

Državni preventivni mehanizem

po Opcijskem protokolu h Konvenciji OZN proti mučenju in drugim
krutim, nečloveškim ali poniževalnim kaznim ali ravnanju

Poročilo 2010 Report

National Preventive Mechanism

under the Optional Protocol to the UN Convention against Torture
and Other Cruel, Inhuman or Degrading Treatment or Punishment





VARUH
ČLOVEKOVIH
PRAVIC

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POROČILO VARUHA ČLOVEKOVIH PRAVIC
REPUBLIKE SLOVENIJE O IZVAJANJU NALOG
DRŽAVNEGA PREVENTIVNEGA MEHANIZMA ZA
LETO 2010

IMPLEMENTATION OF DUTIES AND POWERS
OF THE NATIONAL PREVENTIVE MECHANISM
IN 2010

I. POROČILO VARUHA ČLOVEKOVIH PRAVIC REPUBLIKE SLOVENIJE O IZVAJANJU NALOG DRŽAVNEGA PREVENTIVNEGA MEHANIZMA ZA LETO 2010

1. Uvod

Po Zakonu o ratifikaciji Opcijskega protokola h Konvenciji proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju (Uradni list RS, št. 114/06, Mednarodne pogodbe, št. 20/06, opcijski protokol) Varuh človekovih pravic RS (Varuh) izvaja tudi naloge in pooblastila državnega preventivnega mehanizma (DPM), v dogovoru z njim pa tudi izbrane nevladne organizacije, registrirane v Republiki Sloveniji, ter organizacije, ki so pridobile status humanitarne organizacije v Republiki Sloveniji in se ukvarjajo z varstvom človekovih pravic ali temeljnih svoboščin. Na podlagi javnega razpisa, objavljenega v Uradnem listu RS (št. 107/2008, 14. 11. 2008), so bili za sodelovanje v letu 2009 in 2010 (z možnostjo podaljšanja sodelovanja še za eno leto) izbrani Pravno-informacijski center nevladnih organizacij (PIC), Rdeči križ Slovenije (RKS) in Inštitut Primus. Tako smo tudi v letu 2010 nadaljevali sodelovanje s temi izbranimi organizacijami (zaradi kadrovske težave v letu 2010 Inštitut Primus pri obiskih ni sodeloval).

Po Opcijskem protokolu imajo DPM pooblastila, da na krajih odvzema prostosti redno preverjajo ravnanje z osebami, ki jim je bila odvzeta prostost, in dajejo priporočila ustreznim organom – vse z namenom, da bi zaprte osebe obvarovali pred mučenjem in drugimi oblikami okrutnega, nečloveškega ali poniževalnega ravnanja ali kaznovanja in da bi se izboljšali razmere njihovega bivanja ter ravnanje z njimi. DPM ob upoštevanju ustreznih norm Združenih narodov dajejo priporočila ustreznim organom ali predložijo tudi predloge in pripombe k veljavnim ali predlaganim zakonom.

Izbrane organizacije naloge in pooblastila opravljajo s svojimi osebami, ki jih same izberejo za vsak obisk posebej. Tudi odločitev o tem, da bo za posamezni obisk zagotovila svojega predstavnika, je stvar te organizacije. Kraj in čas obiska ter število članov skupine za opravljanje obiska na posameznem kraju nadzora določi Varuh ob upoštevanju programa obiskov, ki ga sprejeme Varuh s sodelovanjem z izbranimi organizacijami. Varuh po potrebi upošteva tudi druge okoliščine, ki bi terjale takojšen obisk.

V letu 2010 je DPM opravil 44 obiskov: devet ustanov, v katerih so nameščene osebe, ki so na prestajanju kazni zapora, oziroma priporniki, 22 policijskih postaj, azilni dom in center za tujce, tri psihiatrične ustanove, dva posebna socialnovarstvena zavoda, pet domov za starejše in en vzgojni zavod. Pri obiskih smo sodelovali z eno predstavnico PIC in 12 predstavniki Rdečega križa Slovenije.

Na podlagi posebnih pogodb o sodelovanju smo uporabljali tudi znanje in izkušnje dveh zunanjih strokovnjakinj. Prva je strokovnjakinja za pedagoško in psihološko področje, z nami sodeluje pri vseh obiskih vzgojnih zavodov, v katerih so nameščeni mladostniki. Po vsakem obisku poda svoje pisne ugotovitve o ustreznosti izvajanja vzgojno-izobraževalne dejavnosti obiskanih zavodov ter o ustreznosti socialnega varstva z namestitvijo otrok in mladostnikov v teh ustanovah z vidika preprečevanja mučenja in drugih oblik okrutnega, nečloveškega ali poniževalnega ravnanja ali kaznovanja. Druga pa je specialistka psihiatrije; sodeluje pri načrtovanih obiskih prostorov odvzema prostosti (zlasti v večjih zavodih za prestajanje kazni zapora in v azilnem domu ter centru za tujce) ter daje svoje pisne ugotovitve zlasti z vidika ustreznosti zdravstvenega varstva in ravnanja z osebami, ki jim je odvzeta prostost, pred mučenjem in drugimi oblikami okrutnega, nečloveškega ali poniževalnega ravnanja ali kaznovanja.

I. IMPLEMENTATION OF DUTIES AND POWERS OF THE NATIONAL PREVENTIVE MECHANISM IN 2010

1. Introduction

According to the Act ratifying the Optional Protocol to the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (Official Gazette of the Republic of Slovenia, no. 114/06, International Treaties, no. 20/06, Optional Protocol), the Human Rights Ombudsman of the Republic of Slovenia (the Ombudsman) and, in agreement with the Ombudsman, selected non-governmental organisations registered in the Republic in Slovenia and organisations with the status of humanitarian organisation in the Republic of Slovenia concerned with the protection of human rights or fundamental freedoms also perform duties and have powers under the National Preventive Mechanism (DPM). On the basis of a public tender published in the Official Gazette of the Republic of Slovenia (no. 107/2008, 14 November 2008), the Legal Information Centre of NGOs (PIC), Slovenian Red Cross (RKS) and the Primus Institute were selected for cooperation in 2009 and 2010 (with the option of renewal for another year). In 2010, we therefore continued to cooperate with the selected organisations (the Primus Institute did not participate in visits in 2010 due to staffing issues).

According to the Optional Protocol, the DPM may be present at an arrest and regularly monitor the treatment of persons deprived of liberty, and make recommendations to the appropriate authorities, in order to protect imprisoned persons from torture and other forms of cruel, inhuman or degrading treatment or punishment, and to improve the conditions of their accommodation and treatment. Considering the relevant norms of the United Nations, the DPM makes recommendations to the appropriate authorities and submits proposals and comments to the applicable or draft laws.

The selected organisations perform their work with their own staff, who are assigned by the organisation for each visit separately. The decision on providing a representative for a visit is also a matter for the organisation. The time and place of the visit and the number of people involved in visiting a particular place of surveillance is specified by the Ombudsman, taking into account the programme of visits adopted by the Ombudsman in cooperation with the organisations in question. If necessary, the Ombudsman also considers other circumstances requiring a prompt visit.

In 2010, the DPM performed 44 visits: to nine institutions where persons serving a prison sentence or prisoners on remand are accommodated, 22 police stations, the Asylum Centre and the Aliens Centre, three psychiatric institutions, two special social care institutions, five retirement homes and one juvenile facility. One representative of PIC and 12 representatives of Slovenian Red Cross participated in the visits.

On the basis of special cooperation contracts, we also made use of the expertise of two external experts. The first is an expert for in education and psychology, and participates in all visits to juvenile facilities. After each visit, she submits her findings on the adequacy of educational activities provided by these institutions and the adequacy of social care for children and adolescents in them with regard to preventing torture and other forms of cruel, inhuman or degrading treatment or punishment. The other expert specialises in psychiatry; she participates in planned visits to places of incarceration (particularly larger prisons, the Asylum Centre and the Aliens Centre) and submits her findings, particularly on the adequacy of health care and treatment of persons deprived of liberty with regard to their torture and other forms of cruel, inhuman or degrading treatment or punishment.

DPM po vsakem obisku pripravi izčrpno poročilo o svojih ugotovitvah, ki vsebuje tudi predloge oziroma priporočila za odpravo ugotovljenih nepravilnosti in za izboljšanje stanja, vključno z ukrepi za zmanjšanje možnosti nepravilnega ravnanja v prihodnje. Pri pripravi poročila o opravljenem obisku s kratkim pisnim poročilom sodelujejo vsi člani skupine, ki so opravili obisk. Za izdelavo končnega poročila je praviloma odgovoren predstavnik Varuha, po dogovoru pa tudi ena sodelujoča oseba iz izbrane nevladne organizacije.

Poročilo o opravljenem nadzoru obsega vse okoliščine, ki se nanašajo na zagotavljanje in spoštovanje fizične in psihične integritete ter človeškega dostojanstva ves čas odvzema prostosti. Rdeča nit vsakega poročila o obisku je bila tudi v letu 2010 spoštovanje prepovedi mučenja in nečloveškega ali poniževalnega ravnanja z osebami, ki jim je odvzeta prostost. Naša priporočila se nanašajo predvsem na materialne razmere ustanov, kjer so ali bi lahko bile osebe, ki jim je bila odvzeta prostost (kot so morebitna prezasedenost, velikost celic/sob, svetloba, prezračevanje, čistoča, hrana ipd.), v primeru pripornikov in zapornikov pa tudi na ureditev prestajanja pripora in izvrševanja kazni zapora (kot so možnosti za delo, izobraževanje, druge prostočasne aktivnosti, stiki z zunanjim svetom: obiski, telefonski klici, ugodnosti), učinkovitost pritožbenih postopkov, dostopnost sodnega varstva in zdravstvene oskrbe ter informacij o pravicah ipd.

DPM je s svojim delovanjem, ki temelji na rednih obiskih na krajih odvzema prostosti, zunajsodno preventivno sredstvo na področju varstva oseb, ki jim je bila odvzeta prostost, pred mučenjem in drugimi oblikami okrutnega, nečloveškega ali poniževalnega ravnanja ali kaznovanja. Priporočila DPM, ki temeljijo na ugotovitvah obiska posamezne ustanove, so poglobilni del obiska. Za uresničitev priporočil za izboljšanje razmer in ravnanje z osebami, ki jim je bila odvzeta prostost, pa DPM nima posebnih (izvršilnih) sredstev. Uresničevanje priporočil DPM je namreč zaveza države pogodbenice Opcijskega protokola, katere pristojni organi morajo (po 22. členu) obravnavati priporočila DPM in z njim vzpostaviti dialog o mogočih ukrepih za izvršitev priporočil.

Pri obiskih ustanov odvzema prostosti tudi v letu 2010 nismo imeli nobenih težav. Ugotavljamo, da so zlasti zavodi za prestajanje kazni zapora in policijske postaje dobro seznanjeni z nalogami in pooblastili DPM, tudi sodelovanje z Upravo za izvrševanje kazenskih sankcij (UIKS) oziroma ministrstvom za pravosodje (MP) in za notranje zadeve (MNZ) je bilo na tem področju zgledno. Boljše sodelovanje pa si želimo z Ministrstvom za zdravje (MZ) oziroma razširjenim strokovnim kolegijem za psihiatrijo pri tem ministrstvu, Ministrstvom za delo, družino in socialne zadeve (MDDSZ) ter Ministrstvom za šolstvo (MŠ), predvsem, da bi se bolj odzivali na naša priporočila o opravljenih obiskih ustanov na njenem delovnem področju.

Uresničevanje priporočil DPM za izboljšanje razmer in ravnanja z osebami, ki jim je bila odvzeta prostost, ter preprečitev mučenja in drugih oblik okrutnega, nečloveškega, poniževalnega ravnanja ali kaznovanja pa je razvidno iz naslednjih poglavij, v katerih predstavljamo svoje glavne ugotovitve iz opravljenih obiskov, priporočila in tudi odmeve nanje. Ugotavljamo, da obiskane ustanove oziroma nadrejeni organi naše ugotovitve v glavnem sprejemajo in jim ne nasprotujejo, uresničevanje danih priporočil pa je zelo različno. Tako so nekatera izvedena v zelo kratkem času, za druga pa so potrebne tudi sistemske spremembe, zato njihove izvedbe niti ni mogoče pričakovati v zelo kratkem času. Kljub temu nanje ne bomo pozabili, saj jih bomo v ta namen ponavljali in vztrajali pri njihovi uresnitvi.

After each visit, the DPM prepares an exhaustive report on its findings, which also covers proposals or recommendations for the elimination of irregularities and for the improvement of the situation, including measures to reduce potential for improper treatment in the future. In preparing the report, each member of the visiting group makes a brief written contribution. The Ombudsman's representative is usually responsible for the final report, or, by agreement, a participating person from a selected non-governmental organisation.

An inspection report includes all circumstances related to providing and respecting physical and mental integrity and human dignity throughout the period of incarceration. Also in 2010, the main theme of each visit report was respect for the prohibition of torture and the inhumane or degrading treatment of persons deprived of liberty. Our recommendations primarily relate to the physical conditions in institutions where persons deprived of liberty are or could be accommodated (such as potential overcrowding, cell/room size, light, ventilation, cleanliness, food, etc.) and in cases of untried prisoners and prisoners, to arranging detention and prison sentences (such as options of work, education, other leisure activities, contact with the outside world: visits, phone calls, benefits), the efficiency of appeal proceedings, accessibility of judicial protection and health care, and information on rights, etc.

