The recommendations referred to the possibilities for activities (13), living conditions (40), other (2), records and documentation (1), discussion of unwanted behaviour (1), discussion of prisoners and forms of work (12), staff (18), food (4), general (3), contacts with the outside world (7) and health care (6).

From a total of 107 recommendations, **34 were accepted and realised, while 65 were accepted, but not yet realised**. The Prison Administration of the Republic of Slovenia (URSIKS) did not state its position regarding one recommendation and **seven were not accepted**.



In **Slovenska vas Semi-Open Unit of Dob pri Mirni Prison**, we recommended that the facilities for isolation of prisoners with coronavirus are marked more clearly, while a detailed protocol on conduct is posted at the entrance to the facility (food delivery, communication with prisoners at such facilities, requested protective equipment for entry and time permitted to stay at such facilities). The arrangement of premises or the arrangements for staying at the semi-open unit at the time of the epidemic depends on the given capacities, the number of available beds and the need to ensure facilities for isolation. During our visit, the facility for isolation was arranged in building no. 2 (which had already been determined in November). The convicted persons from the Puščava Open Prison Section infected with coronavirus were accommodated in, or relocated to, this building during our visit. According to the clarifications we received, a special protocol applies at these premises, i.e., access to the entrance was protected by a tape, but no other visible markings were seen on the building to specify an isolation area. The Head Office of the Prison Administration of the Republic of Slovenia communicated to this end that the premises were marked, **but they agreed that the markings could have been clearer**. They welcomed the recommendation about posting the protocol on conduct at the entry to the facility. In the event of possible further isolation cases, they will strive to realise the recommendation.



When visiting **Slovenska vas Semi-Open Unit of Dob pri Mirni Prison**, we recommended an examination of the options for organising safe meetings between convicted persons and their minor children, including during the epidemic. Based on the Act Determining Temporary Measures to Mitigate and Remedy the Consequences of COVID-19, the management specifically cancelled all visits and exits, except intentional exits (urgent treatment in health institutions, judicial proceedings, etc.), including visits by close family members and children. The management explained that the principles of appropriateness and necessity are pursued when implementing measures, which are intensified gradually. **We highlighted that the right to family life remains one of the fundamental rights when serving a prison sentence, which is why the restriction of contacts with close family members should be weighted especially carefully and thoughtfully while seeking solutions that would enable safer meetings.** The convicted persons, whose partners and children deal with increased pressures and distress because of the closure of kindergartens and schools, could be entitled to meetings under special health and safety conditions. In this regard, the Head Office of the Prison Administration of the Republic of Slovenia communicated that the epidemiological situation in Slovenska vas Semi-Open Unit of Dob pri Mirni Prison, and that in the country as a whole, has been regularly monitored since the declaration of the epidemic. The measures in institutions are being adjusted to the conditions. The objective of Slovenska vas Semi-Open Unit of Dob pri Mirni Prison is for the convicted persons to be enabled high-quality contacts with their relatives as soon as possible. Due to the current situation in the country, past conditions in Slovenska vas Semi-Open Unit (occurrence of infections) and spatial capacities, the convicted persons were unable to meet their relatives. The prison, however, realised a one-time granting of privileges outside prison and thus at least partially relieved the convicted persons of the distress they experience. The situation will be further monitored **to find a way to organise safe meetings between convicted persons and their relatives.**



The review of realisation of other issued recommendations reveals that **many NPM recommendations were realised in 2020 and some were accepted but not yet realised.** When visiting **Maribor Prison**, we recommended that information on accessing the library is included among the first written information that detainees receive upon admission as they do not have direct access to the library. We further noted that this information should also be translated into other languages. The Head Office of the Prison Administration of the Republic of Slovenia communicated that Maribor Prison explained that information on accessing library material will be included when new brochures are printed, but the detainees are already being informed of this option verbally. For several years now, the detainees have been able to obtain printed lists of library material, which they can use when ordering books from the library. The Head Office of the Prison Administration of the Republic of Slovenia will recommend that Maribor Prison also provides translations of information for new detainees in several languages.

During our visit to **Murska Sobota Unit of Maribor Prison**, we recommended that they examine the possibility of equipping prisoners' residential areas with a refrigerator where they could store food that is left over from breakfast and is easily perishable (e.g. milk, spreads, etc.). On that note, we also mentioned that detainees and convicted persons submitted proposals or requests for refrigerators to be installed in their rooms as food becomes quickly perishable, especially in the summer months when temperatures are higher. They have to discard the food that is left over from breakfast (e.g. milk, spreads, etc.) because they cannot store it. In this regard, the Head Office of the Prison Administration of the Republic of Slovenia explained that Murska Sobota Unit of Maribor Prison communicated that the **recommendation had already been realised. Each room has been equipped with a refrigerator and a cooker.**



The unrealised recommendations particularly dealt with those that require more time for their realisation or the elimination of established deficiencies.

It was established concerning the adopted but not yet realised recommendations that few of them referred to the replacement of old metal furniture and regular painting of prisoners' living premises. The Head Office of the Prison Administration of the Republic of Slovenia informed us that more time or certain financial resources are needed for the realisation of recommendations in the majority of cases, which is why the recommendations had to be included in investment plans. Certain recommendations which were accepted, but not yet realised, referred to the institutions' staff (e.g. Maribor Prison, Murska Sobota Unit of Maribor Prison and Nova Gorica Unit of Koper Prison) investing more effort in providing work for incarcerated persons, especially detainees. The Head Office of the Prison Administration of the Republic of Slovenia communicated that it was trying to obtain additional funds for the project "Development of work competencies for prisoners when obtaining knowledge and skills for professional qualifications in all Institutions". The Head Office further explained that employment of detainees is one of the challenges of the prison system, which is not solvable by means of mere good will and best intentions to employ detainees. **At this point, it should be noted that all prisons, except Koper Prison, are situated in old and unsuitable facilities which are inappropriate for modern ways of serving prison sentence.** Due to the requirements for separating detainees and convicted persons, new facilities for workshops would be required, including additional staff to work with them. It was also determined that the majority of detainees do not want to work. For a large section of detainees/foreigners, language presents an additional barrier because it is not possible to communicate with them to the extent that would enable safe work processes.



With regard to seven recommendations that were not accepted by the Head Office of the Prison Administration of the Republic of Slovenia, **four of them referred to Maribor Prison**, i.e., one to the living conditions or the removal of additional screens from windows in living premises, which further inhibited sunlight from entering the rooms and contributed to the feeling of entrapment. The Head Office explained that the screens were installed on the windows after the successful escape of two detainees from Koper Prison. Furthermore, the

density of the installed screens prevents the entry of illicit items or substances through the windows and also successfully prevents the sawing of bars. The Head Office also communicated that **Maribor Prison** would strive for the screens to remain light so they would not inhibit the sunlight. When replacing worn-out screens, security risks will be taken into account regarding their density. The Head Office agrees with these preventive measures as the existing architecture of **Maribor Prison** hinders high-quality security without additional risks.

The second unaccepted recommendation for **Maribor Prison** referred to more diversity in the prisoners' diet so that certain meals would not be repeated too frequently. The Head Office of the Prison Administration of the Republic of Slovenia explained that menus in **Maribor Prison** are prepared one month in advance and published on notice boards. When planning menus, prisoners' wishes are also observed, including the offer of seasonal ingredients and options of the institution's kitchen. The Head Office further noted that not all wishes can be met at all times because they must also follow the standards.

The third unaccepted recommendation for **Maribor Prison** dealt with the poor response of educators to convicted persons' applications. The Head Office communicated that **Maribor Prison** explained that educators try to conduct interviews as soon as possible, although it occasionally happens that this is not possible due to absence or other reasons. The fact that educators carried out 2,258 interviews in 2019 is relevant data, to which 950 interviews with a psychologist and 1,823 interviews with a social worker must be added. On average, this represents 13.8 interviews a day, whereby non-working days were not deducted from the calculation. Prisoners' applications are usually resolved in two to three days from their receipt, while pressing matters are dealt with as soon as possible (usually on the same day).

The fourth unaccepted recommendation for **Maribor Prison** dealt with the frequent absences of educators, so that prisoners were only able to resolve urgent matters with a substitute educator. In this regard, the Head Office of the Prison Administration of the Republic of Slovenia communicated that five educators were employed at **Maribor Prison** as of 26 March 2020. However, due to various absence reasons it can occur that only a few expert workers are in attendance. In the event of substituting (absent) expert workers, the prisoners are informed thereof through notice boards. The expert worker substituting for another expert worker responds to all applications in the shortest time possible and examines all urgent applications for an interview together with the head of the educational section, which are then resolved on the same day if necessary (e.g., resolving applications for prisoner's benefits, utilisation of dedicated exits or annual leave). All other applications are resolved in the shortest time possible, including at afternoon group meetings led by each educator once a week. The prisoners can directly contact any expert worker who is present that day in the afternoon. The transfer of urgent information also takes place in **Maribor Prison** through the safety section at all times.

One unaccepted recommendation referred to **Nova Gorica Unit of Koper Prison**, i.e., a repeated recommendation to examine the possibility of renovating the solitary confinement cell. However, it was communicated in the reply of the Prison Administration of the Republic of Slovenia, no. 070-4/2018/29 of 24 April 2018 that the renovation of the solitary confinement cell was not placed in the investment maintenance plan because the building is not owned by the department. The Head Office of the Prison Administration of the Republic of Slovenia conveyed that **Nova Gorica Unit of Koper Prison** explained that the solitary confinement cell was actually not adequately equipped.

They also highlighted that the cell was being used very rarely and always under the ongoing supervision of a prison officer. In this way, the safety and health of the prisoner who is accommodated in the cell is fully provided for. The cell was last used in 2011 for a very short time (one hour and 55 minutes).

One unaccepted recommendation also referred to **Celje Juvenile and Adult Prison**, i.e., to the work of educators who should be even more active when working with the prisoners to attain their plans or objectives in their personal plans. The prisoners expressed their wishes or expectations that they wanted clearer (stage-designed) objectives from the educators, which would enable them better predictability regarding the serving of their sentences. The Head Office of the Prison Administration of the Republic of Slovenia stated that educators in **Celje Juvenile and Adult Prison** monitor the convicted person from the onset of their sentence until their completion. A personal plan is drafted in the diagnostic phase for every newly admitted person who is monitored by the educator from the very admission to serve their sentence. The plan is prepared by the educator on the basis of expert decisions and in cooperation with the convicted person. To this end, one or several consulting interviews are held with the relevant convicted person. The personal plan includes a range of elements which the person may try to fulfil from the very beginning. Once the programme is accepted at the diagnostic conference, the convicted person receives and signs it. Every convicted person who wishes to work on improving themselves can contact expert workers at the institution and can also meet the educator on a daily basis, but most certainly twice a week for more in-depth discussions. In addition to regular conversations, the convicted person can focus on the problems that are systematically resolved during planned discussions. Specific expert approaches are within the competence of individual expert workers, such as psychologists, social workers, expert workers treating persons who abuse illicit substances, two expert workers treating perpetrators of violence and two registered nurses. In addition to group meetings, the educators also implement one-on-one work with the convicted persons by carrying out various types of discussions from informative to consulting and also intervention and exculpatory if necessary. Through discussions, a comprehensive plan for serving a sentence is drafted for every newly admitted convicted person and the prisoner is directed towards the form of discussion that they require. The educators participate in an expert team, which decides on the treatment of every prisoner individually. Each educator together with the convicted person forms a personal plan, monitors and supplements it if necessary and evaluates and coordinates the prisoner's serving of their sentence. Further-