The activities of the DPM, based on regular visits to places of incarceration, make it an extrajudicial means of prevention in the field of protecting persons deprived of liberty from torture and other forms of cruel, inhumane or degrading treatment or punishment. The recommendations of the DPM based on the findings of visits to individual institutions are the main aims of visits. However, the DPM has no special (executive) means to implement recommendations to improve conditions and the treatment of persons deprived of liberty. Implementing DPM recommendations is a commitment of the State Party to the Optional Protocol, the competent authorities of which must (according to Article 22) address the recommendations of the DPM and establish a dialogue with it on potential measures to implement their recommendations.

Also in 2010, we had no difficulties in visiting incarceration facilities. We observe that prisons and police offices in particular are well-informed of the duties and powers of the DPM, and cooperation with the Prison Administration (UIKS), or the Ministry of Justice (MP), respectively, and the Ministry of the Interior (MNZ) in this field was exemplary. However, we would like better cooperation with the Ministry of Health (MZ), or the Expanded Professional Board of Psychiatry at this ministry, the Ministry of Labour, Family and Social Affairs (MDDSZ) and the Ministry of Education and Sport (MŠ), and we would especially like them to respond to our recommendations concerning visits to institutions within their field of work.

The realisation of DPM recommendations to improve the conditions and treatment of persons deprived of liberty, and the prevention of torture and other forms of cruel, inhumane, degrading treatment or punishment are indicated in the following sections, where the main findings of our visits, recommendations and responses are presented. We note that the institutions visited and the superior bodies generally accept our findings and have raised no objections, but the realisation of our recommendations varies considerably. Some are implemented very quickly, while others require systemic changes, so they are not expected to be realised in the short-term. Nevertheless, we will continue to insist on their implementation.

2. Obiski zavodov za prestajanje kazni zapora

V letu 2010 smo v okviru izvajanja nalog in pooblastil Državnega preventivnega mehanizma (DPM) obiskali devet od skupno štirinajstih ustanov, v katerih so delovale dislocirane notranje organizacijske enote Uprave za izvrševanje kazenskih sankcij (UIKS) v obliki zavodov za prestajanje kazni zapora (ZPKZ) oziroma njihovi oddelki in prevzgojni dom: ZPKZ Maribor, Odprti oddelek Rogoza, Zavod za prestajanje mladoletniškega zapora in kazni zapora Celje (ZPMZ in KZ Celje), ZPKZ Ljubljana, Odprti oddelek Ig, ZPKZ Dob, Odprti oddelek Puščava, ZPKZ Ljubljana, ZPKZ Maribor, Oddelek Murska Sobota, ZPKZ Ljubljana, Oddelek Novo mesto, ZPKZ Dob pri Mirni in ZPKZ Maribor.

ZPKZ Dob, Odprti oddelek Puščava, smo obiskali prvič, odkar so ga je začeli uporabljati za izvrševanje kazni zapora decembra leta 2009. Pred tokratnim obiskom pa smo pet ustanov obiskali že leto prej, dve nazadnje leta 2008 (ZPMZ in KZ Celje ter ZPKZ Ljubljana, Odprti oddelek Ig), ZPKZ Maribor, Odprti oddelek Rogoza, pa nazadnje aprila leta 2007. Največ ustanov, štiri, je DPM obiskal jeseni (ZPKZ Maribor, Oddelek Murska Sobota, 23. septembra, ZPKZ Ljubljana, Oddelek Novo mesto, 21. oktobra, ZPKZ Dob pri Mirni med 23. in 25. novembrom ter ZPKZ Maribor 1. decembra). Spomladi smo jih obiskali tri (ZPKZ Ljubljana, Odprti oddelek Ig, 23. marca, ZPKZ Dob, Odprti oddelek Puščava, 22. aprila in ZPKZ Ljubljana 26. in 27. maja), pozimi pa dva (ZPKZ Maribor, Odprti oddelek Rogoza, 26. januarja ter ZPMZ in KZ Celje 16. februarja). Z izjemo ZPKZ Ljubljana, Odprti oddelek Ig, smo prav vse ustanove obiskali v različnih letnih časih. Omenjeni oddelek smo tudi tokrat resda obiskali v istem letnem času kot že nazadnje pred tem, a vseeno v občutno različnih podnebnih razmerah (v drugi polovici marca, prejšnji obisk pa je bil opravljen tik pred začetkom junija). Pri prav vseh od navedenih obiskov je sodeloval tudi vsaj en predstavnik pogodbenih nevladnih organizacij. Pri štirih obiskih sta svoja predstavnika zagotovila PIC in RKS; PIC predstavnika ni zagotovil v enem, RKS pa v štirih primerih. Inštitut Primus ni zagotovil predstavnika za nobenega od opravljenih obiskov. Pogodbeno izvedenko za področje zdravstvenega varstva smo vključili v treh primerih, in sicer ob obisku ZPKZ Ljubljana, ZPKZ Dob pri Mirni in ZPKZ Maribor.

Obisk smo napovedali le v treh primerih, ko je bilo to smiselno zaradi načrtovanega večdnevnega obiska oziroma pričakovanih motenj v poteku dela v zavodu zaradi naše navzočnosti. ZPKZ Ljubljana smo obiskali v dveh zaporednih dneh, ZPKZ Dob pri Mirni pa v treh. ZPKZ Maribor nam je uspelo obiskati v enem dnevu, enako tudi preostalih šest že prej načrtovanih ustanov.

DPM je tako v letu 2010 tem obiskom namenil skupno 12 dni. Skupno smo obiskali 1.059 zaprtih oseb, od tega 764 obsojencev, 276 pripornikov, enega mladoletnika na prestajanju mladoletniškega zapora in 18 oseb, zoper katere se je izvrševal uklonilni zapor. Večina zaprtih oseb je pri tem dobila tudi priložnost za neposredni pogovor s člani skupine za nadzor, največkrat ob našem ogledu bivalnih prostorov, nekateri pa tudi na podlagi povsem naključne izbire s seznama zaprtih oseb ali zaradi že prej vloženih pobud pri Varuhu. Poročila o teh obiskih in glavne ugotovitve DPM v zvezi z njimi so dostopni na Varuhovi uradni spletni strani, v nadaljevanju pa izpostavljam le ključne ugotovitve.

Uradne zmogljivosti obiskanih ustanov se od našega prejšnjega obiska niso pomembno spremenile, izjema je ZPKZ Dob pri Mirni, kjer so se zaradi novega Odprtega oddelka Puščava povečale za 17 mest. Deloma to velja tudi za ZPKZ Ljubljana, Odprti oddelek Ig, kjer se soba, prej namenjena izvrševanju uklonilnega zapora, spet uporablja za obsojence, in za ZPKZ Maribor, kjer so nastanili obsojence v bivalne prostore, ki so bili pred tem namenjeni obsojenkam. Glede pridobivanja novih prostorskih zmogljivosti je spodbudno, da se v ZPKZ Dob pri Mirni pričakuje končanje gradnje dveh novih objektov v kompleksu zaprtega dela in nastanitev obsojencev v prvi polovici leta 2011 (njuna skupna zmogljivost naj bi bila 174).

2. Visits to prisons

In the framework of exercising the duties and powers of the National Preventive Mechanism (DPM), nine out of fourteen institutions where dislocated internal organisational units of the Prison Administration (UIKS) in the form of prisons (ZPKZ) operated, or their sections and a youth detention centre were visited in 2010: ZPKZ Maribor, Rogoza Open Prison Section, Celje Prison and Juvenile Prison (ZPMZ and KZ Celje), ZPKZ Ljubljana, Ig Open Prison Section, ZPKZ Dob, Puščava Open prison Section, ZPKZ Ljubljana, ZPKZ Maribor, Murska Sobota Section, ZPKZ Ljubljana, Novo mesto Section, ZPKZ Dob pri Mirni and ZPKZ Maribor.

ZPKZ Dob, Puščava Open Prison Section, was visited for the first time since it was brought into service as a prison in December 2009. Five of the institutions were visited in the previous year, two in 2008 (ZPMZ and KZ Celje and ZPKZ Ljubljana, Ig Open Prison Section); ZPKZ Maribor, Rogoza Open Prison Section was last visited in April 2007. The DPM visited the majority of the institutions, four, in the autumn (ZPKZ Maribor, Murska Sobota Section, on 23 September, ZPKZ Ljubljana, Novo mesto Section, on 21 October, ZPKZ Dob pri Mirni between 23 and 25 November, and ZPKZ Maribor on 1 December). Three were visited in the spring (ZPKZ Ljubljana, Ig Open Prison Section, on 23 March, ZPKZ Dob, Puščava open Prison Section, on 22 April, and ZPKZ Ljubljana on 26 and 27 May) and two in the winter (ZPKZ Maribor, Rogoza Open Prison Section, on 26 January and ZPMZ and KZ Celje on 16 February). With the exception of ZPKZ Ljubljana, Ig Open Prison Section, all institutions were visited in different seasons. The above-mentioned section was visited in the same season as previously, but in considerably different climatic conditions (in the second half of March; the previous visit was performed at the end of May). At least one representative of the contractual non-governmental organisations participated in each visit. PIC and RKS provided representatives for four visits; PIC did not provide a representative in one case, and RKS in four cases. The Primus Institute did not provide representatives for any visit. The contractual expert for health care was involved in three cases, namely for the visits to ZPKZ Ljubljana, ZPKZ Dob pri Mirni and ZPKZ Maribor.

Our visits were announced in three cases only where this was reasonable because the visit was planned for several days, or because of expected disruption of the work of the institution due to our presence. The visit to ZPKZ Ljubljana lasted for two and to ZPKZ Dob pri Mirni for three consecutive days. We managed to visit ZPKZ Maribor in one day, the same as the remaining six previously planned institutions.

In 2010, the DPM thus spent 12 days on these visits. In total, we visited 1059 imprisoned persons, of whom 764 were convicted and 276 detained; one was an adolescent in juvenile prison, and 18 were in compliance detention. The majority of those imprisoned had the opportunity to speak directly to the members of the inspection group, usually when accommodation was inspected, and some were randomly selected from the list prisoners due to previously filed initiatives to the Ombudsman. Reports on the visits and the main related findings of the DPM are available on the Ombudsman's official web site; only the key findings are emphasised below.

The official capacities of the institutions we visited have not changed significantly since the previous visit, with the exception of ZPKZ Dob pri Mirni, which has 17 places due to the new Puščava Open Prison Section. This is also partially true for ZPKZ Ljubljana, Ig Open Prison Section, where the room previously used for compliance detention is now again used for convicted persons, and also for ZPKZ Maribor, where male convicts were accommodated in rooms previously intended for females. With regard to obtaining new capacities, it is encouraging that two new objects are expected to be built in ZPKZ Dob pri Mirni within the closed section complex, and that convicts are expected to be accommodated there in the first half of 2011 (a total capacity of 174 places is planned).

UIKS načrtuje tudi preselitev ZPKZ Ljubljana, enega izmed stalno prezasedenih zavodov v državi, na novo lokacijo, vendar menimo, da se to ne bo zgodilo v doglednem času, kot tudi ne katere druge tovrstne večje spremembe v zavodih. Zato bo še toliko bolj pomembno, da bodo koristno izrabljene tudi manjše dodatne površine (na primer v ZPKZ Maribor, Oddelek Murska Sobota, so prav v času našega obiska selili arhiv na drugo lokacijo v mestu in s tem se je v oddelku pridobilo en dodaten prostor).

Prezasedenost je pestila šest obiskanih ustanov, torej dve tretjini (ZPMZ in KZ Celje, ZPKZ Ljubljana, ZPKZ Maribor, Oddelek Murska Sobota, ZPKZ Ljubljana, Oddelek Novo mesto, ZPKZ Dob pri Mirni in ZPKZ Maribor). K temu je treba še dodati, da sta nam tudi vodji ZPKZ Maribor, Odprti oddelek Rogoza, in ZPKZ Ljubljana, Odprti oddelek Ig, ki ob našem obisku nista imela preseženih uradnih zmogljivosti, pojasnili, da še do pred kratkim ni bilo tako. (Pre)zasedenost tako ostaja ena glavnih značilnosti slovenskih ZPKZ, pri čemer gre v nekaterih primerih resda prej le za neuskkljenost uradnih zmogljivosti z dejanskim številom posameznih kategorij zaprtih oseb v zavodu oziroma njegovem oddelku. V ZPMZ in KZ Celje je bilo tako na primer število pripornikov glede na uradne zmogljivosti zanje več kot enkrat preveliko, vendar je po drugi strani število obsojencev oziroma mladoletnikov že dalj časa občutno pod uradnimi zmogljivostmi zanje, zato pripornike nastanjajo tudi v te prostore, ob tem pa zmogljivost zavoda, gledano v celoti, ni bila presežena. Ta praksa je lahko ustrezna rešitev, a včasih tudi bolj težavna, kot se zdi na prvi pogled. Za pripornike namreč velja drugačen varnostni režim kot za obsojence, zato za druge – če so nameščeni v istem oddelku – lahko veljajo nekatere omejitve.