more, the educators carry out various forms of group work, such as meetings of small groups, and organise sports or cultural activities (in the institution and outside of it) for convicted persons who already utilise privileges outside prison, e.g., walks in the town of Celje, hikes on nearby hills. At meetings of the expert group taking place every Wednesday, they follow up the realisation of personal plans and convicted persons' behaviour in and outside the institution. Personal plans are supplemented and amended accordingly. The prisoners are informed of the changes to their personal plans in writing and receive a copy of the changes. At meetings of expert groups, various requests and proposals by convicted persons are resolved, and occasionally also their complaints. The Head Office of the Prison Administration of the Republic of Slovenia further explained that the main method of working with convicted persons is a planned discussion. The convicted persons thus learn about the acceptable resolving of disputes, healthy lifestyle, acquire basic social and hygienic habits and obtain work habits. With the help of expert workers, they try to set real goals for the future, which is why a great emphasis is placed on resolving their key personality issues, education, maintaining contacts with important people in their life and at work, and productive use of free time during the serving of their sentence. For acceptable behaviour, regular work and attaining the objectives of their personal plan, the convicted persons acquire benefits within and outside the institution in the form of exits. Their achievements are also a decisive criterion when determining their early or conditional release. Those having problems with maintaining abstinence from substance abuse receive special treatment in the institution, which is available to everyone who is ready to participate in it and will agree to urine drug testing. The convicted persons can work with the expert workers of the Vir Institute. In 2020, the latter did not visit the institution as in the past, so the counselling took place (individually and in groups) at the premises of Vir Institute. Likewise, cooperation with the Projekt Človek Association is also taking place in this field, with a therapist providing individual counselling once a week. An important aspect of educational work is to teach the convicted persons how to spend their free time meaningfully. They are thus encouraged to attend sports and recreational activities, training sessions in the gym and creative activities. Prisoners regularly attend literacy sessions and free-time activities during which they make various products under the mentorship of an expert worker from Celje Adult Education Centre. Occasionally, these sessions are led by the institution's expert worker. If needed, literacy sessions and free-time workshops are organised by an expert worker from Celje Adult Education Centre for detainees and minor detainees. The Head Office of the Prison Administration of the Republic of Slovenia concluded that Celje Prison and Juvenile Prison assessed that the expert work of its educators is in-depth, ongoing and dedicated, on the assumption that the convicted person expresses an interest in and desire to improve themselves. The educator listens and directs the prisoner towards the goal they set together. The educators frequently encounter the fact that the prisoners cannot always reach their set goal, but they nevertheless further direct, encourage and stand by them. Prisoners who are unable or refuse to participate in their programme look to blame someone other than themselves and the educators are usually the first who are to blame for their failure.

One unaccepted recommendation referred to **Slovenska vas Semi-Open Unit of Dob pri Mirni Prison**, i.e., that the convicted persons being transferred to building no. 2, which is intended for isolation are issued a written decision or other similar written information and are thus informed accordingly of the reason for their relocation and the anticipated time of relocation/accommodation. The recommendation stating that access to the facility where persons in isolation are accommodated must be clearly marked and restricted was further substantiated by the fact that prisoners contacted the Ombudsman before this visit and complained about the marking of the isolation facility and that access or contact between the infected and other prisoners accommodated at the same facility should be somehow restricted. During the visit, it was determined that persons relocated to this facility from the Puščava Open Prison Section did not receive a written decision or another document on the basis of which the relocation would be made and isolation measures adopted. In this regard, the Head Office of the Prison Administration of the Republic of Slovenia explained that the placement into isolation was made on the basis of instructions received from the health service. Upon their placement, prisoners are provided with two documents containing instructions to persons with a confirmed SARS-CoV-2 infection. One is prepared by the National Institute of Public Health (NIJZ) and the second one by Trebnje Community Health Centre, which carries out health-care activities in Slovenska vas Semi-Open Unit of Dob pri Mirni Prison within the public health network. The relevant documents clearly state why a person was placed in isolation, what they must do and how long the isolation is expected to last. The decision on placement into isolation and the decision to end the isolation are in the domain of Trebnje Community Health Centre. When a prisoner is placed in isolation, the regime of serving their sentence in sense of the provision of the ZIKS-1 (closed, semi-open, open) does not change, only the location of accommodation changes due to the isolation needs. With regard to the foregoing, the Head Office of the Prison Administration of the Republic of Slovenia believes that there is no need for the issue of a decision on the placement in isolation in the event of such accommodation. The prisoners are informed of the reasons for isolation and the anticipated time of accommodation by means of the documents issued by the NIJZ and Trebnje Community Health Centre, which were attached to the response.

When visiting prisons, we noted that several recommendations made during previous visits had been realised. During our visit to **Maribor Prison**, we determined that **the recommendation from the previous visit, which dealt with the possible replacement of floor coverings** in living quarters nos. 105/b and 102 had been realised as we established that floor coverings in both relevant quarters were replaced. **The recommendation to examine the possibility of replacing windows or ensure suitable sealing in living quarters nos. 107 and 108/a was also realised**, as we noticed that cold air was not entering the rooms and no complaints in this regard were made by the accommodated detainees. Furthermore, Maribor Prison **realised certain other recommendations aimed at improving the conditions for prisoners.** Construction works were underway at Maribor Prison during our visit, i.e., in connection with the construction or **novation of the premises for the needs of visits** (relating to NPM recommen-



dations given during past visits). The management of the institution explained that the relocation of the transformer station was carried out first. Renovation of the video surveillance centre, the activities for installing a new video surveillance system and finishing works on the premises for visitors and the waiting room for visitors were still underway.



Murska Sobota Unit of Maribor Prison realised the NPM recommendation from the previous (control) visit and equipped the living quarters of the detention section with new wooden furniture (beds and wardrobes). Furthermore, certain other recommendations from the previous (control) visit referring to living conditions and relationships of the staff towards prisoners were also realised.



Nova Gorica Unit of Koper Prison realised the NPM recommendation from the previous visit to repair the roof of the internal recreation area as it was found during this visit that the roof of the internal yard or recreation area had been repaired, and no further leakage had occurred. Furthermore, the walls



Nova Gorica Unit of Koper Prison realised the NPM recommendation from the previous visit to repair the roof of the internal recreation area as it was found during this visit that the roof of the internal yard or recreation area had been repaired, and no further leakage had occurred. Furthermore, the walls of the recreation area were also repainted. Simultaneously with the recommendation realisation, a fitness area was also arranged in the internal yard or recreation area for the detainees and convicted persons in the closed regime of imprisonment. **The NPM recommendation from the previous visit to examine the possibilities of additional isolation of a wall in the living quarters or the so-called infirmary** so that cold air would no longer enter the room was realised. This we determined by noting that the living quarters or the so-called infirmary was fully renovated, i.e., additional insulation was placed on the wall and a window was replaced.



In **Celje Juvenile and Adult Prison**, the majority of the NPM recommendations from the previous (control) visit referred to the arrangement (painting in particular) of the living and common areas whereby we were able to confirm upon this visit that **the living and common areas were tidy and clean and it was evident that the walls had been recently painted.**



Slovenska vas Semi-Open Unit of Dob pri Mirni Prison also realised the NPM recommendation from the previous visit requesting that the staff further maintain a positive and respectful attitude when treating convicted persons as no complaints were received from the convicted persons about the staff's work.

2.8

VISITS TO POLICE STATIONS

In 2020, we **visited sixteen police stations (PS) and two border police stations (BPS)**, i.e., Novo mesto PP (22 January 2020), Šentjernej PS (22 January 2020), Obrežje BPS (22 January 2020), Trbovlje PS (20 February 2020), Laško PS (22 February 2020), Celje PS (22 February 2020), Ljubljana Bežigrad PS (5 March 2020), Vrhnika PS (5 March 2020), Cerknica PS (5 March 2020), Gruškovoje BPS (5 June 2020), Podlehnik PS (5 June 2020), Škofja Loka PS (5 August 2020), Kranj PS (5 August 2020, Tržič PS (5 August 2020), Ormož PS (8 October 2020), Gorišnica PS (8 October 2020), Kozina PS (21 December 2020) and Sežana PS (21 December 2020); thus amounting to a total of **eighteen (18) places of deprivation of liberty due to police detention**. All visits were **unannounced**.

During the visits, we examined the rooms that PS or BPS use for the treatment and accommodation of remand and detained persons deprived of their liberty and spoke to persons who were in police detention or custody during our visit in order to determine how police procedures were carried out. We also spoke with police officers and checked individual (randomly selected) cases of police procedures regarding these persons. We also regularly verified the realisation of recommendations made during our previous visit to a certain police station. **During the visits in 2020, we were able to determine that police stations realise the NPM recommendations.** Certain examples of realised recommendations from previous visits are provided below.



When visiting **Šentjernej PS**, we thus found that the NPM recommendation from the previous visit, which requested that entries in the book of complaints and commendations are reviewed by the competent senior officer and marked with their signature, was realised as we examined the entries in the book of complaints and commendations during this visit and they were marked accordingly with the signatures of the competent senior officer.

Trbovlje PS realised the NPM recommendation from the previous visit that the room immediately behind the entrance door to the PS, which is marked as “room for clients 2” and equipped with plexiglass, is not used for discussions of the detained person with a lawyer as the room is not under video surveillance and it is also not possible to monitor developments in this room from the duty officer’s room and as such it is only suitable for the needs of police officers’ discussions with clients visiting the PS. When visiting this PS in 2020, it was determined that “room for clients 2” is now being used only for the police officers’ discussions with clients visiting the PS.

During the visit to **Laško PS**, we discovered that the NPM recommendation from the previous visit, which stated that in the interview room where the procedure with the person deprived of their liberty takes place a list of lawyers

must be available, which is not older than three months, was realised, as it was determined during this visit that the interview room was equipped with such a list of lawyers as of 6 December 2019. The PS also realised the recommendation that an intervention vehicle be provided to enable the transport of persons deprived of their liberty. It was further determined that the recommendation referring to the marking of the review date upon every examination of entries in the book of complaints and commendations, including the name of the person conducting the examination, had been realised because it was established that all entries in the book of complaints and commendations were examined by the competent senior officer and were accordingly marked with a signature and a date.

When visiting **Celje PS**, we determined that the PS had realised the NPM recommendation to repaint the walls in the room intended for shorter detention (marked with no. 1 on the occasion of this visit) because the walls in the relevant room were clean and had been repainted since the 2020 visit. The PS also realised the recommendation to equip the hallway for the admission of persons deprived of their liberty with a larger cabinet intended for the storage of seized items, which the detained person cannot keep during their detention, as evidenced by a larger wooden cabinet for storing seized items located in the hallway, in which the shelves were marked with numbers reflecting the numbers of the detention rooms.

At **Ljubljana Bežigrad PS**, it was determined that the police officers were informed of the correct entering of corrections in official documents necessary for the implementation of detention because we noticed when examining official documents during this visit that individual corrections were entered correctly and marked accordingly (signature of the police officer making the correction).

At **Vrhnika PS**, it was likewise determined that the police officers were informed of the correct entering of corrections in official documents necessary for the implementation of detention because we noticed when examining official documents during this visit that individual corrections were entered correctly and marked accordingly (signature of the police officer making the correction).

Cerknica PS realised the NPM recommendation from the previous visit to inform the police officers to remind persons visiting the PS premises, i.e., the interview room, to take their personal effects (clothes) with them when they leave the PS, as evidenced upon this visit by the fact that no items had been left or forgotten by visitors to the PS.

Gruškovje BPS realised the NPM recommendation to regularly maintain and clean the premises for "deportation" or removal of foreigners and not use them as a storage for equipment because these premises are not intended for such purpose. During our 2020 visit, the premises were clean, and no equipment was stored there.

When visiting **Podlehnik PS**, we found that the recommendation requesting that the entrance to the PS from the yard or the car park, which is under video surveillance, is marked accordingly. During this visit, we noticed that information that the entrance was under video surveillance was provided accordingly (with a sticker). The recommendation that the marking conveying the information that the admission and interview room is under video surveillance is positioned in a more visible place (e.g., on the external side of the door) was realised as shown by a marking conveying the information that the admission and interview room is under video surveillance placed on the external side of the entrance door to the room. Furthermore, the NPM recommendation to equip the room for admission of persons deprived of their liberty with a suitably updated list of lawyers was realised as we found in the room a list of lawyers that was updated in June. The PS also installed the marking conveying the information that the premises for the treatment of foreigners are under video surveillance in a more visible place, as we found during the current visit that the marking was placed on the external side of the entrance to the premises. The NPM recommendation to equip the area for exercising outdoors in accordance with paragraph two of Article 23 of the Rules on standards for the construction and equipment of police premises used for detention, i.e., with an ashtray, was also realised as shown by the area for exercising outdoors being equipped with a concrete ashtray upon this visit.

Upon the visit to **Škofja Loka PS**, it was determined that the NPM recommendation referring to the loose tap in the washbasin of the room for longer detention marked no. 2 was realised since the tap was now fixed accordingly (impossible to manipulate). The recommendation to examine the possibility of installing a video surveillance system in the room for admission of persons deprived of their liberty was also realised because a video surveillance system was installed in the room in 2019. The PS management also began regularly monitoring the update of the list of lawyers every three months as was recommended by the NPM during the previous visit since an accordingly updated list of lawyers was found in the room for the admission of persons deprived of their liberty. Furthermore, the recommendation to paint the walls in the interview room was also observed as the walls were clean during this visit.

When visiting **Kranj PS**, we noted that the PS management observed the NPM recommendation and ensured that detention rooms are more regularly cleaned (after each use) since we found the rooms to be cleaned and aired. The NPM recommendation to place the book of complaints and commendations for easier access from the room for private interviews with the duty police officer and clients to the room used by the duty police officer was realised since the book of complaints and commendations was now located on the shelf in front of the glass partition of the duty police officer.

Ormož PS realised the NPM recommendation from the previous visit and equipped the recreation yard as per indent one of paragraph two of Article 23 of the Rules on standards for the construction and equipment of police premises used for detention with an ashtray.

When visiting **Gorišnica PS**, we discovered that the NPM recommendation from the previous visit was realised. It referred to the marking of two separate glass rooms used for interviews with clients and shorter detention, which were now marked interview room 1 and interview room 2. The recommendation to regularly clean the recreation yard and equip it with an ashtray as per indent one of paragraph two of Article 23 of the Rules on standards for the construction and equipment of police premises used for detention was also realised.

Kozina PS also complied with the NPM recommendation and marked accordingly the shelves in the cabinet for storing seized items belonging to persons deprived of their liberty (reflecting the marking of detention rooms). The PS management also ensures regular updating of the list of lawyers as was suggested during the previous NPM visit because we found an updated list of lawyers in the admission room. Furthermore, the toilet for people with disabilities located in the hallway in front of the office of the duty police officer was equipped with a suitable handle as we noted during this visit.

When visiting **Sežana PS**, the NPM recommendation to post a new MNZ poster with the rights of person deprived of their liberty was realised, and so was the recommendation to inform police officers (particularly duty police officers) that, when completing the form "Implementation of tasks during detention/custody – official note", the number of the room in which the person was actually detained must also be entered in the form under section "Tasks during detention/custody" because the number of the room was recorded in all the forms we examined.

When visiting police stations in 2020, one hundred (100) new recommendations were given, of which eighty (80) were targeted, one systemic and nineteen (19) general. The recommendations referred to living conditions (21), other (1), record-keeping and documentation (47), treatment and forms of work (10), staff (5), legal protection and complaint channels (13), general (2) and contacts with the outside world (1).



From a total of one hundred recommendations, **sixty (60) were accepted and realised, eighteen (18) were accepted, but not yet realised, five (5) were not accepted**, and the response deadline had not yet expired for seventeen (17) recommendations at the time this report was drafted.



Many NPM recommendations from visits to police stations were accepted and also realised while those that are yet to be realised require more time for their realisation or the elimination of established deficiencies (e.g., installation of the video surveillance system in interview rooms and rooms for the admission of persons deprived of their liberty, and the provision of equipment for audio and video recording of interviews). At **Celje, Škofja Loka and Sežana police stations**, it was determined that, **the NPM recommendation to examine the possibility of ensuring access to running water in rooms for shorter detention (up to 12 hours) was not realised**, although the MNZ responded that it would be realised at the time of major investment interventions or it would be



incorporated in the detention room renovation plan within the framework of available financial resources.

Of **the recommendations not adopted**, two proposed that police officers (**Novo mesto and Šentjernej police stations**) record the handing out to foreigners of new UNHCR brochures containing information on international protection, or when they are verbally informed of their right to international protection, that this is recorded in the form under the section “Tasks during detention/custody”. In this regard, the MNZ explained that the brochures are available to foreigners and inform them of their rights and duties, and the procedure of international protection. As the record-keeping would be an additional administrative burden, the police officers will not record this separately in the form “Implementation of tasks during detention/custody – official note”. The MNZ further stated that when it arises from the established facts and circumstances that a foreigner’s life or their freedom was or could be endangered, or when they could be exposed to torture and other cruel treatment, the police officers must also inform that person of the option to apply for international protection or refer them to such action. The MNZ also noted that police officers always treat a person as per the International Protection Act when the person communicates their intention to apply for international protection in the Republic of Slovenia.



One unaccepted recommendation referred to **Novo mesto PS**, i.e., to examine the possibilities for procedures involving foreigners being conducted at other police stations in the Republic of Slovenia in the manner as conducted at Novo mesto PS, which involves individual official notes on the interview from which it is clear that the foreigner was informed of their right to apply for international protection. The MNZ responded that police officers lack the legal authorisation or duties to inform each foreigner individually of the option to apply for international protection. Nevertheless, every person brought to the police premises in order to be processed may be informed of the rights and procedures. In any case, when a person forwards their intention to apply for international protection in the Republic of Slovenia, police officers treat them as per the International Protection Act. Furthermore, it was also not evident from the official note of the case examined upon the visit that police officers informed the person of the option to apply for international protection, but it was evident that the foreigner stated that he would apply for it once he arrives to Spain.

The next unaccepted recommendation referred to **Laško PS** and stated that equipment for audio and video recording of interrogations should be provided for this PS as currently police officers must borrow such equipment from another PS in the event of interrogations. The MNZ explained that the purchase of new audio and video recording equipment was not anticipated and noted that the PS would borrow the equipment from Celje Police Directorate or other police units if this is needed.

The last unaccepted recommendation was directed at **Celje PS** where the in-

terview room should actually be marked as the interview room. In this regard, the MNZ communicated that the room described as an interview room was situated next to the reception and was intended for waiting clients.



One systemic recommendation was issued in 2020, which involved a prompt harmonisation of the legal instruction in the confinement order, from which the compliance with Constitutional Court Decision no. U-I-89/15-13 of 30 November 2017 will be evident, or that the persons detained will be informed of the deadline by which they can submit a complaint against the ordered detention. **In connection with the foregoing, the MNZ responded that the Police immediately supplemented the confinement order after receiving Constitutional Court Decision no. U-I-89/15-13 of 30 November 2017. The updated decision was published on the Police intranet and is accessible to all police officers and regarding which all police units were informed.** The MNZ added that the specific case was an isolated example of the use of the old form, an issue concerning which the responsible police unit had already been notified.



At the majority of police stations we visited in 2020, we determined repeatedly **that errors or deficiencies still occur when completing forms necessary for the implementation of detention**, but they were fewer than in the past. The majority of errors or deficiencies occur in the uniform provision of individual tasks in different forms (e.g., in the confinement order, the “Implementation of tasks during detention/custody – official note” form or in the computer detention book). Relating to the established irregularities or deficiencies which were pointed out in the visit reports, the MNZ responded that police officers and the management of police stations were informed of the foregoing and the specific errors and deficiencies in the provided examples were eliminated (e.g., corrections of entries in the computer detention book).



In one case in 2020, it was established that the provision of paragraph seven of Article 51 of the Police Tasks and Powers Act (ZNPPol) was not observed when detention was ordered, i.e., a security search of a person deprived of their liberty was not carried out by a person of the same gender. When the provisions of paragraph seven of Article 51 of the ZNPPol were violated, the police officers failed to record that the security search of the person deprived of their liberty could not have been postponed until the arrival of a person of the same gender. **In this regard, the MNZ communicated that all police officers were warned at the working meeting about the necessity of recording an account of the reasons for a security search being performed by a person of the opposite gender**



When examining the procedure in the case of detention of two foreigners at Obrežje BPS, it was found that the BPS did not complete all necessary documentation referring to the relevant detention procedure at the time of the visit. In the archival copy, the BPS did not store or failed to file the “Implementation of tasks during detention/custody – official note” form and the confinement order and we were thus unable to investigate in detail the course of the detention procedure of the foreigners (e.g., what happened to the persons during the

detention, where were they accommodated/detained, how were their meals organised, etc.). When reviewing the documentation, it was evident from the decision on offence proceedings that the persons were questioned as witnesses at Krško District Court on 4 November 2019 (the time of the hearing was not provided) regarding the criminal offence of prohibited crossing of a state border or territory, where they also stated their intention to apply for international protection. **We proposed that the MNZ examine the relevant case of detention and forward its findings and possible measures thereof.** The MNZ responded that the foreigners were questioned by the investigating judge due to the criminal offence as per Article 308 of the Criminal Code (KZ-1), which is why the “Implementation of tasks during detention/custody – official note” form and the confinement order were in the criminal file. Furthermore, the foreigners were being processed for evading border control and the restriction of their movement was necessary for the implementation of border control and the offence proceedings and to later bring the witnesses to a hearing before the investigating judge. **The MNZ explained that the police supervision revealed a systemic problem with regard to bringing people before the investigating judge, which is why the minister of the interior issued mandatory instructions and guidelines on 12 February 2020,** stating: “The Police must ensure consistent implementation of detention of illegal migrants as per legal standards, particularly the observance of the provision of Article 64 of the Police Tasks and Powers Act, stating that detention may only last for the time strictly necessary for the extradition to foreign security authorities. The possible bringing of illegal migrants as witnesses to be heard by an investigating judge may be carried out exclusively on the basis of a written order by a competent authority.” Krško District Court also clarified that the relevant cases were a systemic issue arising from unrealistic deadlines that are suitable only when foreigners are apprehended during daytime and possibly on a weekday when the conditions for a hearing can be ensured in a very short time because all required participants are usually available. According to the court, this systemic problem could most easily and promptly be resolved by amending the Act. **We thus supported the amendments to the proposed ZKP-O, which address the issues when interrogating foreign witnesses who cross the state border illegally so that the course of parallel minor offence proceedings (in which they were deprived of their liberty) is also observed and, as a result, it is ensured that these persons are actually heard before the investigating judge as witnesses in a pre-trial procedure (Article 149 of the ZKP).**



At Gruškovje BPS, it was determined when examining the case of three foreigners being denied entry who were found in a foreign citizen's freight vehicle that one of them was a minor. In connection with the procedure, we found that the police officers of the BPS failed to report this to the competent social work centre because they considered that the two adult members in the group who were assumed to be his cousins counted as his escorts or guardians. **In this regard, we emphasised that in such cases the Slovenian legislation must be observed and this clearly defines family members who may be considered guardians or children's legal representatives and cousins are not included in this group.** It was further found that no note was made in the file about the

family connection between the foreigners discussed, which could also not be assumed on the basis of their (different) surnames. With regard to the foregoing, we believe that the violation of the child's right to special protection occurred in police procedures, the implementation of which is defined by the Protocol on cooperation between the police and social work centres when dealing with unaccompanied minors. It was explained to us that a social work centre provides an assessment of family relationships by phone, which results in the refusal of entry for such minors irrespective of their special protection. When examining the file, it also lacked the application for international protection. What is more, no assessment was given or made on whether that was a potential case of human trafficking while considering the fact that the unaccompanied minor travelled with two adults. **We proposed the MNZ to examine in detail the relevant case of detention and forward its findings and possible measures thereof.** The MNZ responded that the specific case involved three foreigners who were not detained but underwent the procedure of refusal of entry at a border crossing point (attempt to evade border control when trying to enter the Republic of Slovenia). Relating to the informing of the social work centre about one of the three foreigners, who was a minor, the MNZ highlighted that the police station immediately informs the competent social work centre or the SCW intervention service (point a of the Protocol) of the apprehension of an unaccompanied foreign minor who has entered or resided in the country illegally as per the Protocol on cooperation between the police and social work centres when assisting unaccompanied foreign minors and the Foreigners Act According to the MNZ, the relevant group of foreigners together with the foreign minor had not yet entered the country as they were discovered during the border control in their attempt to enter the country at a border crossing and the procedure of REFUSAL of entry to the country was underway for them and not a formal/informal return or the procedure of removal. In the past, the social work centre was informed of such cases, but this practice also ceased at the proposal of SWC representatives because the foreigners (including the foreign minor) had not yet legally and formally entered the country and the notification guideline for such cases is also not included in the Protocol. **In connection with the MNZ clarifications, we were of the opinion that persons in situations such as that described above should be ensured their rights even if, supposedly, they had not yet entered the country (but were processed at the border) because they cannot move freely. It is namely impossible to overlook that the procedure on the Slovenian side of the border crossing or territory was carried out by the Slovenian police (i.e., a Slovenian authority) and Slovenian or EU law was exercised, which means that the Slovenian authorities held the authority (effective control) over these persons at the time (e.g. paragraphs 129–132 of ECHR judgment in the case M.K. and Others v. Poland of 23 July 2020 refer to a similar procedure at a border). In these cases, the Slovenian police must also ensure the observance of the principle of the best interests of the child and consider the needs of vulnerable persons (this term also encompasses a minor and an unaccompanied minor) and the observance of the non-refoulement principle (see also the aforementioned ECHR judgment). We were of the opinion**

that a minor should not be dealt with without a guardian irrespective of the type of police procedure (refusal, removal, etc.) as that would also denote that they do not have access to an effective legal remedy against the decision on the refusal of entry, which a minor can exercise only through their guardian.