Podobno, a iz nekoliko drugačnih razlogov, velja za osebe, ki so na izvrševanju uklonilnega zapora. Te so večkrat privedene v zavod oziroma oddelek opite, tudi v nočnem času, to pa lahko povzroča nemir in napetost pri drugih zaprtih osebah. Zato smo pozdravili spremembo v ZPKZ Ljubljana, Odprti oddelek Ig, kamor ne pošiljajo več oseb na prestajanje uklonilnega zapora; tudi vodja oddelka je pojasnil, da je od takrat sporov precej manj, delo z obsojenci pa lažje.

Ob upoštevanju realnih možnosti smo za dobrodošlo kratkoročno rešitev označili tudi dogovor med UIKS in ZPKZ Ljubljana, da lahko zavod sprejme le 245 zaprtih oseb (kar je še vedno za več kot 90 odstotkov presežena njegova uradna zmogljivost) in se v primeru večjega števila oseb premesti v katerega izmed manj zasedenih zavodov. Podobno se ravna tudi v oddelku tega zavoda v Novem mestu, ki v sodelovanju z UIKS nemudoma začne postopek za premestitev pripornikov v druge zavode ali oddelke, ko so njegove uradne zmogljivosti prezasedene.

Kljub vsemu se je občasno izkazalo, da bi zavodi v nekaterih primerih lahko tudi bolj smiselno izkoristili svoje zmožnosti. V ZPKZ Ljubljana smo na primer izpostavili, da uporablja za namestitve obsojencev tudi dva bivalna prostora pripornega oddelka, čeprav je bilo obenem v obsojeniškem delu zavoda nekaj bivalnih prostorov s še prostimi posteljami. Pohvalno pa je bilo na primer, da je ZPKZ Dob pri Mirni v pritličju drugega oddelka pregradil skupinsko sobo v tri manjše bivalne prostore in s tem precej izboljšal bivalne razmere vsaj za tiste obsojence.

Na zanimiv pripetljaj smo naleteli v ZPKZ Ljubljana, Oddelek Novo mesto. Gre za oddelek, v katerem smo lani ugotovili, da je moral pripornik zaradi prezasedenosti spati kar na žimnici, položeni na tla. Tokrat pa smo v eni izmed obsojeniških sob opazili, da sta dve postelji nameščeni druga ob drugi in je bila tako v tej večposteljni spalnici urejena nekakšna zakonska postelja. Takrat je v njej ležal en sam obsojenec, vendar nam je nekoliko pozneje tudi pedagoginja pojasnila, da spalnico uporabljata dva obsojenca. DPM meni, da tudi v primeru morebitnega soglasja obeh vpletenih zaprtim osebam ne bi smelo biti dopuščeno poljubno prerazporejanje pohištva v večposteljnih spalnicah. Tudi Pravilnik o izvrševanju

UIKS also plans to move ZPKZ Ljubljana, one of the constantly overcrowded institutions in the country, to a new location, but we believe this will not happen within a reasonable time, nor will any other such changes in the institutions. The efficient use of any small additional areas is thus even more important (for example, while we were in ZPKZ Maribor, Murska Sobota Section, a room became available as the archive was being transferred to another location in the city).

Six, i.e. two thirds of the visited institutions were overcrowded (ZPMZ and KZ Celje, ZPKZ Ljubljana, ZPKZ Maribor, Murska Sobota Section, ZPKZ Ljubljana, Novo mesto Section, ZPKZ Dob pri Mirni and ZPKZ Maribor). We should add that the Heads of ZPKZ Maribor, Rogoza Open Prison Section, and ZPKZ Ljubljana, Ig Open Prison Section, the official capacities of which were not exceeded while we were there, also explained that this had not been the case until recently. Overcrowding thus remains one of the main characteristics of Slovenian prisons, although in some cases the divergence is only between the official capacity and the actual number of each category of imprisoned persons in the institution or its section. For example, the number of detained persons in ZPMZ and KZ Celje was more than double the official capacity, but the number of convicted persons and juveniles was considerably below the official capacity, therefore detained persons are being accommodated in these rooms as well, and the total capacity of the prison was not exceeded. Such a practice can be a suitable solution; however, it sometimes creates more difficulties than may appear at first glance. A different security regime applies to detained persons in comparison to convicts, so several restrictions might apply to the latter if they are accommodated in the same section.

The same applies - but for slightly different reasons – to persons in compliance detention. They are often brought into an institution or section in an intoxicated condition, and at night, which may cause agitation and tension among other imprisoned persons. We therefore welcomed the change in ZPKZ Ljubljana, Ig Open Prison Section, to which persons are no longer sent for compliance detention; the Head of the Section explained that there had been fewer disputes, and working with convicts had been easier since then.

Bearing in mind the realistic options, we also welcomed a short-term solution, the agreement between UIKS and ZPKZ Ljubljana stating that the institution may accept only up to 245 imprisoned persons (which still exceeds its official capacity by 90%); if more capacity is required, prisoners are transferred to one of the less crowded institutions. The Novo mesto Section of this institution operates in a similar way, and in cooperation with UIKS, immediately begins the procedure for transferring detained persons to other institutions or sections when its official capacity is exceeded.

Nevertheless, the institutions could sometimes use their capacities in a more reasonable way. In ZPKZ Ljubljana, we pointed out that two rooms of the detention section are used for the accommodation of convicts, although there were still some rooms with free beds in the prison section intended for convicts. However, it was commendable that a group room on the ground floor of section two in ZPKZ Dob pri Mirni was divided by a wall into three smaller rooms in order to improve living conditions considerably, at least for those convicts.

An interesting incident occurred in ZPKZ Ljubljana, Novo mesto Section. It was the same section in which we had found a year before that a detained person had to sleep on a mattress on the floor due to overcrowding. This time, we noticed that two beds were placed one next to another in one of the rooms for convicts, making a kind of double bed in this multiple-bed room. A single convict was lying there at the time, but the pedagogue later explained that two people were using the room. The DPM believes that even if both imprisoned persons agree, the arbitrary rearrangement of furniture in multiple-bed rooms should not be allowed. In Article 29, the Rules on the Implementation of Prison Sentences also state that “each convict has his or her own bed”, and Article 12 of the house rules of ZPKZ Ljubljana (the provisions

kazni zapora v 29. členu določa, da »ima vsak obsojenec svojo posteljo«, hišni red ZPKZ Ljubljana (katerega določbe veljajo smiselno tudi za oddelek v Novem mestu) pa v 12. členu določa, da se obsojencu »določijo soba, postelja in garderobna omara«. UIKS je pojasnila, »da so bile v navedeni sobi v resnici tri postelje, v sobi pa sta bivala dva obsojenca in spala vsak na svoji postelji, s tem, da je eden izmed njih ob svoji postelji namestil prazno posteljo z namenom, da bi preprečil padec s postelje«. Ne da bi se posebej opredeljevali do tega pojasnila, štejemo za pomembno, da naj bi na podlagi našega opozorila od obsojenca že zahtevali, da namesti prazno posteljo na svoje mesto.

Večkrat smo priporočili tudi prepleskanje sten (v ZPKZ Maribor, Odprti oddelek Rogoza, v bivalnih prostorih v novem delu, prostoru, kjer so mizi za biljard in za namizni tenis ter knjižnica, v ZPMZ in KZ Celje v vsaj enem izmed bivalnih prostorov, v ZPKZ Ljubljana, Odprti oddelek Ig, v kopalnici, v ZPKZ Ljubljana predvsem v priporniških bivalnih prostorih idr.), po možnosti z različnimi barvami, kar bi razbilo monotonost prostorov. Res pa je, da je to v močno prezasedenih zavodih težje izvesti, saj je treba bivalni prostor pred pleskanjem izprazniti. Poleg pleskanja bi lahko zavodi več pozornosti namenili tudi sprotnim popravilom inventarja (zamenjava luči, stikal in podobno). Spodbudno pa je, da so v zavodih bolj ali manj že zamenjali staro pohištvo z novim lesenim.

Precej nevšečnosti smo ugotavljali v zvezi z ležišči, ki jih uporabljajo zaprte osebe. Predvsem v ZPKZ Dob pri Mirni smo po pogovoru z vodstvom in zaprtimi osebami ter ogledu bivalnih prostorov ugotovili, da se žimnice, ki so v uporabi, zelo hitro izrabijo. Izpostavili smo, da je UIKS v odzivnem poročilu o obisku ZPKZ Koper leta 2009 zagotovila, da bo »pri prihodnjih nabavah poskrbela, da bo na razpolago več tipov trdot ležišč glede na specifične zahteve posameznikov«. Ker je od tedaj minilo že skoraj dve leti, smo zaprosili za pojasnilo, kaj je bilo v tem času glede pojasnila storjenega. V zvezi s prejetim odzivom UIKS je treba na tem mestu predvsem izpostaviti, da je bilo zaradi pripomb skoraj vseh zavodov na slabo kakovost ležišč dogovorjeno, da se v razpisno dokumentacijo javnega naročila (ki je bilo takrat še v pripravi) odslej navede tehnični opis kakovostnejšega ležišča. Ali se bo tako dejansko odpravilo težave z ležišči za zaprte osebe, bo pokazal čas.

Precej pritožb v pogovorih z zaprtimi osebami se je nanašalo na okna v njihovih bivalnih prostorih. Velikokrat se je res izkazalo, da so predvsem okvirji že povsem dotrajani (na primer v ZPKZ Dob pri Mirni, ZPKZ Maribor, ZPKZ Ljubljana, Oddelek Novo mesto), kar je ob nižjih temperaturah, ko skozi veje hladni zrak, za zaprto osebo z ležiščem ob oknu moteče in tudi nezdravo. Tudi UIKS je potrdila, da je ta oprema večinoma dotrajana in ne ustreza novim standardom z vidika termične izolacije oziroma tesnjenja. Žal gre pri zamenjavi za večji obseg investicijskega vzdrževanja in jo bodo najverjetneje še dolgo odlagale omejitve, povezane s proračunom Republike Slovenije.

Vse prepogosto smo tudi ugotavljali, da na nekaterih oknih ni nameščenih senčil, s katerimi bi bilo mogoče prostor zatemniti (na primer v ZPKZ Maribor, Odprti oddelek Rogoza, v ZPKZ Ljubljana, Odprti oddelek Ig, v ZPKZ Dob pri Mirni idr.). V takih primerih zaprte osebe v ta namen navadno obešajo na okna razne rjuhe in brisače. Ker to res ni velik finančni izdatek, bi bilo prav, da bi senčila zagotovili v vseh bivalnih prostorih zaprtih oseb.

Skrb vzbujajoče je, da na nekaterih lokacijah še vedno niso zadovoljivo uredili posebnega prostora za izločitev zaprtih oseb oziroma sob za izolacijo (ZPKZ Maribor, Oddelek Murska Sobota, ZPKZ Ljubljana, Oddelek Novo mesto, in ZPKZ Dob pri Mirni), čeprav DPM že več let opozarja na potrebo po tem. Glede na pojasnila UIKS kaže, da so te investicije praviloma vselej »v načrtih za naslednje leto«, vendar niso izvedene zaradi pomanjkanja finančnih sredstev. Kljub vsemu DPM vsakič znova poudarja, da je možnost za samopoškodovanje v zdajšnjih razmerah (neobložene stene, ostri robovi ležišča in podobno) glede na namen uporabe teh prostorov (pre)velika.

of which also apply mutatis mutandis to the section in Novo mesto) specifies that “a room, a bed and a wardrobe are determined” for a convict. UIKS explained that “there were three beds in the room concerned and two convicts were accommodated there, each sleeping in his own bed; one of them moved an empty bed next to his so that he would not fall from the bed”. Without taking any particular position on this explanation, we consider it important that, on the basis of our warning, the convict was requested to return the empty bed to its place.

We recommended several times the walls should be repainted (in ZPKZ Maribor, Rogoza Open Prison Section, in the accommodation rooms in the new part, in the room with billiard and table-tennis tables and in the library, in ZPMZ and KZ Celje in at least one of the accommodation rooms, in ZPKZ Ljubljana, Ig Open Prison Section, in the bathroom, in ZPKZ Ljubljana primarily in the accommodation rooms for detention, etc.), using various colours if possible, which would break up monotony of the rooms. It is true that this is difficult to execute in overcrowded institutions, as the rooms need to be emptied for painting. In addition to painting, the institutions could pay more attention to the prompt repair of the inventory (replacement of lights, switches and similar). It is encouraging that the institutions had more or less replaced the old furniture with the new, wooden furniture.

We observed many inconveniences in relation to the beds used by the imprisoned persons. Having spoken to the management and the imprisoned persons and having seen the accommodation rooms in ZPKZ Dob pri Mirni, we established that the mattresses in use wear out quickly. We pointed out that in its report responding to the visit to ZPKZ Koper in 2009, UIKS guaranteed they would “in further purchases ensure the provisions of mattresses of differing firmness according to the specific needs of individuals”. As almost two years had passed since then, we asked them to explain what had been done in respect thereof. In relation to the response received from UIKS, it should be emphasised that, because of the remarks by almost all institutions concerning the poor quality of mattresses, it was agreed that tender documentation for a public tender (which was in preparation at the time) should include a technical description of the highest-quality mattress. It remains to be seen whether this will eliminate problems with mattresses for prisoners.