One of the police tasks in 2020 was also the update and reform of the protocol on cooperation between social work centres and the police due to the amendments to the Foreigners Act. We proposed that the MNZ also examine the need to supplement the Protocol in this section and we suggested that all necessary measures be adopted to prevent further violations when dealing with unaccompanied minors. On that note, we also pointed out that the rights of foreign minors do not arise directly from the Protocol as the latter is merely an operational act intended to intensify cooperation between the relevant authorities. The rights held by minor migrants arise directly from the national, EU and international law. So, it is not possible to claim that certain rights were not recognised regarding a minor because they were not anticipated in the relevant protocol. We asked the MNZ in what current phase of preparation was the renovation of the Protocol as we have certain other proposals for its amending. Relating to the question of involving guardians or SWC representatives in procedures of refusing entry into the country to foreign minors, the MNZ communicated that the Police and the Association of the Centres for Social Work of Slovenia would discuss this in October when they meet in order to reform the Protocol on cooperation between the police and social work centres when assisting unaccompanied foreign minors within the framework of the Foreigners Act. It was anticipated that the Ombudsman would also be involved in the harmonisation procedure, but this has not yet been realised.

With regard to the relevant procedure involving foreigners, it was determined that the police issue a refusal document to the foreigners who are refused entry to the Republic of Slovenia. When reviewing the refusal document, it was established that the legal instruction on the document was given only in Slovenian. **We recommended that the MNZ examine the possibility of translating the legal instruction on the refusal document into at least three of the languages most frequently spoken by the foreigners in these procedures,** but the MNZ replied that it was a case of a standardised form of refusing the entry to persons at border crossings (the form is only in Slovenian). After a repeated inquiry, we noted that the observance of the right to be heard of a foreigner who does not speak Slovenian requires the use of an interpreter. Furthermore, a complaint cannot be an efficient legal remedy if a person does not obtain a translation of at least the crucial sections of the decision and the legal instruction. The MNZ replied to our comment that the standardised form is used for the refusal of entry at border crossings, which is attached to the Schengen Borders Code. It also added that legal instruction was incorporated in the form in accordance with national legislation. The form was translated in the most frequently used languages and was available at police units so that foreigners are enabled their right to an effective legal remedy by means of the translation of legal instruction.

During the visit to **Kozina PS**, we discovered that police officers of this PS ordered a large number of detentions in 2020, whereby it was also determined that the majority of these cases involved larger groups of foreigners (of up to 20 or more). It was further established that the PS does not possess suitable premises (insufficient spatial capacities for dealing with foreigners) for processing such large groups of foreigners. The PS resolves these issues by dividing the foreigners being dealt with between several units. Special problems occur when processing takes more time and overnight accommodation must be arranged for them. Considering the number of procedures involving large groups of foreigners, we believed that it would be appropriate to arrange a special unit in the area of Koper Police Directorate which would offer suitable premises for the treatment of foreigners and their overnight accommodation until their return to the Republic of Croatia. **We recommended that the MNZ examine the possibility of establishing a special unit with suitable facilities and staff, which would only deal with the treatment of foreigners (illegal migrants) in the area of Koper Police Directorate.** At the time of drafting this report, the MNZ has not yet responded (Kozina PS was visited on 21 December 2020 and the report of the visit, part of which is also the above recommendation, was submitted to the MNZ on 14 January 2021, so the deadline for response has not yet expired).

2.9

VISIT TO THE ALIENS CENTRE OR PARTIAL MONITORING OF FORCED RETURN OF FOREIGNERS FROM THE COUNTRY

For the first time in 2020, the NPM carried out partial monitoring of forced returns of foreigners from the country (subject to prior announcement) in two cases.²⁴ The foreigners who were forcibly removed were accommodated in, or transported to, the Aliens Centre in Postojna, which operates under the auspices of the Ministry of the Interior (MNZ). The Centre provides accommodation and care for foreigners (if these fail to meet the conditions to reside in Slovenia) for the time necessary until their involuntary return to their country of origin, as was demonstrated in these two cases.

The purpose of monitoring the deportation of foreigners was to verify the procedure conducted by inspectors or police officers before the deportation itself (whether all the necessary activities were implemented when preparing the return) and the procedure of leaving the Centre to travel to the location from which they are to leave the country. In both cases of forced return, the foreigners were deported from Ljubljana Jože Pučnik Airport via an aircraft. The first case of partial monitoring of a forced return of three foreigners (nationals of the Republic of North Macedonia) was carried out on **11 April 2020**. The second partial monitoring of a forced return of three foreigners (nationals of the Republic of Kosovo) was conducted on **15 and 16 July 2020**. In both cases, we prepared recommendations relating to the procedures of partial monitoring of forced returns of foreigners from the country, which were submitted to the MNZ.

In both cases, although of (only) partial monitoring of forced returns of foreigners from the country, we were able to ascertain that both forced returns were conducted professionally, legally and cordially while observing the rights of persons undergoing police proceedings, especially the foreigners' personality and dignity. The police officers who carried out the deportation gave the foreigners all the necessary information and met their needs before their travel by plane. It was further determined that police procedures at Brnik Airport Police Station was professional, especially when using handcuffs.



²⁴ While observing Article 69 of the Foreigners Act (ZTuj-2), the (involuntary) return of foreigners from Slovenia to the country of their origin is monitored by Caritas Slovenia on the basis of a public call.



In both cases, a total of **four recommendations were given, of which two were targeted and two were general.** The recommendations dealt with record-keeping and documentation (2), treatment and forms of work (1) and health care (1). **All four recommendations were also accepted and realised.**

The first forced return of foreigners took place at the time when the novel coronavirus epidemic was declared. This was also one of the reasons that we were not involved fully in the monitoring of the procedure of forced return, or we were not already involved in the procedure of preparing the foreigners to be removed from the country. Based on the foregoing, we asked the MNZ for a clarification about where (in which records) the Centre records the activities in which foreigners are involved when being prepared for their deportation. If the Centre does not ensure such record-keeping, we **recommended that all necessary measures be adopted to this end.** The MNZ explained that, when conducting its work and in connection with implementing administrative procedures and the keeping of personal files of individual foreigners, etc., the Centre complies with the Decree on administrative operations (Official Gazette of the Republic of Slovenia [Uradni list RS], No. 9/19), which also stipulates the equality between electronic and physical forms of documentary material. With regard to the relevant regulation, all documents relating to the procedure (decisions, minutes, letters, official notes, reports, statements, etc.) are recorded and stored. The activities that involve foreigners when being prepared for their deportation are recorded in the internal computer application together with all other activities and procedures involving the accommodated foreigners. In the application, police officers, police inspectors, health-care staff and social workers enter important activities linked to the accommodation and deportation. The entries in the application are stored until the person is deleted from the police records as per the provisions of paragraph three of Article 114 of the Foreigners Act.

We also asked the Centre for information about **whether and how the police examined the circumstances that prevent the removal of foreigners as per Article 72 of the Foreigners Act..** The aforementioned article enacts the prohibition of deporting a foreigner or the principle of non-refoulement, which in accordance with this Act and as per the principles of customary international law, denotes an obligation of the Republic of Slovenia not to deport a foreigner to a country where their life or freedom would be at risk due to their race, religion, nationality, affiliation to a specific social group or political belief, or to a country where they could be exposed to torture and other cruel, inhuman or degrading treatment or punishment. The MNZ explained that the Republic of Slovenia may not deport a foreigner to a country where their life or freedom would be at risk due to their race, religion, nationality, affiliation to a specific social group or political belief, or to a country where they could be exposed to torture and other cruel, inhuman or degrading treatment or punishment. If the foreigner's deportation from the country is not permitted due to the aforementioned reasons, the foreigner is permitted to stay in the Republic of Slovenia. The procedure to obtain the permission to stay is instigated at the foreigner's request or ex officio. As per the provisions of the International Pro-

tection Act, the foreigner may also apply for international protection.

In the case under discussion, the foreigners failed to submit requests to instigate procedures to be permitted to stay nor did they apply for international protection. The MNZ also explained that, as per the Ordinance determining the list of safe countries of origin (Official Gazette of the Republic of Slovenia [Uradni list RS], No. 38/19), North Macedonia is regarded a safe country of origin for which it can be assumed on the basis of the legal situation, application of law within a democratic system and general political situation that, generally and regularly, there is no persecution as defined in Article 26 of the International Protection Act, no torture or inhuman or humiliating treatment or punishment, nor any danger from indiscriminate violence in a situation of international or internal armed conflict. While observing the fact that North Macedonia is regarded as a safe country of origin and based on the interviews conducted before the deportation and the data available from their previous administrative and judicial proceedings, no individual circumstances were found that would prevent their return to the country of origin and due to which a procedure to be permitted to stay would have to be instigated ex officio.

We also recommended that each foreigner be medically examined in the Centre prior to the deportation to establish their actual medical condition and their ability to travel or to identify any possible medical problems that could hinder the procedure of removal or require special treatment, including necessary therapy (the latter must also be sufficiently available at all times in the country of return until the foreigner is under the medical supervision of their local health-care service) in order to avoid possible subsequent complications during the procedure of deporting the foreigner. The MNZ explained that medical examinations of foreigners are already being implemented as per the provisions of paragraph four of Article 7 of the Rules on residing in the Aliens Centre, depositing own financial resources and on the form and content of the card stating permission to remain in the Republic of Slovenia (Official Gazette of the Republic of Slovenia [Uradni list RS], No. 11/15). Foreigners' medical, mental and physical condition is established by means of the medical examination. The physician informs the Head of the Centre or the person authorised thereby of all the findings that are important concerning the accommodation of foreigners at the Centre and their deportation. In coordination with Frontex, a medical examination is carried out as stipulated by the Guide for Joint Return Operations by Air coordinated by Frontex before deporting foreigners by a plane.

When monitoring the forced return of three foreigners from the Aliens Centre in Postojna to Ljubljana Jože Pučnik Airport on 11 April 2020, one of the foreigners highlighted that police officers of Ilirska Bistrica Police Station seized among other things two mobile phones on 4 October 2019, which were not returned to him until the forced return. Regarding the seized mobile phones, we contacted the MNZ and Koper District State Prosecutor's Office. As the replies of the Ministry and the District State Prosecutor's Office pointed out that the seized mobile phones were handed over to the court, we contacted Koper



District Court for clarifications. The court responded that it ordered on 24 June 2020 that the seized mobile phones be returned to the foreigner. It decided on the return of the items after reviewing the file, particularly the official notes on the substantive examination of data carriers with secured data. We assume that our intervention also contributed to this because the court's decision to return the seized items to the foreigner **was adopted only after our inquiry. It would be right if the court's decision to return the seized items was adopted when the court proceedings against the foreigner were completed, bearing in mind that this was a case of a foreigner who had already been deported from our country.**

During the second partial monitoring of forced return of foreigners from the country on 15 and 16 July 2020, no major deficiencies were established, and we gave (only) one recommendation to the MNZ. The recommendation stated **that interviews with foreigners with whom it is not possible to communicate directly about the importance of the procedure of forced return be conducted in the presence of an interpreter in a language the foreigner speaks or understands, which was not established in this case.** In this way, information about the procedure of forced return will be completely comprehensible to the foreigner or they will have the opportunity to obtain possible (additional) explanations regarding the deportation. During the partial monitoring of the foreigners' forced return, the inspector explained that he had interviewed all three foreigners and informed them of the course of the deportation. He said that they agreed with the deportation. None of them expressed their concern when talking to the inspector that they would be prosecuted in their country or subject to possible ill-treatment. The inspector further explained that he had informed the foreigners that they would be handcuffed during the flight. Regarding their personal baggage, he noted that they (only) had personal baggage which they would pack themselves. To the question of how the inspector communicated with the foreigners, he explained that one of them understood the Serbian and Croatian languages and he then translated for the other two foreigners. The inspector further conveyed that one of the nurses and another employee at the Centre spoke Albanian and they both helped with interpretation when the foreigners were interviewed. The MNZ explained that interpreters, with whom the Police concluded framework agreements and copyright contracts, are engaged in interviews with foreigners with whom direct communication is impossible. Furthermore, two employees at the Centre speak Albanian and they helped interpret in the relevant case of foreigners being forcibly returned. The Centre also uses the Travis technical device, which is only intended to transfer basic information if personal interpreting cannot be provided immediately.

2.10

VISIT TO MILITARY POLICE

In 2020, the NPM carried out **an unannounced visit to the military police** (MP), whose organisation falls under the auspices of the General Staff of the Slovenian Armed Forces (General Staff SAF) of the Ministry of Defence of the Republic of Slovenia (MORS) and is located at Edvard Peperko Barracks (previously known as Franc Rozman Stane Barracks). During the visit, we examined the premises designated for possible detention of military personnel and spoke to the current petty officer and certain military police officers in the absence of the commander and her deputy.

It was first determined that certain organisational changes occurred after the previous NPM visit (carried out in 2012). The MP is no longer called the 17th Military Police Battalion. Three new companies were thus established which fall under the auspices of various commands. The first MP company is under the command of the 72nd Brigade in Maribor and is part of the units in Maribor and Celje Barracks. The second MP company is part of the 1st Brigade and is located at Edvard Peperko Barracks. The third MP company is called the Special Military Police Unit. It is subordinated to the SAF Force Command and is also stationed at Edvard Peperko Barracks. At the premises of the building at Edvard Peperko Barracks where the second MP company and the Special Military Police Unit are stationed, **two detention rooms intended for possible detention of military personnel are still located.**

During the visit, we issued a total of nine recommendations, which were all targeted. They referred to living conditions (1), record-keeping and documentation (5), staff (2) and legal protection and complaint channels (1). **All nine recommendations were accepted and realised.**

We highlight that, as the NPM, we encountered for the first time a **prevention of immediate access to the premises we intended to inspect**, i.e., the MP premises. After a lengthy wait, access was later enabled, and the planned visit was carried out. We emphasised in the report about the visit that complications at the start of the visit were inadmissible and denoted an obstruction of work of the NPM or the Ombudsman who must have free access to all the places of deprivation of liberty at all times. **We recommended that the competent authorities inform everyone who may be involved in the visit of the NPM or another international supervisory institution of the procedure taking place upon the visit.** The MORS/General Staff SAF explained thato **the recommendation was realised and everyone was informed about the possibility of being inspected by foreign or domestic institutions regarding the observance of human rights of persons deprived of their liberty.**



Two recommendations referred to the forms used by military police officers at the time of the visit, which are necessary for detention implementation. The military police may detain military personnel under the conditions applicable for the police. It was determined that military police officers still used the form entitled “Implementation of tasks during detention/custody – official note” that lacked certain sections otherwise included in the police form, including the section pertaining to whether and when the investigating judge and the prosecutor on duty were informed of a military person’s detention on the basis of paragraph two of Article 157 of the Criminal Procedure Act. There was also no special section in the form that would demand the recording of a date and time of tasks involving the person deprived of their liberty during their detention. When examining the confinement order, it was determined that its legal instruction was insufficient or not harmonised with Constitutional Court Decision no. U-I89/15-13 of 30 November 2017 in case of detention as per paragraph one of Article 24 of the Road Traffic Rules Act. Until different legal arrangements, it arises from the relevant decision that it is possible to file a complaint against the confinement order based on paragraph one of Article 24 of the Road Traffic Rules Act, i.e., during the detention and two days after the detention is terminated. **With regard to the first case, we recommended that the “Implementation of tasks during detention/custody – official note” form is updated or harmonised with the applicable legislation or relevant police forms so that in the event of a possible detention of a military person it would be possible to discern from the form what was actually happening with the person during their detention. In the second case, we additionally recommended that the competent bodies of the MORS or the General Staff SAF harmonise the legal instruction of the confinement order from which the observance of Constitutional Court Decision no. U-I89/15- 13 of 30 November 2017 will be evident.** In its response, the MORS/General Staff SAF communicated that **both forms (Implementation of tasks during detention/custody – official note and the confinement order) had already been revised.**



Although detention has not been implemented in the detention room for some time now, one of the recommendations dealt with the arrangement of a suitable room from which uninterrupted video surveillance of the detention room would be possible if a military person is actually subject to detention in the future. It was found during the visit that video surveillance from this location was no longer possible because it was transformed into office premises due to the non-implementation of detention. Furthermore, there was also no ongoing duty service, which is why it was not clear who would perform video supervision of the person detained in the event of a possible detention and manipulate the video surveillance equipment (when speaking with the chief of the MP section on 11 August 2020, we were informed that supervision of the detained military person is governed in more detail in document SOP no. 13-0014 PRIDRŽANJE VOJAŠKIH OSEB V SLOVENSKI

VOJSKI (Detention of military persons in the Slovenian Armed Forces). In connection with this recommendation, the MORS/General Staff SAF explained that **a room had already been arranged from which uninterrupted video surveillance could be implemented.**



One recommendation referred to the folder found on the desk in the room for the admission of detainees, which was intended for the recording of detentions and still displayed the title "17th Military Police Battalion: Record of persons detained". **Considering the organisational changes in the MP, we recommended that the first page of the relevant folder be amended accordingly so that it would be evident who or which MP unit is responsible for the supervision of possibly detained persons and the completion of records.** The MORS/General Staff SAF responded that **the recommendation had been realised or a new folder for recording detentions had been prepared.**



In the room for the admission of detained persons, we found the "Notice on the rights of a person deprived of liberty" brochure on the desk. When examining the brochure, it was determined that it was not updated because its third paragraph stated, "The person detained as per the Police Act...". This Act is no longer applicable and another Act has been used instead for some time now, i.e., the Police Tasks and Powers Act. **We recommended that the competent bodies update the "Notice on the rights of a person deprived of liberty" brochure for the needs of the MP so that it would be based on an applicable legal basis (when speaking with the chief of MP section on 11 August 2020, we were informed that SOP no. 13-0014 Detention of military persons in the Slovenian Armed Forces includes Attachment 5 with the text "Learning the reasons for detention and the rights of the persons detained").** The MORS/ General Staff SAF explained that the recommendation was realised or, as communicated by the chief on 11 August 2020, was already included in SOP no. 13-0014 Detention of military persons in the Slovenian Armed Forces in Attachment 5 under the title, "Learning the reasons for detention and the rights of the persons detained".

When reviewing the detention rooms, we found that the chairs at the desk, which were attached to the wall, were not fixed accordingly but were loose. **We recommended that the seats of the chairs in both detention rooms are fixed accordingly.** MORS/General Staff SAF responded **that the seats in the detention rooms were fixed accordingly on 18 September 2020.**



During the visit, we were informed that if needed the interview room would also be used for discussions of the detained person with a lawyer. When examining the room, it was established that it was not equipped with an accordingly updated list of lawyers from which a detained person could select a legal representative. **We recommended that the interview room, which could also be used for meetings of the detained person with their lawyer, if necessary, be equipped with a printed and accordingly updated list of lawyers.** The MORS/General Staff SAF communicated that **a list of lawyers was produced which would be updated accordingly every three months.**



Although the last visit to the MP was made in 2012, we also examined the realisation of the recommendations given at that time. We found that the recommendation which stated that a section with information on the military police officer who admitted the detained person should be added to the record/table of detentions, including the section from which the time of completion of the detention would be evident, had been realised as these sections were now included in the table. Furthermore, it was established that the recommendation to mark the detention rooms accordingly was also realised because the left room was marked "room no. 1" if viewed from the entrance and the one on the right as "room no. 2" during this visit. The recommendations to mark the detention and interview rooms accordingly (with a sticker) were also realised. The stickers now inform that the rooms are under video surveillance. The recommendation given during the previous visit regarding the flush in the toilet of the left detention room (now marked "room no. 1") was also realised. We noted that flush was now working flawlessly.

3.

ATTACHMENTS

3.1

VISITS OF NPM IN 2020

22 January 2020	Members of the NPM, Deputy Ombudsman Ivan Šelih, Ombudsman adviser, Robert Gačnik, and the representative of the contractual NGO, Legal-Informational Centre for NGOs – PIC, Adriana Aralica, made an unannounced visit to Novo mesto Police Station .
22 January 2020	Members of the NPM, Deputy Ombudsman Ivan Šelih, Ombudsman adviser, Robert Gačnik, and the representative of the contractual NGO, Legal-Informational Centre for NGOs – PIC, Adriana Aralica, made an unannounced visit to Šentjernej Police Station .
22 January 2020	Members of the NPM, Deputy Ombudsman Ivan Šelih, Ombudsman adviser, Robert Gačnik, and the representative of the contractual NGO, Legal-Informational Centre for NGOs – PIC, Adriana Aralica, made an unannounced visit to Obrežje Border Police Station .
27 January 2020	Members of the NPM, Ombudsman councillor, mag. Jure Markič, and the representative of the contractual NGO, Novi paradoks, Mateja Markovič, made an unannounced control visit to Dom Tisje in Šmartno pri Litiji and its unit in Litija .
4 February 2020	Members of the NPM, Ombudsman adviser, Ana Polutnik and the representative of the contractual NGO, SKUP – Community of Private Institutes, Katja Piršič, made an unannounced visit to Višnja Gora Educational Institution .
10 February 2020	Members of the NPM, Ombudsman councillor, mag. Jure Markič, and the representative of the contractual NGO, Humanitarno društvo Pravo za VSE, David Borlinič Gačnik, made an unannounced regular visit to Tezno Maribor Retirement Home .
11 February 2020	Members of the NPM, Ombudsman adviser, Ana Polutnik and the representative of the contractual NGO, SKUP – Community of Private Institutes, Katja Piršič, made an unannounced visit to Brežice Residential Group of Višnja Gora Educational Institution.
11 February 2020	Members of the NPM, Ombudsman adviser, Ana Polutnik and the representative of the contractual NGO, SKUP – Community of Private Institutes, Katja Piršič, made an unannounced visit to Novo mesto Residential Group of Višnja Gora Educational Institution.

12 and 13 February 2020	Members of the NPM, Deputy Ombudsman Ivan Šelih, Ombudsman adviser, Robert Gačnik, and representatives of the contractual NGOs, Humanitarno društvo Pravo za VSE, Ana Černec (only on 12 February 2020), and SKUP – Community of Private Institutes, Katja Piršič, made an unannounced visit to Maribor Prison .
18 February 2020	Members of the NPM, Ombudsman councillor, mag. Jure Markič, and the representative of the contractual NGO, ZDUS, Slavica Freljih, made an unannounced control visit to Dom Podsabotin of Nova Gorica Retirement Home .
20 February 2020	Members of the NPM, Ombudsman adviser, Robert Gačnik, and the representative of the contractual NGO, Legal-Informational Centre for NGOs – PIC, Urša Regvar, made an unannounced visit to Trbovlje Police Station .
20 February 2020	Members of the NPM, Ombudsman adviser, Robert Gačnik, and the representative of the contractual NGO, Legal-Informational Centre for NGOs – PIC, Urša Regvar, made an unannounced visit to Laško Police Station .
20 February 2020	Members of the NPM, Ombudsman adviser, Robert Gačnik, and the representative of the contractual NGO, Legal-Informational Centre for NGOs – PIC, Urša Regvar, made an unannounced visit to Celje Police Station .
2 March 2020	Members of the NPM, Ombudsman councillor, mag. Jure Markič, and the representative of the contractual NGO, Novi Paradoks, Srečko Brumen, made an unannounced visit to Dr Janko Benedik Home in Radovljica .
5 March 2020	Members of the NPM, Ombudsman adviser, Robert Gačnik, and the representative of the contractual NGO, the Peace Institute, Maja Ladić, made an unannounced visit to Ljubljana Bežigrad Police Station .
5 March 2020	Members of the NPM, Ombudsman adviser, Robert Gačnik, and the representative of the contractual NGO, the Peace Institute, Maja Ladić, made an unannounced visit to Vrhnika Police Station .
5 March 2020	Members of the NPM, Ombudsman adviser, Robert Gačnik, and the representative of the contractual NGO, the Peace Institute, Maja Ladić, made an unannounced visit to Cerknica Police Station .
11 April 2020	Members of the NPM, Deputy Ombudsman Ivan Šelih, and Ombudsman adviser, Robert Gačnik, carried out an announced monitoring of the forced return of three foreigners from the Aliens Centre in Postojna to Ljubljana Jože Pučnik Airport .