In discussions with prisoners there were several complaints concerning windows in their accommodation rooms. It often proved that frames in particular are completely worn out (for example, in ZPKZ Dob pri Mirni, ZPKZ Maribor, ZPKZ Ljubljana, Novo mesto Section), which is very disturbing and unhealthy for a prisoner with a bed next to a window when temperatures are low and there is a cold draught. UIKS also confirmed that this equipment had mostly deteriorated and did not conform to the new standards in terms of thermal insulation and tightness. Unfortunately, this replacement requires a larger maintenance investment and will probably be postponed due to restrictions on the budget of the Republic of Slovenia.

All too often, we established that some windows do not have shutters to darken the room (for example in ZPKZ Maribor, Rogoza Open Prison Section, in ZPKZ Ljubljana, Ig Open Prison Section, in ZPKZ Dob pri Mirni, etc.). In such cases, the prisoners usually hang up sheets and towels for this purpose. Since this is not a major expense, it would be right to provide shutters in all rooms accommodating prisoners.

It is worrying that at some locations, a separate room for the exclusion of prisoners or isolation rooms are still not satisfactorily arranged (ZPKZ Maribor, Murska Sobota Section, ZPKZ Ljubljana, Novo mesto Section, and ZPKZ Dob pri Mirni), although the DPM has been pointing out this need for several years. Pursuant to the explanations of UIKS, it seems that such investments are always “in the plans for next year”, but are never implemented due to lack of resources. Nevertheless, the DPM always points out that the potential for self-harm in the current conditions (non-coated walls, sharp edges of beds and similar) in relation to the intended use of these rooms is (too) great.

Verjetno največ obnovitvenih del je bilo izvedenih v ZPKZ Maribor (zamenjana okna na polodprtem oddelku in hodniku, v nekaterih sobah zamenjana dotrajana tla, kopalnice, nov fitnes ipd.). Tam so namestili še dovolj velik nadstrešek nad delom sprehajališča, da omogoča bivanje na prostem tudi ob dežju. Pohvalno je treba izpostaviti tudi način reševanja težav s prekrivanjem časa za telefoniranje z bivanjem na prostem v ZPKZ Maribor; na sprehajališču so postavili telefonsko govornico, ki jo lahko obsojenci in priporniki uporabljajo v času vsakodnevnega dvournega bivanja na prostem, seveda poleg govornic v zavodu. Skrb vzbuja splošno stanje glede izvedbe večinoma že načrtovanih projektov, saj zanje ni zagotovljenih finančnih sredstev. Tako na primer v ZPKZ Maribor, Odprti oddelek Rogoza, nista bili izvedeni obnova prvega nadstropja v objektu, fasade in strehe na objektih bivalnih prostorov obsojencev ter priključitev oddelka na javno kanalizacijsko omrežje. V ZPKZ Ljubljana, Oddelek Novo mesto, niso (pre)uredili parkirišča pred zgradbo in dela zemljišča, ki meji na reko Krko, zaradi česar niso pridobili zelo potrebne zunanje površine za rekreacijo, športne dejavnosti, sprehode in izvajanje obiskov zunaj oddelka, v ZPKZ Ljubljana pa ni zgrajen nadstrešek na dvorišču in še bi lahko naštevali.

V ZPKZ Maribor, Odprti oddelek Rogoza, in ZPKZ Dob pri Mirni, Odprti oddelek Puščava, smo lahko pohvalili, da imajo zaprte osebe možnost zaklepati svoje sobe. Z notranje strani je ključavnica z bunko, osebje pa z zunanje strani še vedno lahko kadar koli odklene vrata. Tako rešitev smo predlagali na primer tudi že lani v ZPKZ Ig.

Kljub zahtevnim gospodarskim razmeram smo pri zagotavljanju dela zaprtim osebam kar nekajkrat ugotovili bolj spodbudno stanje, kot smo ga pričakovali. ZPKZ Maribor, Odprti oddelek Rogoza, je na primer delo zagotavljal vsem zaprtim osebam, ki so to želele in so bile za delo tudi sposobne. Podobno velja tudi za ZPMZ in KZ Celje ter ZPKZ Dob pri Mirni, Odprti oddelek Puščava. Delalo je tudi več obsojencev iz ZPKZ Dob pri Mirni in ZPKZ Maribor. Po drugi strani je bilo na primer v ZPKZ Ljubljana delo zagotovljeno le malo zaprtim osebam. V ZPKZ Maribor, Oddelek Murska Sobota, tudi zaradi strukture zaprtih oseb (obsojenci s praviloma le krajšimi kaznimi zapora od šestih mesecev, priporniki in osebe na prestajanju uklonilnega zapora) to niti ni bilo presenetljivo, saj je že samo motivacija za delo pri njih praviloma zelo vprašljiva. S podobnimi težavami se je ukvarjal tudi ZPKZ Ljubljana, Oddelek Novo mesto. V zvezi s stiki z zunanjim svetom kaže kot posebej pohvalno izpostaviti ureditev v odprtih oddelkih Murska Sobota, Puščava in Ig, kjer lahko obsojenci uporabljajo tudi mobilne telefone in svetovni splet, kar ureja posebno navodilo o uporabi elektronskih komunikacij. Dostop do teh pa si morajo obsojenci zagotoviti sami prek mobilnega operaterja. Prav je, da se obsojencem v tako svobodnih režimih prestajanja kazni to omogoča. Seveda pa je potrebna previdnost pri zagotavljanju teh možnosti za obsojence v bolj zaprtih režimih, saj so tam možnosti za ogrožitev varnosti v zavodu ali zunaj njega tudi s tem veliko večje, na primer z grozilnimi sporočili žrtvi kaznivega dejanja, priprave novih kaznivih dejanj, priprave na pobeg in podobno.

V ZPMZ in KZ Celje smo prejeli veliko pritožb zaprtih oseb v zvezi z izvajanjem obiskov brez nadzora oziroma s tem povezano pričakovano zasebnostjo. V sobo, ki se uporablja za obiske, je vhod namreč z dvorišča zavoda. Vrata so tako praviloma odprta, saj pravosodni policist stoji pri vhodnih vratih dvorišča; pozimi oziroma ob slabših vremenskih razmerah pa pravosodni policist celo vstopi v sobo in je tam ves čas obiska. Tudi UIKS je ugotovila, da je ugodnost nenadzorovanega obiska, ki obsojencu in obiskovalcu ne omogoča, da med seboj komunicirata zunaj slušnega polja pravosodnega policista, nesmiselna.

Spodbudno je tudi mnenje UIKS, da bi bilo z ustrezno reorganizacijo obiskov verjetno mogoče nenadzorovane obiske izvajati ločeno od nadzorovanih, saj ima zavod na malem notranjem dvorišču dve sobi za obiske; po hišnem in dnevnem redu so obiski ob sobotah in nedeljah od 8.00 do 17.00, zato je v tem terminu verjetno mogoče primerno organizirati obiske posebej za tiste obsojence, ki jim je zavod podelil ugodnost nenadzorovanega obiska. Za kakšno rešitev se je odločil zavod, bomo preverili ob naslednjem obisku.

The highest number of renovation works were probably executed in ZPKZ Maribor (windows in the semi-closed section and in the hall were replaced; worn out flooring was replaced in some rooms; bathrooms, a new fitness room, etc.). A large projecting roof was installed above part of the promenade to enable people to stay outside even in the case of rain. The method of solving the issue of overlapping times for telephone calls with outdoor exercise in ZPKZ Maribor should be positively emphasised; in addition to the telephone booths in the prison a telephone booth has been installed on the promenade which can be used by convicted and detained persons during their daily two-hour period outside. The general, the situation regarding the implementation of the planned project is of concern, since funding is not provided. For example, in ZPKZ Maribor, Rogoza Open Prison Section, they failed to renovate the first floor, the front and roof of the accommodation sections for convicts, and to connect the section to the public sewage network. ZPKZ Ljubljana, Novo mesto Section, failed to (re)arrange the car park in front of the building and the area bordering the Krka River, which prevented them from obtaining an urgently needed outdoor area for recreation, sport activities, walks and outdoor visits; ZPKZ Ljubljana also failed to build a projecting roof in the courtyard, and more.

We approved of the possibility offered by ZPKZ Maribor, Rogoza Open Prison Section, and by ZPKZ Dob pri Mirni, Puščava Open Prison Section, of allowing incarcerated persons to lock their rooms. From the inside, there is a lock with a knob, and staff may unlock the door from the outside at any time. We proposed this solution last year in ZPKZ Ig.

Despite the challenging economic situation, more encouraging findings than expected were observed in the field of providing work for prisoners. For example, ZPKZ Maribor, Rogoza Open Prison Section, provided work for every prisoner who wanted and was able to work. The same applies to ZPMZ and KZ Celje and ZPKZ Dob pri Mirni, Puščava Open Prison Section. Several convicts from ZPKZ Dob pri Mirni and ZPKZ Maribor also worked. On the other hand, ZPKZ Ljubljana provided work for only a limited number of prisoners. This was not surprising in ZPKZ Maribor, Murska Sobota Section, also due to the structure of the prison population (convicts usually with shorter sentences not exceeding six months, detained persons and persons in compliance detention), since the motivation for work is questionable in such persons. ZPKZ Ljubljana, Novo mesto Section, was concerned with similar problems. In the context of contacts with the outside world, the arrangement in the open prison section in Murska Sobota, Puščava and Ig should be positively emphasised – convicts are allowed to use mobile phones and the Internet, which is regulated by a special set of rules on the use of electronic communication. Access should be arranged by convicts themselves through a mobile operator. It is correct to enable convicts this access in such free sentence regimes. Of course, caution is needed when providing such possibilities for convicts in more closed regimes, since the potential risk to security inside or outside the institution is greater, such as threatening messages to victims of crime, preparation of new crimes, preparation to escape and similar.

We received many complaints by prisoners in ZPMZ and KZ Celje regarding unsupervised visits and the privacy related therewith. Entrance to the room used for visits leads from the institution's courtyard. The door is usually open, since a judiciary police officer stands by the courtyard entrance door; in winter or in bad weather, he even steps into the room and stays there throughout the visit. UIKS also established that the benefit of an unsupervised visit which does not enable the convict and visitor to communicate beyond the hearing of an officer is unreasonable.

It is encouraging to hear that UIKS agrees to perform unsupervised and supervised visits separately by organising visits appropriately, since the institution has two rooms for visits in the small internal courtyard; according to the house rules and the timetable, visits are scheduled for Saturdays and Sundays from 8.00 to 17.00, which would allow for the organisation of separate visits for convicts permitted unsupervised visits by the institution. The exact solution of the institution will be monitored at our next visit.

V zvezi z vsaj dveurnim bivanjem na prostem so najtehtnejše pritožbe vložile pripornice v ZPMZ in KZ Celje; to naj bi jim bilo namreč zmeraj omogočeno le na malem dvorišču, ki pa je utesnjeno in na njem niso mogoče igre z žogo, tek in podobne oblike rekreacije kot na večjem sprehajališču, ki ga uporabljajo priporniki. Po presoji UIKS bi lahko zavod z ustrežno organizacijo bivanja zaprtih oseb na prostem pripornicam omogočil vsaj občasno bivanje na velikem zavodskem dvorišču. Prav je namreč, da lahko zaprte osebe čas, ki ga lahko prebijajo zunaj svojih bivalnih prostorov na svežem zraku, kar najbolj izkoristijo.

Podobno tudi priporniki v ZPKZ Ljubljana še vedno lahko uporabljajo samo notranje dvorišče, športno igrišče pa ostaja namenjeno le obsojencem. Tudi ob tokratnem obisku je bilo ugotovljeno, da so priporniki zaklenjeni v svojih sobah v povprečju več kot 21 ur na dan. UIKS nam je sporočila, da je z vodstvom ZPKZ Ljubljana o tej problematiki že razpravljala in zahtevala, da kljub neugodnim prostorskim razmeram primerno ukrepa, da bo pripornikom omogočeno več časa bivati zunaj bivalnih prostorov. Zagotovila nam je še, da bo v okviru svojih pristojnosti vztrajala, da ZPKZ Ljubljana v mejah realnih možnosti bivalne prostore pripornikov, ki niso težavni z vidika varnosti, v določenem času ne zaklepa, s čimer bo pripornikom omogočil bivanje na hodniku ali v katerem drugem skupnem prostoru. Verjetno bi se lahko podaljšal tudi čas bivanja na prostem, če bi skupine pripornikov za bivanje na prostem združili v zavodu v večje skupine.

Glede možnosti za izobraževanje za zaprte osebe smo najbolj spodbudno stanje ugotovili predvsem v ZPKZ Dob pri Mirni ter v ZPMZ in KZ Celje. Nekoliko slabše kaže glede pripornikov in obsojencev v manjših zavodih oziroma njihovih oddelkih. Pri pripornikih načrtovanje izobraževanja otežuje predvsem neopredeljen čas ukrepa. Podobno velja za oddelke, v katerih glede na pretežno kratke kazni niti ni pravih pogojev za izvajanje daljših formalnih oblik izobraževanja.