3 June 2020	Members of the NPM, Ombudsman councillors, mag. Jure Markič and Ana Polutnik, and the representative of the contractual NGO, SKUP – Community of Private Institutes, Jure Trbič, made an unannounced control visit to the Intensive Child and Adolescent Psychiatry Unit of Ljubljana University Psychiatric Clinic.
4 June 2020	Members of the NPM, Deputy Ombudsman Ivan Šelih, Ombudsman adviser, Robert Gačnik, and the representative of the contractual NGO, Legal-Informational Centre for NGOs – PIC, Katarina Bervar Sternad, made an unannounced visit to Gruškovje Border Police Station.
4 June 2020	Members of the NPM, Deputy Ombudsman Ivan Šelih, Ombudsman adviser, Robert Gačnik, and the representative of the contractual NGO, Legal-Informational Centre for NGOs – PIC, Katarina Bervar Sternad, made an unannounced visit to Podlehnik Police Station.
10 June 2020	Members of the NPM, Ombudsman councillor, mag. Jure Markič, and the representative of the contractual NGO, Humanitarno društvo Pravo za VSE, David Borlinič Gačnik, made an unannounced regular visit to Gornji Grad Retirement Home.
18 June 2020	Members of the NPM, Ombudsman adviser, Robert Gačnik, and the representative of the contractual NGO, SKUP – Community of Private Institutes, Neža Peternelj, made an unannounced visit to the Murska Sobota Unit of Maribor Prison.
7 July 2020	Within the framework of thematic visits to special social care institutions (overcrowding in secure wards), members of the NPM, Ombudsman councillor, mag. Jure Markič, and the representative of the contractual NGO, ZDUS, Stanka Radojčić, made an unannounced visit to Dom na Krasu Dutovlje.
7 July 2020	Within the framework of thematic visits to special social care institutions (overcrowding in secure wards), members of the NPM, Ombudsman councillor, mag. Jure Markič, and the representative of the contractual NGO, ZDUS, Stanka Radojčić, made an unannounced visit to the Marof Unit of Idrija Retirement Home.
8 July 2020	Within the framework of thematic visits to special social care institutions (overcrowding in secure wards), members of the NPM, Ombudsman councillors, mag. Jure Markič and Ana Polutnik, and the representative of the contractual NGO, Spominčica – Alzheimer Slovenija, David Krivec, made an unannounced visit to Nina Pokorn Home in Grmovje.
8 July 2020	Within the framework of thematic visits to special social care institutions (overcrowding in secure wards), members of the NPM, Ombudsman councillors, mag. Jure Markič and Ana Polutnik, and the representative of the contractual NGO, Spominčica – Alzheimer Slovenija, David Krivec, made an unannounced visit to Hrastovec Social Care Institution.

8 July 2020	Within the framework of thematic visits to special social care institutions (overcrowding in secure wards), members of the NPM, Ombudsman councillors, mag. Jure Markič and Ana Polutnik, and the representative of the contractual NGO, Spominčica – Alzheimer Slovenija, David Krivec, made an unannounced visit to Dom Lukavci .
15 July 2020	Members of the NPM, Ombudsman councillor, mag. Jure Markič, and the representative of the contractual NGO, Spominčica – Alzheimer Slovenija, David Krivec, made an unannounced extraordinary visit to Dr Jože Potrč Home in Poljčane .
15 and 16 July 2020	Members of the NPM, Ombudsman advisers, Robert Gačnik and Ana Polutnik, carried out an announced monitoring of the forced return of three foreigners from the Aliens Centre in Postojna to Ljubljana Jože Pučnik Airport .
24 July 2020	Members of the NPM, Deputy Ombudsman Ivan Šelih, Ombudsman adviser, Robert Gačnik, and the representative of the contractual NGO, Legal-Informational Centre for NGOs – PIC, Urša Regvar, made an unannounced visit to the Military Police .
29 July 2020	Members of the NPM, Ombudsman councillor, mag. Jure Markič, and the representative of the contractual NGO, ZDUS, Marija Krušič, made an unannounced visit to Pegasus Home in Rogaška Slatina .
4 and 6 August 2020	Members of the NPM, Ombudsman adviser, Ana Polutnik, and the representative of the contractual NGO, ZDUS, Lili Jazbec, made a visit to Ljubljana Youth Crisis Centre .
5 August 2020	Members of the NPM, Ombudsman adviser, Robert Gačnik, and the representative of the contractual NGO, the Peace Institute, Katarina Vučko, made an unannounced visit to Škofja Loka Police Station .
5 August 2020	Members of the NPM, Ombudsman adviser, Robert Gačnik, and the representative of the contractual NGO, the Peace Institute, Katarina Vučko, made an unannounced visit to Kranj Police Station .
5 August 2020	Members of the NPM, Ombudsman adviser, Robert Gačnik, and the representative of the contractual NGO, the Peace Institute, Katarina Vučko, made an unannounced visit to Tržič Police Station .
11 August 2020	Members of the NPM, Ombudsman councillor, mag. Jure Markič, and the representative of the contractual NGO, SKUP – Community of Private Institutes, Jure Trbič, made an unannounced control visit to Ormož Psychiatric Hospital .

18 August 2020	Members of the NPM, Ombudsman councillor, mag. Jure Markič, and the representative of the contractual NGO, Humanitarno društvo Pravo za VSE, David Borlinič Gačnik, made an unannounced regular visit to the Veržej Unit of Dom Lukavci . The visit examining the provision of health care was conducted by the NPM external expert, Dr Peter Pregelj, specialist/psychiatrist, on 20 August 2020.
2 September 2020	Members of the NPM, Ombudsman councillor, mag. Jure Markič, and the representative of the contractual NGO, ZDUS, Stanka Radojičić, made an unannounced control visit to Begunje Psychiatric Hospital .
15 September 2020	Members of the NPM, Ombudsman councillor, mag. Jure Markič, and the representative of the contractual NGO, Spominčica – Alzheimer Slovenija, Štefanija Lukič Zlobec, made an unannounced control visit to Zimzelen Retirement Home in Topolšica .
17 September 2020	Members of the NPM, Ombudsman adviser, Robert Gačnik, and the representative of the contractual NGO, Legal-Informational Centre for NGOs – PIC, Urša Regvar, made an unannounced visit to Nova Gorica Unit of Koper Prison .
23 September 2020	Members of the NPM, Deputy Ombudsman Ivan Šelih, Ombudsman adviser, Robert Gačnik, and representatives of the contractual NGO, the Slovenian Foundation for UNICEF, Alja Skele and Neja Čopi, made an unannounced visit to Celje Juvenile and Adult Prison . The visit examining the provision of health care was conducted by the NPM external expert, Dr Milan Popovič, specialist in general surgery, on 30 September 2020.
28 September 2020	Members of the NPM, Ombudsman adviser, Ana Polutnik, and the representative of the contractual NGO, UNICEF Slovenia, Alja Skele, made a visit to Stražišče Residential Group of Kranj Residential Treatment Institution .
28 September 2020	Members of the NPM, Ombudsman adviser, Ana Polutnik, and the representative of the contractual NGO, UNICEF Slovenia, Alja Skele, made a visit to Kranj Residential Group of Kranj Residential Treatment Institution .
28 September 2020	Members of the NPM, Ombudsman adviser, Ana Polutnik, and the representative of the contractual NGO, UNICEF Slovenia, Alja Skele, made a visit to Mlaka Residential Group of Kranj Residential Treatment Institution .
29 September 2020	Members of the NPM, Ombudsman councillor, mag. Jure Markič, and the representative of the contractual NGO, ZDUS, Slavica Frelj, made an unannounced extraordinary visit to Ilirska Bistrica Retirement Home .

30 September 2020	Members of the NPM, Ombudsman adviser, Ana Polutnik, and the representative of the contractual NGO, UNICEF Slovenia, Alja Skele, made a visit to Škofja Loka Residential Group of Kranj Residential Treatment Institution.
8 October 2020	Members of the NPM, Ombudsman adviser, Robert Gačnik, and the representative of the contractual NGO, Humanitarno društvo Pravo za VSE, Pia Verdnik, made an unannounced visit to Ormož Police Station.
8 October 2020	Members of the NPM, Ombudsman adviser, Robert Gačnik, and the representative of the contractual NGO, Humanitarno društvo Pravo za VSE, Pia Verdnik, made an unannounced visit to Gorišnica Police Station.
9 December 2020	Members of the NPM, Deputy Ombudsman Ivan Šelih, Ombudsman adviser, Robert Gačnik, and the representative of the contractual NGO, Legal-Informational Centre for NGOs – PIC, Katarina Bervar Sternad, made an unannounced visit to Slovenska vas Semi-Open Unit of Dob pri Mirni Prison.
16 December 2020	Members of the NPM, Ombudsman councillor, mag. Jure Markič, and the representative of the contractual NGO, ZDUS, Lili Jazbec, made an unannounced extraordinary visit to Škofja Loka residential unit of Kranj occupational activity centre.
21 December 2020	Members of the NPM, Deputy Ombudsman Ivan Šelih, Ombudsman adviser, Robert Gačnik, and the representative of the contractual NGO, SKUP – Community of Private Institutes, Neža Peternelj, made an unannounced visit to Kozina Police Station.
21 December 2020	Members of the NPM, Deputy Ombudsman Ivan Šelih, Ombudsman adviser, Robert Gačnik, and the representative of the contractual NGO, SKUP – Community of Private Institutes, Neža Peternelj, made an unannounced visit to Sežana Police Station.

3.2

OTHER ACTIVITIES OF THE NPM IN 2020

7 January 2020	At a working meeting, Human Rights Ombudsman Peter Svetina hosted the Minister of Health, Aleš Šabeder. Together with their colleagues, the discussion partners spoke about the (non)realisation of the recommendations of the Human Rights Ombudsman of the Republic of Slovenia (Ombudsman) in the working field of the Ministry of Health and the problems encountered by the citizens when accessing health services. One of the topics discussed was also the drafting of amendments to the Mental Health Act (ZDZdr).
15 January 2020	On 15 January 2020, the Ombudsman organised a regular annual meeting between the representatives of non-governmental organisations (NGO) and the representatives of the Ombudsman who participate in the implementation of duties of the National Preventive Mechanism (NPM). The meeting was attended by Ivan Šelih, Deputy Ombudsman and Head of the NPM, and members of the NPM, Robert Gačnik, mag. Jure Markič and Ana Polutnik, Ana Repič, representative of the Legal-Informational Centre for NGOs – PIC, Vida Bogataj, representative of the Slovenian Federation of Pensioners' Associations, Mateja Markovič, representative of Novi paradoks, Katja Piršič, representative of SKUP – Community of Private Institutes, Monika Bohinec and Maja Ladič, representatives of the Peace Institute, and Alenka Virant, representative of Spominčica. The meeting focused on the review of the work done in 2019 and the preparation of the visit programme in 2020.
31 January 2020	In Zagreb, Human Rights Ombudsman Peter Svetina met Croatian Ombudswoman Lora Vidović. With their colleagues, the discussion partners spoke about the experience of both institutions' work and their organisation. They also exchanged information on current topics. Both Ombudspersons also discussed the implementation of NPM duties. The discussion partners and their colleagues addressed the police conduct involving foreigners crossing the Croatian-Slovenian border. Both Ombudspersons advocated a humane approach towards all people in all fields.