Nad prehrano se zaprte osebe večinoma niso pritoževale, kadar so se, pa nikoli nismo ugotovili utemeljenega razloga. obroki hrane se pripravljajo po normativih, ki jih je potrdil Inštitut za varovanje zdravja. Kaže še izpostaviti, da smo v ZPMZ in KZ Celje od pripornikov slišali več pritožb, da pri obrokih občasno manjka nož (podobno kot lani v ZPKZ Ljubljana in Maribor). Tudi tokrat je bilo to naše opozorilo utemeljeno in je ZPKZ kuharje inštruktorje opozoril, da morajo poskrbeti, da bodo zaprte osebe pri obrokih hrane vedno dobile pripadajoči jedilni pribor. Zaprte osebe so se pritožile še glede načina razdeljevanja kruha; ta naj bi bil dan v večjo posodo, nato pa naj bi si ga iz nje jemali sami. Razumne so se nam zdele pritožbe, da je to nedopustno, ker tako posamezniki prebirajo ves kruh, povrhu vsega je več možnosti za stik z različnimi boleznimi. ZPKZ se je na podlagi našega predloga odločil, da bo kruh pri razdeljevanju hrane zaprtim osebam delil kuhar, ki bo moral obvezno uporabljati ustrezne rokavice.

Ob vsakem obisku tudi preverimo, ali oziroma katera zakonodaja in druga relevantna literatura je zaprtim osebam na voljo in kako lahko do nje dostopajo. Večjih posebnosti nismo ugotovili, izpostavimo pa lahko, da smo v ZPKZ Dob pri Mirni, Odprti oddelek Puščava, ugotovili, da zahteva iz 210. člena ZIKS-1 ni zadovoljivo izpolnjena.

Ob obiskih se zaprte osebe večinoma niso pritoževale nad osebjem. Še največ, kar smo zasledili, je bila pritožba posameznika v ZPKZ Maribor, da predvsem mlajši pravosodni policisti tikajo zaprte osebe. Predlagali smo, da vodstvo zavoda poskrbi za primeren odnos pravosodnih policistov do zaprtih oseb, saj vikanje poleg tega, da je izraz spoštljivega odnosa, izrecno določa tudi 12. člen hišnega reda.

Skrb vzbujajočo prakso pa smo ugotovili v ZPKZ Ljubljana, kjer namreč nobene izmed kršitev obsojencev niso obravnavali po zakonsko predvidenem postopku za izrekanje disciplinskih kazni, niti ko je šlo za nasilje med obsojenci. UIKS nam je zagotovila, da bo od

The most well-founded complaints related to the two-hour outdoor stay filed by female detained persons in ZPMZ and KZ Celje; they were only allowed to be in the small courtyard, which is cramped and does not enable game balls, jogging or similar recreation, unlike the larger yard used by the male convicts. According to UIKS, the institution could organise the outdoor time of female prisoners so as to provide at least an occasional period in the institution's major courtyard. Prisoners should use their period outside the accommodation rooms in the fresh air in the best way they can.

Detained persons in ZPKZ Ljubljana also can still use only the internal courtyard, the sports ground being reserved for the convicts. During this visit, it was again observed that detained persons spent more than 21 hours per day locked in their rooms. UIKS informed us they had already discussed this issue with the management of ZPKZ Ljubljana and had required them to act in such a way as to enable detained persons to spend more time outside their accommodation rooms, despite the difficulties with space. They assured that, under their respective competences, they would insist that at ZPKZ Ljubljana, as far as practicable, the accommodation rooms of detained persons who do not pose a security risk should be unlocked for a certain period, which would enable them to stay in halls or other common room. The outdoor period could probably also be prolonged if groups of detained persons were combined into larger groups for this purpose.

The most encouraging situation regarding education for prisoners was observed mainly in ZPKZ Dob pri Mirni and in ZPMZ and KZ Celje. The situation is slightly worse in relation to detained and convicted persons in smaller institutions or their sections. The undefined duration of the measure makes it more difficult to plan education for detained persons. The same applies to sections in which there are no real conditions to implement longer types of formal education.

Prisoners usually did not complain about food; when they did, we never observed a well-founded reason. Meals are prepared according to norms confirmed by the Institute of Public Health. It should also be pointed out that there were several complaints by detained persons in ZPMZ and KZ concerning the occasional lack of knives in meals (similarly to previous year in ZPKZ Ljubljana and Maribor). This time, our warning was well-founded again, and ZPKZ instructed to the cooking instructors to always provide prisoners with appropriate utensils at meal times. Prisoners also complained about the method of bread distribution; bread was placed in a large bowl and each person helped him- or herself. We thought the complaints were reasonable, since they stated this was intolerable as some individuals picked through all the bread and the risk of contact with various diseases was higher. On the basis of our proposal, ZPKZ decided that a cook wearing appropriate gloves would distribute bread to the prisoners.

During each visit, we check whether or which legislation and other relevant literature is available for prisoners and how they can access it. There were no major findings, but we can point out our observation that in ZPKZ Dob pri Mirni, Puščava Open Prison Section, the requirement under Article 210 of ZIKS-1 is not satisfactorily fulfilled.

During our visits, prisoners usually did not complain about staff. The most we observed was a single complaint in ZPKZ Maribor that particularly a younger judiciary police officer overly uses the formal form of address when addressing prisoners. We proposed that the management of the institution ensure the appropriate attitude of judiciary police officers towards the imprisoned persons, since in addition to the fact that formal address conveys respect, it is also expressly specified by Article 12 of the house rules.

A worrying practice was discovered in ZPKZ Ljubljana, where none of the convicts' violations was treated according to the procedure provided by law for the imposition of disciplinary penalties, not even in cases of violence among convicts. UIKS assured us they would

zavoda zahtevala, da se zlasti ob hujših disciplinskih prestopkih in fizičnem nasilju izrekajo disciplinske kazni. UIKS še navaja, da ZPKZ Ljubljana ne bi smel opuščati uvajanja in vodenja disciplinskih postopkov ter izrekanja disciplinskih kazni obsojencem tudi zato, ker je disciplinskih prestopkov fizičnega nasilja nad soobsojenci čedalje več, pogoste pa so tudi lažje ali težje telesne poškodbe, zaradi katerih oškodovanci uveljavljajo odškodnino, ki jo skoraj praviloma tudi dobijo, plačati pa jo mora država.

V ZPKZ Dob pri Mirni smo ugotovili, da občasno še vedno izvajajo osamitev v posebnem prostoru, ki traja več kot 12 ur, brez kakršne koli prekinitve. Ponovno smo poudarili, da je to nesprejemljivo in v nasprotju z zakonom. S tem se strinja tudi UIKS, vendar ZPKZ te prakse še vedno izvaja. Do določene mere je pri tem mogoče razumeti, da gre tudi za posledico pomanjkanja kakršnih koli drugih možnosti za ravnanje s takimi osebami v okoliščinah, ki takrat terjajo odstranitev osebe iz skupnega prostora (še vedno (pre)velika razdraženost, razburjenost ipd.). Vseeno pa je nadvse skrb vzbujajoče, da se od pojasnila UIKS leta 2009, da »je treba poiskati druge ustrezne rešitve, morda tudi z intenzivnimi in strokovno vodenimi pogovori, ki bi se izvajali zunaj posebnega prostora, s čimer bi se prekinilo bivanje v posebnem prostoru«, očitno ni spremenilo prav nič.

DPM meni, da je prav, da je tudi direktor oziroma vodja vsaj občasno tudi v neposrednem stiku z zaprtimi osebami zavoda oziroma oddelka. Kot primer dobre prakse lahko tako izpostavimo ZPKZ Maribor, Odprti oddelek Murska Sobota, kjer se vodja pogovori z obsojenci ob torkih popoldne, v primeru nuje pa tudi takoj, in to na podlagi prijave, ki se shrani v obsojenčevem osebnem spisu. Po drugi strani pa smo v ZPKZ Dob pri Mirni prejeli številne pritožbe obsojencev, da se direktor zavoda na te prijave sploh ne odziva in ga videvajo le še po televiziji.

Zaznali smo tudi nekaj sprememb na boljše v zvezi z vzgojno službo. Predvsem v ZPKZ Maribor so zaprte osebe zelo pohvalile njeno delovanje, kar je bilo pravo nasprotje prejšnjega obiska. Vseeno pa tudi pri tem ostaja še nemalo težav. V ZPKZ Dob pri Mirni smo tako ugotovili, da so se kadrovske razmere nekoliko izboljšale, vendar – kot je potrdila tudi UIKS – še vedno ne omogočajo, da bi se obsojenci s svojim pedagogom tedensko dobivali v majhnih skupinah. Posamezni pedagog je tako odgovoren za približno 30 oseb.

Kot je potrdila tudi UIKS, v večini zavodov zdravila še vedno delijo pravosodni policisti. Neustrezno prakso delitve zdravil naj bi UIKS izpostavila na sestanku s predstavniki zdravstvenega ministrstva in pozvala k doslednemu izvajanju normativov iz aneksa št. 6 oziroma priložila svež posnetek stanja potreb po timih zdravnikov in ordinacijskih časih v posamezni ustanovi. Dogovorjeno naj bi bilo, da bo na podlagi posredovanih podatkov pripravljen nov aneks za pogodbeno leto; v tem primeru bi lahko v posameznih ustanovah zagotovili pogostejšo navzočnost medicinskih sester in s tem tudi prenos razdeljevanja zdravil na medicinsko osebje.

Nekateri vidiki problematike zagotavljanja zdravstvene oskrbe za zaprte osebe so predstavljeni tudi v splošnem delu Varuhovega letnega poročila.

request the institution to impose disciplinary penalties, particularly in cases of more serious disciplinary offences and physical violence. Moreover, UIKS states that ZPKZ Ljubljana should also not abandon the implementation and management of disciplinary procedures and imposition of disciplinary penalties on convicts because the number of disciplinary offences of physical violence is increasing, and minor or major injuries are common, which leads to the injured party enforcing the right to compensation, which they usually receive, but it is paid by the state.

In ZPKZ Dob pri Mirni, we found that isolation is sometimes extends for more than 12 hours without a pause. Again, we pointed out this was unacceptable and against the law. UIKS agrees with our observation, but ZPKZ continues the practice. To a certain extent, it is understandable that this also results from a lack of other options for dealing with such persons in circumstances which require the removal of the person from the common room ((over)irritability, agitation, etc.). Nevertheless, it is most worrying that nothing has happened since the explanation of UIKS in 2009 that "adequate solutions should be found, perhaps with intensive and professionally guided interviews performed outside the special room, which would interrupt the stay in the special room".

The DPM believes that it is right for the Director to at least occasionally come into direct contact with the prisoners in the institution, or section, respectively. As a good practice example, ZPKZ Maribor, Murska Sobota Open Prison Section, can be pointed out, where the Director talks to the convicts every Tuesday afternoon, or immediately if necessary, based on an application which is later recorded in the convict's personal file. On the other hand, we received numerous complaints by the convicts in ZPKZ Dob pri Mirni saying that the Director of the institution does not respond to the applications and they only see him on the television.

We also noticed some changes for the better in the education service. Particularly in ZPKZ Maribor, the prisoners very much approved of its work, which was in sharp contrast to the previous visit. However, many problems remain. In the case of ZPKZ Dob pri Mirni, we found that staffing conditions had slightly improved, but – as confirmed by UIKS – they still do not allow the convicts to meet with their teachers in small groups on a weekly basis. Each teacher is thus responsible for 30 persons.

As confirmed by UIKS, medication is still distributed by judiciary police officers in the majority of the institutions. An inadequate method of distributing medication was alleged by UIKS at a meeting with representatives of the Ministry of Health; UIKS called for the consistent implementation of norms under Annex 6 and presented the new situation of the needs for doctor teams and infirmary schedules in each institution. It was agreed that on the basis of the submitted data, a new annex for the contractual year would be prepared; in this case, the more frequent presence of nurses and the transfer of the distribution of medication to medical staff could be provided in each institution.

Some aspects of providing health care for prisoners are also presented in the general part of the Ombudsman's report.

3. Obiski policijskih postaj

V okviru izvajanja nalog in pooblastil državnega preventivnega mehanizma (DPM) smo v letu 2010 obiskali 22 policijskih postaj (PP) in preverjali ravnanje z osebami, ki jim je bila odvzeta prostost. Na tistih PP, kjer imajo prostore za pridržanje, smo pregledali še prostore za odvzem prostosti in preverili postopke o pridržanih (v letu 2010 smo sicer obiskali tudi PP Litija in PP Medvode, ki nimata prostorov za pridržanje, in preverili le postopke o pridržanih). Ob obiskih smo opazili, da so bili policisti dobro seznanjeni z nalogami in pooblastili DPM, tako da je naše delo potekalo nemoteno. Vsi obiski so bili nenapovedani in opravljeni v dopoldanskem času. Po vsakem obisku je skupina DPM pripravila poročilo o ugotovitvah s priporočili, ki je bilo poslano na Ministrstvo za notranje zadeve (MNZ) in v vednost obiskani PP. MNZ se je redno odzivalo na naša poročila. V večini primerov se je strinjalo z našimi ugotovitvami in nam zagotovilo, da so nekatere pomanjkljivosti že odpravili oziroma da so predvidene izboljšave.

Ob obisku PP je skupina, ki so jo sestavljali predstavniki Varuha in ene ali dveh pogodbenih nevladnih organizacij, opravila ogled vseh prostorov za pridržanje vključno s pomožnimi prostori (prostori za sprejem, za tujce, za odvetnika in za zaslišanje, skladišče, prostor za sprehod) in intervencijskih vozil. Pogovorila se je tudi z vodstvom PP (največkrat s komandirjem, pomočnikom komandirja ali z dežurnim policistom) in pregledala postopke pridržanj naključno izbranih oseb.

Ob ogledu prostorov za pridržanje smo se osredotočili predvsem na ustrezno osvetljenost prostorov (dnevna in umetna svetloba), primerno temperaturo in prezračevanje prostorov, označevanje prostorov in čistočo, opremljenost in velikost prostorov, sanitarije, dostop do pitne vode, oskrbo s hrano, videonadzor prostorov in klicno možnost, opremljenost prostorov z informacijami in brošurami o pravicah pridržanih oseb, možnost za gibanje na prostem, urejenost pritožbenih poti in (ne)primerno pokritost sanitarnih prostorov z videonadzornim sistemom.

Pri ogledu PP na splošno pa smo se osredotočili tudi na parkirne prostore za stranke, označenost parkirnih prostorov za invalidne osebe, ustrezen dostop za invalidne osebe, garderobne prostore za policiste ter morebitno ločenost za moške in ženske. Ogledu prostorov za pridržanje je sledil pogovor z vodstvom PP, v katerem smo podali prvo oceno o primernosti prostorov za pridržanje in opozorili na opažene pomanjkljivosti ter pozdravili dobre rešitve oziroma prakse. Ob vsakem obisku smo tudi pregledali dokumentacijo pridržanj naključno izbranih primerov (spisov), in sicer za pridržanje na podlagi zakonov o prekrških, o kazenskem postopku, o varnosti cestnega prometa in o policiji. Pridobili smo tudi statistične podatke o številu pridržanih in zadržanih oseb po Zakonu o nadzoru državne meje na obiskanih PP v letu 2010 (od 1. 1. 2010 do dneva obiska). Razen postaje letališke policije Brnik in PP Šmarje pri Jelšah (kjer je bila od 1. 1. 2010 do dneva obiska zadržana le ena oseba) v drugih obiskanih PP ni bilo zadržanih oseb.

Osnovni podatki o prostorih za pridržanje

Število prostorov za pridržanje se razlikuje po PP, ki imajo od enega do pet prostorov za pridržanje, z izjemo centra za pridržanje, ki jih ima dvajset. Več prostorov za pridržanje omogoča, da se nekateri prostori uporabljajo za krajša pridržanja (do 12 ur), drugi pa za daljša pridržanja (do 48 ur).

3. Visits to police stations

In the framework of exercising the duties and powers of the National Preventive Mechanism (DPM), 22 police stations (PP) were visited in 2010 to check the treatment of persons deprived of liberty. At PPs with detention rooms we also checked these and verified detention procedures (in 2010, we visited PP Litija and PP Medvode, which do not have detention rooms, and verified procedures only for detained persons). During the visits, we observed that police officers were well-informed of the duties and powers of the DPM, which enabled a smooth operation. All visits were unannounced and performed in the morning. After each visit, the DPM group prepared a report on the findings, with recommendations sent to the Ministry of the Interior (MNZ) and the visited PP for information. MNZ regularly responded to our reports. In the majority of cases, they agreed with our findings and assured us that some deficiencies had already been eliminated or that improvements were planned.

During the visit to PPs, the group of representatives of the Ombudsman and of one or two contractual organisations performed an examination of all detention rooms including auxiliary rooms (reception area, room for foreigners, for the lawyer and for the interrogation, warehouse, walking area) and intervention vehicles. The group also talked to the PP management (usually the commander, assistant commander or duty officer) and reviewed detention procedures for randomly selected persons.

In examining the detention rooms, our focus was primarily on: the proper illumination of the rooms (daylight and artificial lighting), proper temperature and ventilation of rooms, labelling and cleanliness of rooms, equipment and size of rooms, toilets, access to drinking water, food supply, video-surveillance of rooms and the option to make telephone calls, equipment of rooms with information and brochures on the rights of detained persons, the possibility for outdoor exercise, regulation of complaints channels and (im)proper video-surveillance of toilets.

The general examination of the PP also focused on: car parks for clients, designation of parking for the disabled, appropriate access for the disabled, wardrobe for police officers, and potential separation of men and women. After examining the detention rooms, we talked to the management of the PP to present our first evaluations on the adequacy of their detention rooms, point out the observed deficiencies and welcomed good solutions or practices. At each visit, we reviewed documentation (files) on randomly selected cases of detention, i.e. detention on the basis of the Minor Offences Act, the Criminal Procedure Act, the Road Traffic Safety Act and the Police Act. We also obtained statistical data on the number of detained and persons held under the State Border Control Act at the visited PP in 2010 (from 1 January to the date of the visit). Except for the Airport Police Station Brnik in PP Šmarje pri Jelšah (where one person was held from 1 January to the date of the visit), there were no persons held in the other visited PP.

Basic information on detention rooms

Among PPs, the number of detention rooms varies from one to five, with the exception of the Detention Centre, which has twenty rooms. With more detention rooms available, some may be used for shorter detentions (up to 12 hours), and others for longer detentions (up to 48 hours).

Na nekaterih PP imajo prostore za pridržanje, vendar jih zaradi različnih razlogov ne uporabljajo (PP Šentjernej in PP Rogaška Slatina). V PP Rogaška Slatina jih ne uporabljajo zaradi reklamacije materiala in opravljenih storitev v prostorih za pridržanje, v PP v Šentjerneju pa jih ne uporabljajo že od 1. 2. 2007, čeprav so prostori veliki in opremljeni ter izpolnjujejo zahtevane standarde za pridržane osebe. Težava je v nesistematiziranem delovnem mestu dežurnega policista, zato je DPM predlagal proučitev možnosti za to sistematizacijo, MNZ pa je v odzivnem poročilu zapisalo, da bo Policijska uprava Novo mesto (kamor sodi PP Šentjernej) proučila možnost izvajanja pridržanja v dnevnem času od ponedeljka do petka. Zaradi neuporabe prostorov v PP Šentjernej sledi tudi večurno prevažanje pridržanih oseb (tudi močno alkoholiziranih), kar je tudi stroškovno neprimerno. Zato smo predlagali, naj se čim prej odpravijo razlogi, ki preprečujejo uporabo prostorov za pridržanje. V nekaterih prostorih PP za pridržanje ni bilo ustrezno označeno, da imajo videonadzor. Predlagali smo, naj namestijo nalepke z opozorilom o videonadzoru. MNZ nas je v odzivnem poročilu seznanilo, da so jih že namestili.

Dostop do prostorov za pridržanje je večinoma mogoč neposredno čez dvorišče (z interventnim vozilom) ali mimo dežurnega policista; le v nekaterih PP (PP Postojna) so prostori za pridržanje v kletnih prostorih in je zato dostop do njih mogoč (le) mimo dežurnega policista.

Osvetljenost prostorov za pridržanje

Pri pregledu vseh 22 PP smo v dveh PP (PP Nova Gorica in PP Domžale) ugotovili, da v prostorih za pridržanje ni ustrezne dnevne in/ali umetne svetlobe, v štirih PP (PP Trbovlje, PP Trebnje, PP Novo mesto in PP Rogaška Slatina) pa sploh ni dnevne svetlobe. Predlagali smo, da se pri umetni svetlobi zagotovi uporaba močnejših svetlobnih teles. MNZ je v odzivnih poročilih sporočilo, da bodo naši predlogi upoštevani oziroma da so jih že upoštevali. V šestih PP (PP Nova Gorica, PP Ljubljana Vič, PP Vrhnika, PP Postojna, PP Novo mesto in PP Šmarje pri Jelšah) smo opazili, da je luč v prostoru za pridržanje prižgana tudi ponoči, ker v nasprotnem primeru videonadzor ni mogoč. Opozorili smo, da je lahko umetna razsvetljava v času pridržanja za pridržano osebo moteča, in predlagali, naj PP preveri, kako bi bilo mogoče to spremeniti oziroma zmanjšati moč umetne svetlobe v času nočnega počitka. MNZ je v odzivnih poročilih sporočilo, da bodo upoštevali naše predloge o namestitvi svetlobnega telesa z manjšo močjo, ki je primerna za nočni počitek.

Čistost prostorov

Policijske postaje imajo zaposleno čistilko oziroma sklenjeno pogodbo s čistilnim servisom. Razen v PP Postojna so bili prostori za pridržanje čisti. V PP Postojna pa smo ugotovili, da so stene v prostoru za pridržanje precej umazane in potrebne pleskanja, s čimer se je strinjalo tudi MNZ. Kot pozitivno ocenjujemo vodenje evidence čiščenja prostorov, ki jo opravljajo v nekaterih PP (PP Trebnje).

Opremljenost prostorov

Prostori za pridržanje so večinoma ustrezno opremljeni (stranišče, ležalne blazine, posteljnina). Ležišča so praviloma lesena in opremljena s PVC-žimnicami. Običajno dobi oseba ob prihodu posteljnino za enkratno uporabo in pokrivalo, vse to pa je shranjeno v posebnem skladišču oziroma prostoru. V nekaterih PP smo pogrešali vzglavnike, rjuhe za enkratno uporabo ter stole in mize.

Some PPs have detention rooms, but for different reasons, these are not used (PP Šentjernej and PP Rogaška Slatina). The detention rooms in PP Rogaška Slatina are not used because complaints about the material and services performed are being filed there; detention rooms PP in Šentjernej have not been used since 1 February 2007, although they are large, equipped and in compliance with the requested standards for detained persons. The problem lies in the non-classified post of the police officer on duty; therefore the DPM proposed the option for such classification to be examined. In its response report, MNZ wrote that Novo mesto Police Directorate (which includes PP Šentjernej) would examine the possibility of performing detention during day-time from Monday to Friday. Due to the unused room in PP Šentjernej, detained persons (including the highly intoxicated) have to be transported for several hours, which is also inappropriate in terms of costs. We therefore proposed that the reasons preventing the use of the detention rooms be eliminated as soon as possible. Video-surveillance was not adequately labelled in some detention rooms. We suggested placing signs with a warning about video-surveillance. In its response, MNZ informed us that signs had been put in place.

Access to detention rooms in most cases is possible directly across the courtyard (with an intervention vehicle) or past the police officer on duty; only in some PPs (PP Postojna) are the detention rooms located in the basement and accessible only by passing the officer on duty.

Lighting in detention rooms

In two of the examined 22 PPs (PP Nova Gorica and PP Domžale), we observed that there is no proper daylight and/or artificial lighting in the detention rooms, and in four PPs (PP Trbovlje, PP Trebnje, PP Novo mesto and PP Rogaška Slatina), there was no daylight at all. We proposed that stronger lights be used for the artificial lighting. In its response, MNZ indicated that our proposals would be or had already been considered. In six PPs (PP Nova Gorica, PP Ljubljana Vič, PP Vrhnika, PP Postojna, PP Novo mesto and PP Šmarje pri Jelšah), we observed that light in the detention room is on overnight, since video-surveillance is not possible otherwise. We pointed out that artificial lighting might be disturbing for the detained person while in custody, and suggested that the PP explore ways of modifying or reducing the power of the artificial lighting during the night. In its response, MNZ indicated that they would consider our proposals on the installation of lights with less power appropriate during the night.

Cleanliness of rooms

Police stations employ a cleaner or have contracts with a cleaning service. Except in PP Postojna, the detention rooms were clean. In PP Postojna, we established that the walls of the detention room were rather dirty and needed to be painted, and MNZ agreed. We commend the keeping of records of room cleaning as performed in some PPs (PP Trebnje).

Equipment of the rooms

The detention rooms are generally adequately equipped (toilets, cushions for lying, bedding). Beds are typically wooden and equipped with PVC mattresses. Upon arrival, the person usually receives disposable bedding and a cover, which is stored in a special warehouse or room. In some PPs, there were no pillows, disposable sheets or chairs and tables.

Nekatere ugotovljene pomanjkljivosti:

- pregorela žarnica v prostoru za pridržanje (PP Bovec, PP Trebnje in PP Velenje),
- ponekod ni bil nameščen toaletni papir oziroma ni ustreznega prostora za namestitev toaletnega papirja (PP Bovec). Tako mora na primer v PP Trbovlje pridržana oseba dežurnega policista prek klicnega zvonca zaprositi za toaletni papir. DPM je menil, da je taka praksa dodeljevanja toaletnega papirja neustrezna in neprimerna, ter predlagal, da se pridržani osebi ob namestitvi izroči nekaj toaletnega papirja,
- ob izpustu vode iz kotlička ta izteka iz stranišča na počep v prostor (PP Nova Gorica), tudi tja, kjer pridržana oseba stoji,
- umazane stene v prostorih za pridržanje (PP Postojna),
- armatura na umivalniku ni bila dobro pritrjena, kar lahko pomeni potencialno nevarnost, da pridržana oseba tako slabo pritrjeno armaturo odstrani in jo uporabi za napad ali samopoškodbo (PP Sežana). DPM je predlagal, naj napako čim prej odpravijo, komandir pa je že ob obisku pojasnil, da bodo to odpravili in da do tedaj prostora za pridržanje ne bodo uporabljali,
- tri PP (PP Šiška, PP Bovec in PP Trbovlje) kot ene redkih PP nimajo rjuh in vzglavnikov. Več PP nima vzglavnikov (PP Ljubljana Vič, PP Sežana, PP Trebnje, PP Novo mesto, PP Šmarje pri Jelšah in PP Velenje), v PP Nova Gorica pa so jih imeli, vendar jih pridržanim osebam niso izročali, če so bile pridržane za krajši čas. DPM je predlagal, da se PP rjuhe in vzglavnike dostavijo čim prej ter da se pridržani osebi izroči vzglavnik, predvsem in ko je pridržana čez noč.