14 February 2020	Deputy Ombudsman Ivan Šelih and member of the NPM, Robert Gačnik, held an introductory meeting with Montserrat Feixas Vihe, UNHCR Regional Representative for Central Europe, and Dr Romana Zidar, Senior Protection Associate for Slovenia, Deputy Ombudsman Ivan Šelih introduced the work of the NPM and certain findings relating to police procedures involving foreigners/migrants at the border. He also presented certain findings from individual complaints or examples discussed by the Ombudsman on their own initiative.
18 February 2020	<p>On 18 February 2020, Deputy Ombudsman Ivan Šelih attended the final conference on the topic of monitoring forced returns of third-country nationals from Italy and Europe in Rome, Italy. The event organised by the Italian NPM – GNPL (Garante Nazionale dei diritti delle persone detenute o private della libertà) in cooperation with the Italian Ministry of the Interior and the European Union was intended for the project presentation of establishing a system for monitoring forced return, which took place between April 2017 and its completion at the conference. During the implementation of the project, the GNPL, which is responsible for monitoring forced returns in Italy as per Directive 2008/115/EC, received additional (financial) aid, which was earmarked for a significant increase of its activities, including special training of a group of supervisors monitoring forced returns of foreigners and other activities (such as, for example, preparation of written guidelines for monitoring returns), which enable better task implementation. During the project, the GNP thus (directly and indirectly) monitored over 200 returns involving 1,491 third-country nationals, and highlighted in its recommendations the need to observe the rights of these persons, including respect for their personality and dignity. Again at the forefront of the meeting was the need for external independent monitoring of forced returns, including the formation of specific recommendations for the authorities implementing forced returns and supervision over the implementation of these recommendations, which would contribute to the transparency of return procedures.</p> <p>Based on a public call, monitoring of forced return of third-country nationals from Slovenia to the countries of origin is implemented by Caritas Slovenia, which also cooperates with the Slovenian NPM when carrying out its duties and powers.</p>
25 February 2020	Ombudsman Peter Svetina and Deputy Ombudsman Ivan Šelih welcomed to an introductory meeting new Director General of the Prison Administration of the Republic of Slovenia, mag. Bojan Majcen.

<p>28 February 2020</p>	<p>Ombudsman Peter Svetina received the Ombudspersons from Bosnia and Herzegovina, Ljubinko Mitrović, Jasminka Džumhur and Nives Jukić. The discussion partners exchanged their experiences of protecting the rights of citizens in both countries. The Ombudsman, his Deputies Ivan Šelih and Miha Horvat, and Secretary General Kristijan Lovrak presented to the guests the challenges that the national institutions in Slovenia encounter when implementing their operations. Deputy Šelih, who heads the NPM, spoke in detail about the duties and powers of this body, which has been working under the auspices of the Ombudsman for ten years, while Deputy Horvat introduced the vision and tasks of the Human Rights Centre, which he heads in accordance with the Ombudsman Svetina's authorisation.</p>
<p>3 March 2020</p>	<p>Human Rights Ombudsman Peter Svetina held discussions with the representatives of the Association of Social Institutions of Slovenia on the problems of social care service providers.</p>
<p>5 March 2020</p>	<p>Human Rights Ombudsman Peter Svetina met the Hungarian Ombudsman, Dr Kozma Ákos. At their first, introductory, meeting the discussion partners spoke about the challenges encountered in their work by the institutions responsible for the protection of human rights. They also agreed that the field of human rights deserves ongoing attention because any violation of rights stigmatises an individual and affects their life. They thus advocated for even closer cooperation between both institutions, which is currently most active in the field of the NPM. The delegations also exchanged information relating to the discussion of complaints against police work, enhanced international cooperation and cooperation with non-governmental organisations.</p>
<p>8 April 2020</p>	<p>Human Rights Ombudsman Peter Svetina and his Deputy Ivan Šelih met the Minister of the Interior, Aleš Hojs. The meeting was also attended by State Secretary Franc Kangler, responsible for the field of work within the competence of the Ombudsman.</p>
<p>25 May 2020</p>	<p>Deputy Ombudsman Ivan Šelih attended the discussion on the potential for complaints in prisons organised by the Hungarian Helsinki Committee.</p>

<p>2 June 2020</p>	<p>Deputy Ombudsman Ivan Šelih and his colleague, Robert Gačnik, met the State Secretary at the Ministry of the Interior (MNZ), Franc Kangler, and the Director-General of the Police and Security Directorate, mag. Lado Bradač, and other employees of the relevant Directorate. The meeting took place while preparing supervisions or drafting guidelines and mandatory instructions for police work. State Secretary Kangler initially highlighted the importance of cooperation with the Ombudsman when discussing complaints about the work of police officers and other employees of the MNZ. In the continuation, the Ombudsman representatives presented significant findings gleaned from dealing with complaints relating to police procedures and visits to police stations within the framework of implementing the duties and authorisations of the NPM in 2019. The representatives of the Directorate presented in more detail the work done in the past year and their current activities. The Ombudsman expects that their findings and proposals will be helpful when planning future supervisions and preparing guidelines for police work, particularly in the field of human rights protection.</p>
<p>26 June 2020</p>	<p>Member of the NPM, Ana Polutnik attended the webinar «Combating torture and ill-treatment in times of COVID-19: Testimonies from the ground.» organised by the APT.</p>
<p>16 July 2020</p>	<p>Human Rights Ombudsman Peter Svetina presented a jubilee, twenty-fifth Annual Report of the Human Rights Ombudsman of the Republic of Slovenia for 2019 and the NPM Report to Borut Pahor, President of the Republic of Slovenia. The Ombudsman was accompanied by Deputies Ivan Šelih, Miha Horvat, Marjeta Cotman and Dr Jože Ruparič.</p>
<p>17 July 2020</p>	<p>Deputy Ombudsman Ivan Šelih and member of the NPM, Robert Gačnik, participated in the training of 18 future prison officers. This is a standard form of cooperation when training new prison officers who thus become acquainted in more detail with the Ombudsman's institution relating to the treatment of complaints received from prisoners and also the implementation of the duties and powers of the NPM.</p>
<p>12 August 2020</p>	<p>Deputy Ombudsman Ivan Šelih and member of the NPM, mag. Jure Markič, held an introductory meeting with Renata Brdar Tomažinčič of the Ministry of Labour, Family, Social Affairs and Equal Opportunities (MDDSZ). The discussion partners spoke about the open mental health topics within social care.</p>
<p>31 August 2020</p>	<p>Human Rights Ombudsman Peter Svetina and his Deputy Ivan Šelih met the Minister of Justice, mag. Lilijana Kozlovič, and State Secretary Matic Zupan on the topic of elderly and disabled prisoners.</p>

24 September 2020	Deputy Ombudsman Ivan Šelih and member of the NPM, mag. Jure Markič, attended the 12th session of the working group for the establishment of a specialised unit for treating persons with profound mental disorders who endanger their own lives or the lives of others, which took place at the premises of the MDDSZ.
28 September 2020	Human Rights Ombudsman Peter Svetina and his colleagues presented the 2019 Annual Report and the 2019 NPM Report to the Commission for Social Care, Labour, Health and Disabled of the National Council.
30 September 2020	Human Rights Ombudsman Peter Svetina and his colleagues presented the 2019 Annual Report and the 2019 NPM Report to the Committee on Labour, Family, Social Affairs and Disability of the National Assembly of the Republic of Slovenia.
2 October 2020	Human Rights Ombudsman Peter Svetina and his Deputy Ivan Šelih held a working meeting with the Minister of Justice, mag. Lilijana Kozlovič, the Minister of Health, Tomaž Gantar, and the Minister of Labour, Family, Social Affairs and Equal Opportunities, Janez Cigler Kralj, and their colleagues. Their talks focused on the amendments to the Mental Health Act and the accommodation of persons in psychiatric hospitals and special social care institutions. The discussion partners also noted the lack of clinical psychologists and the consequent lack of court experts in this field as well as the measures necessary to improve a situation in which lengthy decision-making and significant backlogs exist.
7 October 2020	Human Rights Ombudsman Peter Svetina and his colleagues presented to the National Assembly's Commission for Petitions, Human Rights and Equal Opportunities two reports for 2019, i.e., the Ombudsman's Report and the Report on the implementation of duties of the National Preventive Mechanism.
12 and 13 October 2020	<p>On 12 and 13 October 2020, Deputy Ombudsman Ivan Šelih and Ombudsman adviser Robert Gačnik attended an online meeting of NPMs, members of the SEE NPM Network, on the topic of preventing torture in South East Europe. The workshop was organised by the Croatian NPM as the current chair of the Network while supported by the Council of Europe, the Association for the Prevention of Torture (APT) from Geneva and the Ludwig Boltzmann Institute.</p> <p>The event was intended for a detailed exchange of challenges and good practice of NPMs when monitoring the realisation of rights of detained persons in the first hours of custody. Upon detention, every person is entitled to a lawyer; they have the right to inform their relatives or a third person about their detention and they have the right to medical assistance. The efficiency of torture prevention depends on the realisation of fundamental safeguards from the very start of police custody and the provision of suitable information about these rights as great risk exists at such times for a detained person to be maltreated.</p>

14 October 2020	Human Rights Ombudsman Peter Svetina and his colleagues presented the Ombudsman's Annual Report for 2019 and the 2019 NPM Report at the plenary session of the National Council of the Republic of Slovenia.
22 October 2020	Deputy Ombudsmen Marjeta Cotman, Ivan Šelih, Miha Horvat and Jože Ruparčič attended the session of the National Assembly at which the Ombudsman's Annual Report for 2019 and the 2019 NPM Report were discussed.
22 October 2020	Via videoconference, the member of the NPM, mag. Jure Markič, actively attended the 13th session of the working group for the establishment of a specialised unit for treating persons with profound mental disorders who endanger their own lives or the lives of others. The meeting was organised by the MDDSZ.
27 October 2020	Deputy Ivan Šelih attended an online meeting of the Nafplion Group.
28 October 2020	Deputy Ombudsman Ivan Šelih and member of the NPM, mag. Jure Markič, actively attended the session of the working group for drafting amendments to the ZDZdr via a videoconference. The session was organised by the Ministry of Health.
3 November 2020	Deputy Ivan Šelih attended an online closing conference within the project, EU-NPM Standards – Project: «Working towards harmonised detention standards in the EU- the role of NPMs“ – Requests and Complaint Procedure in Prisons.
11 November 2020	Deputy Ombudsman Ivan Šelih and member of the NPM, Robert Gačnik, attended a training course for 18 future prison officers. This is a standard form of cooperation when training new prison officers who thus become acquainted in more detail with the Ombudsman's institution, including dealing with complaints by prisoners and the implementation of the duties and powers of the NPM.
12 November 2020	Via videoconference, the member of the NPM, mag. Jure Markič, actively attended a session of the subgroup to describe a target group of the working group for the establishment of a specialised unit for treating persons with profound mental disorders who endanger their own lives or the lives of others. The meeting was organised by the MDDSZ.
18 November 2020	Deputy Ombudsman Ivan Šelih attended the 28th session of the National Council's Commission for Culture, Science, Education and Sport, which discussed the proposed Act on the Intervention for Children and Youth with Emotional and Behavioural Disorders in Education (ZOOMTVI) and presented the Ombudsman's position on the proposed Act.

1 December 2020	Deputy Ombudsman Ivan Šelih attended the 13th session of the National Assembly's Committee on Education, Science, Sport and Youth, at which the proposed Act on the Intervention for Children and Youth with Emotional and Behavioural Disorders in Education(ZOOMTVI) was discussed, and he presented the Ombudsman's position on the proposed Act.
7 December 2020	Deputy Ombudsman Ivan Šelih and members of the NPM, mag. Jure Markič, Ana Polutnik and Robert Gačnik, attended the second meeting of the SEE NPM Network organised by the Croatian NPM.
16 - 18 December 2020	Member of the NPM, mag. Jure Markič, attended the 46th Days of Slovenian Lawyers via videoconference.
17 December 2020	Via videoconference, the member of the NPM, mag. Jure Markič, actively attended the meeting with Spominčica - Alzheimer Slovenija Association via a videoconference organised by the Human Rights Ombudsman.
18 December 2020	Via videoconference, the member of the NPM, mag. Jure Markič, actively attended a session of the subgroup to describe a target group of the working group for the establishment of a specialised unit for treating persons with profound mental disorders who endanger their own lives or the lives of others. The meeting was organised by the MDDSZ.
18 December 2020	From the representatives of the InfoKolpa civil initiative, Deputy Ombudsman Ivan Šelih received the Black Book of Pushbacks or unlawful expulsions.
22 December 2020	In its capacity as the chair of the Medical Group of the SEE NPM Network, the Serbian NPM organised an online meeting of the Network members regarding the treatment of prisoners addicted to psychoactive substances in prisons. The meeting focused on the exchange of experience and enhancement of NPM capacities when monitoring the treatment or discussion of persons addicted to psychoactive substances as a particularly vulnerable category of persons deprived of their liberty. The findings of the thematic visits conducted were presented by the Serbian NPM and other representatives of the Serbian prison system. Deputy Ombudsman Ivan Šelih presented the situation in Slovenia, while the member of the Slovenian NPM, Robert Gačnik, also spoke in more detail about the arrangements or provision of health care in prisons from the public health network as an example of good practice.