Sanitarije

Razen v PP Šiška so bile sanitarije ustrezno urejene: straniščna školjka v prostorih za daljše pridržanje in počepnik z izplakovanjem v prostorih za krajše pridržanje. V PP Šiška pridržane osebe ne morejo same splakniti stranišča, saj je to mogoče storiti le v predprostoru in morajo zato poklicati dežurnega policista, kar z vidika dostojanstva in pravice do zasebnosti ni primerno, na kar smo tudi opozorili.

Video- in zvočni nadzor

Večina PP ima v prostorih za pridržanje videonadzor in klicni zvonec, vendar opozorilo o videonadzoru ponekod ni bilo označeno, podobno velja za govorno napravo (PP Nova Gorica in PP Slovenske Konjice). Naš predlog, da naj PP zagotovijo opozorilo (nalepko) tudi v prostorih za pridržanje, je MNZ sprejelo in zagotovilo, da bo to uredilo oziroma je že uredilo.

V dveh PP (PP Sežana in PP Velenje) zorni kot videonadzornega sistema obsega tudi toaletni del prostora za pridržanje, kar je v nasprotju z Normativi o gradnji, adaptaciji in opremitvi prostorov za pridržanje št. 2152-1-31/500359-2 z dne 30. 9. 2002, na kar je DPM opozoril. Predlagal je, da se to odpravi, da bo osebam, ki jim je odvzeta prostost, zagotovljena zasebnost. MNZ je v odzivnih poročilih zagotovilo, da so že poskrbeli za ustrezno spremembo videonadzornega sistema.

Some of the deficiencies recorded:

- burnt out light bulb in the detention room (PP Bovec, PP Trebnje and PP Velenje),
- in some places, toilet paper was not installed, or there was not space for the paper to be installed (PP Bovec). For example, in PP Trbovlje, the detained person must ring a bell and ask the duty officer to bring paper. The DPM believed that this method of dispensing toilet paper was inadequate and inappropriate, and proposed that the detained person should receive some toilet paper upon accommodation,
- upon the discharge of water from the toilet cistern, water runs out of the squat toilet into the room (PP Nova Gorica), even to where the detained person is standing,
- dirty walls in detention rooms (PP Postojna),
- the fixture on the sink was poorly fixed, which could be potentially dangerous, as the detained person could remove such loosened fixture and use it for an assault or self-injury (PP Sežana). The DPM suggested the deficiency be eliminated as soon as possible, and the commander already explained during the visit that this would be fixed and the detention room would not be used until then,
- three PP (PP Šiška, PP Bovec and PP Trbovlje) were some of the rare PPs not having sheets and pillows. Several PP did not have pillows (PP Ljubljana Vič, PP Sežana, PP Trebnje, PP Novo mesto, PP Šmarje pri Jelšah and PP Velenje); PP Nova Gorica had them but detained persons did not receive them if they were detained for a shorter period only. The DPM proposed that sheets and pillows be delivered to PPs as soon as possible, and that detained persons should receive a pillow, in particular, and when detained overnight.

Toilets

Except in PP Šiška, the toilets were adequately arranged: the toilet bowl in the rooms for longer detention and squat toilet with flushing in the rooms for shorter detention. In PP Šiška, detained persons cannot flush the toilet by themselves because it is only possible to do so in the lobby, and must therefore call the police officer on duty, which is not appropriate from the perspective of dignity and right to privacy, which we pointed out.

Video and audio surveillance

The detention rooms of the majority of PP are equipped with video-surveillance and a bell, but in some places there was no warning about video-surveillance, which also applies to audio devices (PP Nova Gorica and PP Slovenske Konjice). Our proposal for the PP to provide a warning (a notice) also in detention rooms was accepted by MNZ, which also assured us they would or had already done.

In two PPs (PP Sežana and PP Velenje), the viewing angle of the video-surveillance system also includes the toilet, which is in violation of the Standards on Construction, Adaptation and Equipment of Detention Rooms no. 2152-1-31/500359-2 of 30 September 2002, which the DPM pointed out. The DPM proposed this be eliminated in order to provide privacy for prisoners. In its response, MNZ assured they had made appropriate changes to the video-surveillance system.

PP Domžale in PP Trebnje sta edini dve PP brez videonadzornega sistema. To dežurnemu policistu glede na lokacijo prostorov (v kleti PP) in njegovo lokacijo pomeni dodatno obremenitev in obveznost. Že med obiskom nam je komandir PP Domžale obrazložil, da naj bi bila obnova prostorov za pridržanje načrtovana že v letu 2010. Vse obiskane PP pa imajo v prostorih za pridržanje klicni zvonec.

Prehrana in voda

Večina PP zagotavlja pridržanim osebam hrano v lunch paketih, ki so različni, (tudi posebni za vegetarijance). Rok uporabnosti teh paketov je bil, razen v PP Sežana, ustrezen. Kot je bilo še ugotovljeno, so v tej PP dvema pridržanima osebama hladni obrok kljub pretečenemu roku uporabe tudi izročili. DPM je predlagal, naj v prihodnje vedno dostavljajo sveže hladne obroke, MNZ pa je v odzivnem poročilu sporočilo, da so bile nepravilnosti glede suhih obrokov odpravljene takoj po obisku. Večino PP ima sklenjene pogodbe o dostavi tople hrane iz bližnjih gostiln (zlasti pri pridržanih do 48 ur).

V nekaterih PP prostori za pridržanje nimajo dostopa do tekoče vode (PP Šiška, PP Bovec, PP Nova Gorica, PP Trbovlje, PP Ljubljana Vič, PP Vrhnika, PP Sežana in PP Trebnje), zato jo pridržanim dostavljajo policisti v plastenkah, v nekaterih PP (PP Bovec, PP Nova Gorica in PP Trebnje) pa delijo vodo celo v kozarcih. Predlagali smo, naj se tudi to spremeni in pridržanim osebam omogoči stalen dostop do pitne vode.

Zdravstvena oskrba pridržanih oseb

PP zdravniško pomoč zagotavljajo tako, da pridržano osebo odpeljejo v bližnji zdravstveni dom, ki ima zagotovljeno 24-urno dežurstvo oziroma pride zdravnik v PP.

Intervencijska vozila

Pri pregledu vozil smo v PP Litija ugotovili, da je prostor, v katerem prevažajo pridržane osebe, umazan. DPM je predlagal, da je treba prostor očistiti in v prihodnje bolj redno skrbeti za čistočo. Vsa vozila so imela za sedalnimi delom režo, ki omogoča, da se lahko pridržana oseba med transportom prime tudi, ko ima roke spete z liscami. Razen PP Medvode imajo vse druge obiskane PP svoje intervencijsko vozilo. Ker PP nima prostorov za pridržanje, pridržano osebo prevažajo s službenim vozilom. Za prevoz agresivnih ali alkoholiziranih oseb pa zaprosijo druge PP. Po mnenju DPM to ni najboljša rešitev niti za PP niti pridržano osebo.

Prostor za odvetnike

Policijske postaje imajo ali poseben prostor za odvetnike ali pa v ta namen uporabljajo druge prostore (prostor za sprejem pridržane osebe, za zaslišanje). V nekaterih PP je oprema v teh prostorih pomanjkljiva (ni mize ali stola), zato smo predlagali namestitve potrebne opreme za pogovor med odvetnikom in stranko.

DPM je PP Vrhnika, ki uporablja najbolj neustrezen prostor za pogovor z odvetniki (majhen prostor, neustreznost inventarja), opozoril na pomanjkljivosti in predlagal, naj PP zagotovi primernejši prostor z ustreznim inventarjem. V tej PP in v PP Ljubljana Vič za pogovore uporabljajo sobo, namenjeno rednemu delu policistov. V PP Ljubljana Vič smo, na mizi v odklenjeni in odprti sobi na vidnem mestu opazili pas, na katerem je bila tudi oprema (med drugim tudi osebno orožje), v PP Vrhnika pa smo opazili na mizah dokumentacijo kriminalistov (tudi z osebni podatki). DPM je obe PP pozval, naj zagotovita prostor, ki bo namenjen izključno za zaslišanje/pogovor s strankami oziroma z odvetnikom.

PP Domžale and PP Trebnje are the only two PPs without a video-surveillance system. Considering the location of the rooms (in the basement of PP), this means an additional burden and obligation for the police officer on duty. During the visit, the commander of PP Domžale explained that renovation of the detention rooms was planned for 2010. All the visited PPs have a bell in the detention rooms.

Food and water

The majority of PPs provide detained persons with food in the form of different lunch packages (also special for vegetarians). Except in PP Sežana, the expiry date of the packages was adequate. As observed, two detained persons in this PP also received a cold meal despite the expired date. The DPM proposed that fresh cold meals be delivered in future, and in its response, MNZ indicated that irregularities with regard to dry meals had been eliminated immediately after the visit. The majority of PPs have contracts for warm food supply with nearby restaurants (particularly for detentions up to 48 hours).

In some PPs, the detention rooms lack access to running water (PP Šiška, PP Bovec, PP Nova Gorica, PP Trbovlje, PP Ljubljana Vič, PP Vrhnika, PP Sežana and PP Trebnje), so police officers bring it in plastic bottles, and in some places (PP Bovec, PP Nova Gorica and PP Trebnje) water is even dispensed in glasses. We proposed they change this and provide detained persons with constant access to drinking water.

Health care of detained persons

Medical attention is provided either by taking the detained person to the nearby 24-hour health care centre, or a doctor comes to the PP.

Vehicles for transporting detainees

While examining the vehicles, we observed in PP Litija that the place where the detained persons were transported was dirty. The DPM proposed the place be cleaned and kept clean in the future. Behind the cab, all vehicles were equipped with a slot allowing the detained person to hold on even in handcuffs. Except for PP Medvode, all other visited PPs have their own intervention vehicle. Since that this PP does not have detention rooms, the detained person is transported in a police vehicle. Other PPs are asked to transport aggressive or intoxicated persons. According to the DPM, this is not the best solution for the PP or the detained person.

Room for lawyers

Police stations have either a special room for lawyers, or other rooms are used for this purpose (reception room for detained persons, interrogation room). In some PPs, equipment in these rooms is insufficient (no table or chair); therefore we suggested the installation of adequate equipment intended for discussion between lawyers and clients.

The DPM warned PP Vrhnika, which uses the most inappropriate room for discussions with the lawyer (small room, inadequate inventory), of the deficiencies and suggested they provide a more appropriate room with adequate inventory. In this PP and in PP Ljubljana Vič, discussions with lawyers are held in a room intended for regular police work. In PP Ljubljana Vič, we noticed a belt with equipment (including a personal weapon) in an unlocked and open room in a visible place, and in PP Vrhnika, we noticed investigators' documentation (including personal information) on the tables. The DPM called on both stations to provide a room intended exclusively for interrogation/discussion with lawyers.

Seznam odvetnikov se vodi na spletni (intranetni) strani Policije. Le nekaj PP ima seznam odvetnikov v tiskani obliki in dosegljivih pridržanim osebam. Ti natisnjeni sezname odvetnikov so pogosto zastareli (PP Postojna, PP Trbovlje in PP Sežana, kjer je seznam odvetnikov celo z dne 3. 5. 2006). DPM je predlagal, da se sezname v prihodnje bolj redno osvežujejo (vsaj za tekoče leto). V PP, kjer nimajo seznama odvetnikov, je DPM predlagal, da se ta seznam posodobi in da na razpolago pridržanim osebam v prostorih, kjer se te zadržujejo. Z vidika video- ali zvočnega nadzora so prostori različno opremljeni. Če ima PP poseben prostor za odvetnika, v tem ni videonadzora; če pa uporabljajo druge prostore, so videonadzorovani, ker so namenjeni tudi sprejemu pridržanih oseb. Če prostor ni opremljen s telefonom, je mogoče odvetnika poklicati iz sobe, namenjene dežurnemu policistu.

Sprehajališča

Ta so namenjena sprehajanju pridržanih oseb in kajenju. Vse PP nimajo posebnega sprehajališča, kar ni ustrezno predvsem v PP, kjer imajo tudi prostore za daljše pridržanje (PP Dravograd). Zato v ta namen uporabljajo dvorišče PP in zagotovijo tudi spremstvo oziroma osebni nadzor.

Sprehajališča so v večinoma primerno velika, razlikujejo pa se v pokritosti (nepokrita, delno pokrita, v celoti pokrita) in ograjenosti (ograjena z ograjo, neograjena). Opremljena so z video- in zvočnim nadzorom (ponekod je manjkalo opozorilo), zagotovljeni so pepelniki, v večini primerov so bila čista.

Prostori za tujce

V obiskanih PP so bili prostori za tujce večinoma čisti in primerno opremljeni, vključno s plakatom in brošuro o pravicah oseb, ki jim je bila odvzeta prostost, v več jezikih in raznimi zloženkami (UNHCR, PIC). PP, kjer tega nismo zasledili, pa smo predlagali, naj zagotovijo plakate in brošure.