3.3

OTHER ATTACHMENTS

Attachments 3.3.1, 3.3.2, 3.3.3 and 3.3.4 are available on the website of the Human Rights Ombudsman of the Republic of Slovenia www.ombudsman.si/en, while attachment 3.3.5 is provided below.

3.3.1 UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

3.3.2 Act ratifying the Optional Protocol

3.3.3 On NPM in the Human Rights Ombudsman Act

3.3.4 On NPM in the Rules of Procedure of the Human Rights Ombudsman of the Republic of Slovenia

3.3.5 Advice of the Subcommittee on Prevention of Torture to States Parties and National Preventive Mechanisms relating to the Coronavirus Disease (COVID-19) Pandemic

3.3.5 Advice of the Subcommittee on Prevention of Torture to States Parties and National Preventive Mechanisms relating to the Coronavirus Disease (COVID-19) Pandemic

Advice of the Subcommittee on Prevention of Torture to States Parties and National Preventive Mechanisms relating to the Coronavirus Disease (COVID-19) Pandemic^{1*}

Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

United Nations, Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, CAT/OP/10 of 7 April 2020

I. Introduction

1. Within the space of a few short weeks, coronavirus (COVID-19) has had a profound impact on daily life, with many impositions of severe restrictions upon personal movement and personal freedoms to enable the authorities to better combat the pandemic through public health emergency measures.
2. Persons deprived of their liberty comprise a particularly vulnerable group owing to the nature of the restrictions which are already placed upon them and their limited capacity to take precautionary measures. Within prisons and other detention settings, many of which are severely overcrowded and insanitary, there are also increasingly acute problems.
3. In several countries measures taken to combat the pandemic in places of deprivation of liberty have already led to disturbances both inside and outside of detention facilities, and to the loss of life. Against this background, it is essential that state authorities take full account of all the rights of person deprived of liberty and their families and detention and healthcare staff when taking measures to combat the pandemic.
4. Measures taken to help address the risk to detainees and to staff in places of detention should reflect the approaches set out in this Advice, and in particular the principles of 'do no harm' and 'equivalence of care'. It is also important that there is transparent communication to all persons deprived of liberty, their families and the media concerning the measures being taken and the reasons for them.

^{1*} The Subcommittee adopted the Advice on 25 March 2020 as per Article 11(b) of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

5. The prohibition of torture, cruel inhuman or degrading treatment or punishment cannot be derogated from, even during exceptional circumstances and emergencies which threaten the life of the nation.² The SPT has already issued guidance confirming that formal places of quarantine fall within the mandate of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT/OP/9). It inexorably follows that all other places from which persons are prevented from leaving for similar purposes fall within the scope of the OPCAT mandate and thus within the sphere of oversight of both the SPT and of National Preventive Mechanisms (NPMs) established within the OPCAT framework.

6. Numerous NPMs have asked the SPT for further advice regarding their response to this situation. Naturally, as autonomous bodies, NPMs are free to determine how best to respond to the challenges posed by the pandemic within their respective jurisdictions. The SPT remains available to respond to any specific request for guidance that it may be asked to give. The SPT is aware that a number of valuable statements have already been issued by various global and regional organisations which it commends to the consideration of States Parties and NPMs.³ The purpose of the present Advice is also to offer general guidance within the framework of the OPCAT for all those responsible for, and undertaking preventive visits to, places of deprivation of liberty.

7. The SPT would emphasise that whilst the manner in which preventive visiting is conducted will almost certainly be affected by necessary measures taken in the interests of public health, this does not mean that preventive visiting should cease. On the contrary, the potential exposure to the risk of ill-treatment faced by those in places of detention may be heightened as a consequence of such public health measures taken. The SPT considers that NPMs should continue to undertake visits of a preventive nature, respecting necessary limitations on the manner in which their visits are undertaken. It is particularly important at this time that NPMs ensure that effective measures are taken to reduce the possibility of detainees suffering forms of inhuman and degrading treatment as a result of the very real pressures which detention systems and those responsible for them now face.

II. Measures to be taken by authorities concerning all places of deprivation of liberty, including detention facilities, immigration detention, closed refugee camps, psychiatric hospitals and other medical settings

8. It is axiomatic that the State is responsible for the healthcare of those whom it holds in custody and that it has a duty of care.

¹ See Article 2(2) of the UNCAT and Articles 4 and 7 of the International Covenant on Civil and Political Rights.

² See, for example, 'Preparedness, prevention and control of COVID-19 in prisons and other places of detention - Interim guidance, 15 March 2020' issued by the WHO and the 'Statement of principles relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease (COVID-19) pandemic issues by the European Committee for the Prevention of Torture' on 20 March 2020 CPT/Inf (2020)13 (19 March 2020). Available at <https://rm.coe.int/16809cfa4b>.

9. Given the heightened risk of contagion between those in custodial and other detention settings, the SPT urges all States to:

- (a)** Conduct urgent assessments to identify those individuals most at risk within the detained populations, while taking account of all particular vulnerable groups;
- (b)** Reduce prison populations and other detention populations wherever possible by implementing schemes of early, provisional or temporary release for those detainees for whom it is safe to do so, taking full account of non-custodial measures indicated as provided for in the Tokyo Rules;
- (c)** Place particular emphasis on places of detention where occupancy exceeds the official capacity, and where the official capacity is based on square metre-age per person which does not permit social distancing in accordance with the standard guidance given to the general population as a whole;
- (d)** Review all cases of pre-trial detention in order to determine whether it is strictly necessary in the light of the prevailing public health emergency and extend the use of bail for all but the most serious of cases;
- (e)** Review the use of immigration detention and closed refugee camps with a view to reducing their populations to the lowest possible level;
- (f)** Release from detention should be subject to screening in order to ensure that appropriate measures are put in place for those who are either positive or are particularly vulnerable to infection;
- (g)** Ensure that any restrictions on existing regimes are minimised, proportionate to the nature of the health emergency, and in accordance with law;
- (h)** Ensure that the existing complaints mechanisms remain functioning and effective;
- (i)** Respect the minimum requirements for daily outdoor exercise, whilst also taking account of the measures necessary to tackle the current pandemic;
- (j)** Ensure that sufficient facilities and supplies are provided (free of charge) to all who remain in detention in order to allow detainees the same level of personal hygiene as is to be followed by the population as a whole;
- (k)** That where visiting regimes are restricted for health-related reasons, provide sufficient compensatory alternative methods for detainees to maintain contact with families and the outside world, for example, by telephone, internet/e-mail, video communication and other appropriate electronic means. Such contacts should be both facilitated and encouraged, be frequent and free;
- (l)** Enable family members or relatives to continue to provide food and other supplies for the detainees, in accordance with local practices and with due respect for necessary protective measures;
- (m)** Accommodate those who are at greatest risk within the remaining detained populations in ways which reflect that enhanced risk, whilst fully respecting their rights within the detention setting;
- (n)** Prevent the use of medical isolation taking the form of disciplinary solitary confinement; medical isolation must be on the basis of an independent medical evaluation, proportionate, limited in time and subject to procedural safeguards;
- (o)** Provide medical care to detainees who are in need of it, outside of the detention facility, whenever possible;
- (p)** Ensure that fundamental safeguards against ill-treatment (including the right of access to independent medical advice, to legal assistance and to ensure that third parties are notified of detention) remain available and operable, restrictions on access notwithstanding;

- (q) Ensure that all detainees and staff receive reliable, accurate and up to date information concerning all measures being taken, their duration, and the reasons for them;
- (r) Ensure that appropriate measures are taken to protect the health of detention and medical staff and that they are properly equipped and supported while undertaking their duties;
- (s) Make available appropriate psychological support to all detainees and staff who are affected by these measures; and
- (t) Ensure that, if applicable, all the above considerations are taken into account as regards patients who are involuntarily admitted to psychiatric hospitals.

III. Measures to be taken by authorities in respect of those in official places of quarantine

10. The SPT has already commented on the situation of those held in quarantine in its previous Advice (CAT/OP/9). To this, it would further add that:

- (a) Those who are being temporarily held in quarantine are to be treated at all times as free agents, except for the limitations necessarily placed upon them, in accordance with law and based on scientific evidence, for quarantine purposes;
- (b) They are not to be viewed as, or treated as if they were, 'detainees';
- (c) Quarantine facilities should be of a sufficient size and have sufficient facilities to permit internal freedom of movement and a range of purposive activities;
- (d) Communication with families and friends through appropriate means should be encouraged and facilitated;
- (e) As quarantine facilities are de facto a form of deprivation of liberty, all those so held should be able to benefit from the fundamental safeguards against ill-treatment, including information regarding the reasons for their being quarantined, the right of access to independent medical advice, to legal assistance and to ensure that third parties are notified of their being in quarantine, in a manner consonant with their status and situation;
- (f) That all appropriate measures are taken to avoid those who are in quarantine, or those who have been in quarantine, from suffering any form of marginalisation or discrimination, including once they have returned to the community; and
- (g) Appropriate psychological support should be available for those who need it, both during and after their period of quarantine.

IV. Measures to be taken by NPMs

11. NPMs should continue exercising their visiting mandate during the coronavirus pandemic, albeit the manner in which they do so must take account of legitimate restrictions currently imposed on social contact. NPMs cannot be completely denied access to official places of detention, including places of quarantine, even if temporary restrictions are permissible in accordance with Article 14(2) of the OPCAT.

12. The objective of the OPCAT, as set out in Article 1, is to 'establish a system of regular visits' and the purpose, as set out in the Preamble, is 'the protection of persons deprived of their liberty against torture and other inhuman or degrading treatment or punishment', this being a non-derogable obligation under international law. In the current context, this suggests that it is incumbent on NPMs to devise methods of fulfilling their preventive mandate in relation to places of detention which minimise the need for social contact but which nevertheless offer effective opportunities for preventive engagement.

13. Such measures might include:

- (a)** Discussions with relevant national authorities concerning the implementation and operation of the measures outlined in chapters II and III above;
- (b)** Increased collection and scrutiny of individual and collective data relating to places of detention;
- (c)** Using electronic communication with those in places of detention;
- (d)** Establishing NPM 'hotlines' within places of detention and secure e-mail and postal facilities;
- (e)** Tracking the setting up of new/temporary places of detention;
- (f)** Enhancing the distribution of information concerning the work of the NPM within places of detention and ensuring there are channels allowing prompt and confidential communication;
- (g)** Seeking to contact third parties (e.g., families and lawyers) who may be able to provide additional information concerning the situation within places of detention; and
- (h)** Enhancing co-operation with NGOs and relief organisations working with those deprived of their liberty.

V. Conclusion

14. It is not possible to predict accurately how long the current pandemic will last, or what its full effects will be. What is clear is that it is already having a profound effect on all members of society and will continue to do so for a considerable time to come. The SPT and NPMs must be conscious of the 'do no harm' principle as they undertake their work. This may mean that NPMs should adapt their working methods to meet the situation caused by the pandemic in order to safeguard the public, detention staff, detainees and themselves. The overriding criterion must be that of effectiveness in securing the prevention of ill-treatment of those subject to detaining measures. The parameters of prevention have been widened by the extraordinary measures which states have had to take. It is the responsibility of the SPT and of NPMs to respond in imaginative and creative ways to the novel challenges they face in the exercise of their OPCAT mandates.

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