Seznanjenost pridržanih oseb z njihovimi pravicami

Policija je pred leti izdajala brošuro Obvestilo o pravicah osebe, ki ji je bila odvzeta prostost v več jezikih, ki je bila v vseh obiskanih PP. Žal pa prevečkrat ne na mestu (prostori in predprostori za pridržanje), kjer je najbolj potrebna, in tako je včasih kar trajalo, da so policisti brošuro sploh našli (PP Litija). DPM je na to pomanjkljivost opozoril že ob obisku, tako da je bila ta brošura po našem opozorilu na vidnem mestu pri dežurnem policistu. Seznanjenost s pravicami se zagotavlja tudi s posebnimi plakati, kar je pohvalno, vendar bi jih bilo treba zamenjati z novejšo različico, ker v starih ni omenjena pravica do zdravnika po lastni izbiri. MNZ je namreč tudi na podlagi priporočila Odbora proti mučenju z dne 27. 5. 2003, da se v zakonodaji in praksi vsem osebam, ki jim je bila odvzeta prostost, omogoči pravica do neodvisnega zdravnika, prejšnjo različico plakata že zamenjalo z novejšo, vendar skoraj v nobeni policijski postaji ne uporabljajo novejše različice. Pohvalna je dobra praksa PP Trbovlje, ki je edina na stari plakat namestila še obvestilo, da ima pridržana oseba tudi pravico do zdravnika.

The list of lawyers is kept on the website (intranet) of the Police. Only a few PPs have a list of lawyers in a printed form available for detained persons. These printed lists are often out of date (PP Postojna, PP Trbovlje and PP Sežana, which even keeps the list of lawyers of 3 May 2006). The DPM proposed they update the lists more often in the future (at least for the current year). The DPM proposed that the PP without a list of lawyer update it and make it available to detained persons in the room where they are staying. The rooms vary in terms of equipment with video- or audio surveillance. If a PP has a special room for lawyers, it is not video surveilled; however, if other rooms are used for this purpose, they are video surveilled, since they are also intended for the reception of detained persons. If the room is not equipped with a telephone, a lawyer can be called from the room intended for the police officer on duty.

Walking areas

These are intended for the walks of detained persons and smoking. Not all PPs not have a special walking area, which is particularly inadequate for PPs with rooms for longer detention (PP Dravograd). To this purpose, they use the PP courtyard and provide escort or personal surveillance.

The walking areas are mostly of suitable size, but they vary in terms of coverage with roofing (uncovered, partially covered, completely covered) and enclosure (enclosed with a fence, unenclosed). They are equipped with video and audio surveillance (in some places, a warning was missing), ashtrays are provided, and are mostly clean.

Rooms for foreigners

In the visited PP, rooms for foreigners were mostly clean and adequately equipped, including poster and brochures on the rights of persons deprived of liberty in several languages, and different leaflets (UNHCR, PIC). We proposed that PPs where such things were not observed provide posters and brochures.

Information for detained persons on their rights

Some years ago, the Police issued a Letter on the Rights of a Person Deprived of Liberty in several languages, which was found in every visited PP. Unfortunately, it was not always in the place (detention rooms and lobbies) where it is most useful, and it sometimes took some time for police officers to find the brochure (PP Litija). The DPM pointed out to this deficiency during the visit, so that after the warning, the brochure was placed in a visible place next to the police officer on duty. Information on rights is also provided by means of special posters, which is commendable, but these should be replaced by a more recent version, since the old one does not mention the right to a doctor of one's own choice. Also, pursuant to the recommendation of the Committee against Torture of 27 May 2003 stating that legislation and practice should provide all persons deprived of liberty with the right to an independent doctor, MNZ changed the previous version of the poster and replaced it with the updated one, but almost no police stations use the new one. The good practice of PP Trbovlje is also commendable; it was the only one to use the old poster and add the information that the detained person has the right to a doctor.

Pritožbene poti

Policijske postaje (PP) imajo različno urejene pritožbene poti. Vse imajo knjigo pohval in pritožb, ki je, razen v PP Radlje ob Dravi, na vidnem mestu pri dežurnem policistu. V polovici PP imajo tudi posebne nabiralnike, kar daje pridržanim osebam in tujcem možnost anonimno oddati pritožbo ali pohvalo. Za tujce, ki niso seznanjeni s slovenskimi predpisi o možnosti pritožb zoper delo uradnih oseb, je to uporabno ob ustrezni oznaki nabiralnika v tujem jeziku. V PP, kjer nabiralnikov še ni, je DPM predlagal, da se prouči možnost o njihovi namestitvi. Kot primer dobre prakse navajamo PP Ljubljana Vič, kjer so ga po priporočilu ob prejšnjem obisku DPM namestili.

Dostop do PP invalidom in parkirni prostori za stranke, tudi za invalidne osebe

Razen štirih PP (PP Medvode, PP Litija, PP Ljubljana Vič in PP Postojna) imajo vse druge PP primeren in ustrezen urejen dostop v PP za invalidne osebe. V nekaterih PP lahko obiskovalec z zvoncem prikličje dežurnega policista (PP Litija in PP Medvode). V PP Postojna pa takega zvonca ni niti pred stopnicami in dostop invalidne stranke je tako odvisen od tega, ali jo dežurni policist opazi na kameri ali če v PP po naključju pride še kakšna druga stranka in dežurnega policista obvesti o prihodu invalidne osebe v PP. V vseh primerih mora dežurni policist zapustiti svoje delovno mesto, da se lahko pogovori z invalidno osebo.

Pregled dokumentacije

Ob vsakem obisku policijske postaje smo tudi pregledali dokumentacijo nekaj naključno izbranih primerov pridržanj. Najzanimivejši vidiki ugotovljenih pomanjkljivosti oziroma s tem povezani predlogi državnega preventivnega mehanizma (DPM) so izpostavljeni v nadaljevanju.

Policisti več policijskih postaj so podatke na uradnem zaznamku o pridržanju popravljali s korekturo oziroma tako, da so sprva zapisani podatek prekrili z novim. V teh primerih smo poudarili, da gre za uradne dokumente, in predlagali, naj se popravek morebitnih napak opravi tako, da bo prejšnji podatek viden, popravek pa potrjen s podpisom policista, ki ga je opravil.

Precej pogosto smo ugotavljali, da so v uradnih zaznamkih o pridržanju v rubriko Drugo (pre)skopi podatki, za katere bi bilo prav, da bi bili zapisani čim bolj skrbno (na primer o ponujeni vodi, posteljnini, copatih, brošuri Ministrstva za notranje zadeve (MNZ) s pravicami pridržane osebe in sprejemu oziroma zavrnitvi teh). Čeprav se morda na prvi pogled zdi, da gre za nepotrebno obremenjevanje policistov z administrativnimi opravili, lahko tako zapisane okoliščine prav njim najbolj koristijo, predvsem v primerih očitkov pridržanih oseb ob pridržanju.

Dokumenti niso bili vedno dosledno izpolnjeni, posamezne pomanjkljivosti navajamo z namenom, da se ne bi več ponavljale v nobeni PP. Tako v enem od uradnih zaznamkov (UZ) o pridržanju v rubriki Pridržanje odrejeno ni bilo navedeno, po katerem zakonu in členu je bila oseba pridržana, neupravičeno neizpolnjena pa je ostala rubrika Obveščanje svojcev (iz odločbe o pridržanju je bilo razvidno, da je bila po telefonu obveščena njena mati); v drugem primeru pa v rubriki Zaključek pridržanja UZ o pridržanju ni bila navedena ura, ko je bilo pridržanje končano; v naslednjem UZ o pridržanju ni bil naveden status osebe, ki je bila obveščena o pridržanju (npr. brat, sestra, zunajzakonski partner idr.); spet drugje pa zapisa ure v UZ in v sklepu o pridržanju glede obveščanja sorodnikov in zahteve pridržana osebe, da se obvestijo svojci, nista bila enaka; v primeru naslednje PP v sklepu o pridržanju ni bil naveden čas, ko je bila pridržana oseba seznanjena s pravico do odvetnika; v rubriki Nadzor pridržane osebe in ugotovitve v UZ o pridržanju ni bil evidentiran nadzor, ne video-

Complaint procedures

Police stations (PP) have different complaint procedures. All of them keep a comments and complaints book, which except in PP Radlje ob Dravi, is in a visible position next to the police officer on duty. Half of PPs also have special collection boxes, which provide detained persons and foreigners with the opportunity to file a complaint or comment anonymously. For foreigners who do not know Slovenian regulations on the possibility to complain about the behaviour of public officers, it is useful if the box is appropriately labelled in another language. The DPM suggested that PPs where there were no such boxes consider installing them. As a good practice example, we present PP Ljubljana Vič, where they installed such a collection box according to our recommendation after the previous visit.

Access to PP for the disabled and parking for clients, including the disabled

Except for four PPs (PP Medvode, PP Litija, PP Ljubljana Vič and PP Postojna), all other PPs have suitable and adequate access to PPs for the disabled. In certain cases, a visitor may use a bell to call the police officer on duty (PP Litija and PP Medvode). However, there is no such bell in PP Postojna, not even in front of the steps, and access for a disabled client thus depends on whether the police officer on duty sees the person on the CCTV camera, or if another client incidentally comes to the PP and notifies the police officer that a disabled person is at the PP. In each case, the police officer on duty must leave his or her workplace to deal with the disabled person.

Revision of documentation

During every visit to a police station, we also reviewed the documentation of several randomly selected detention cases. The most interesting aspects of the established deficiencies and proposals of the National Prevention Mechanism (DPM) related therewith are emphasised below.

Police officers from several police stations had used correction fluid to correct the official data on detention or had overwritten the original data with new. We pointed out that these were official documents and proposed they correct the potential errors in such a way that the previous data remain visible and the correction be confirmed by the signature of the police officer who made it.

We frequently observed that the field "Other" in official notes was completed with (too) limited data, which should however be written with all due care (e.g. including offered water, bedding, slippers, brochure of the Ministry of the Interior (MNZ) on the rights of a detained person, and acceptance or rejection of them). It may seem at first sight that this is unnecessary burdening of police officers with administrative tasks, but the circumstances noted might turn out to be the most useful for them in particular, especially in cases of complaints from persons upon detention.

Documents are not always consistently completed, and particular deficiencies are indicated with a view to preventing them from recurring in any PP. One of the official notes (UZ) on detention in the section "Detention ordered" failed to state according to which act and article the person had been detained, and the section "Information to relatives" was unjustifiably blank (the decision on detention clearly indicated that the mother had been informed); in another case, the section "End of detention" in the official note did not indicate the time when the detention had terminated; in the next UZ on detention, the status of the person informed of the detention was not stated (e.g. brother, sister, common-law partner, etc.); in another UZ, the indicated time did not accord with the time stated in the detention warrant concerning informing the relatives and the request of the person to inform relatives; in another case, the detention

ne osebni; v UZ o pridržanju nista bila zapisana dan in ura konca pridržanja; v sklepu o pridržanju ni bila zapisana ura vročitve tega pridržani osebi. Ugotovljene pomanjkljivosti kažejo, da sta potrebni večja pozornost in doslednost policistov tudi pri izpolnjevanju dokumentacije. V dveh primerih (PP Velenje in PP Medvode) smo našli UZ o pridržanju, v katerem je bilo označeno, da se je pridržanje izvajalo v prostoru za pridržanje »0«. DPM meni, da takšno označevanje ni smiselno. Tudi v primerih, ko PP nima sobe za pridržanje, je treba zapisati, kje je bila oseba v času pridržanja (npr. hodnik, pisarna.).

Kot neustrezno DPM ocenjuje tudi precej pogosto prakso (PP Šmarje pri Jelšah, PP Rogaška Slatina idr.) v UZ o pridržanju, da je bila pridržana oseba seznanjena s pravicami, ki ji pripadajo, v maternem jeziku. Ni namreč nujno, da je oseba, ki je pridržana, seznanjena s pravicami v maternem jeziku, ampak je lahko seznanjena tudi v jeziku, ki ga dejansko razume in je lahko različen od maternega jezika. Zato smo predlagali, naj se v UZ o pridržanju navede, v katerem jeziku je bila oseba dejansko seznanjena s pravicami.

V PP Trebnje sta bila v enem izmed spisov o pridržanju izpolnjena dva UZ, eden za čas, ko je bila osebi odvzeta prostost v tej PP, in drugi, ko je bila oseba odpeljana v prostor za pridržanje v PP Novo mesto. DPM meni, da za osebo, ki ji je bila odvzeta prostost oziroma je bilo odrejeno pridržanje, ne bi smela biti izpolnjena dva UZ (eden za postopek na PP Trebnje in drugi za namestitve v PP Novo mesto). V primeru PLP Brnik ni bilo v nobenem dokumentu (UZ ali odločbi o pridržanju) zapisano, da je pri postopku sodeloval prevajalec, čeprav smo ugotovili, da je. Podobno smo tudi v PP Šiška ugotovili, da je v UZ o pridržanju zapisano le, da je bila oseba seznanjena s pravicami pridržane osebe v romunskem jeziku (v postopku je bil navzoč prevajalec). Prav bi bilo, da bi bilo ime prevajalca zapisano tudi v UZ o pridržanju (npr. v rubriki z opombami) in odločbi o pridržanju, njegovo navzočnost v postopku bi bilo treba vedno tudi časovno opredeliti. MNZ se strinja z mnenjem DPM in je že zagotovilo, da bodo potrebo po ustrenejšem evidentiranju prevajalca upoštevali pri pripravi novega obrazca za UZ o pridržanju. V istem primeru smo še ugotovili, da so nekateri obrazci za primere zadržanj (UZ in odločba o zadržanju) samo v slovenskem jeziku. Ker policisti PLP Brnik večino postopkov izvajajo s tujimi državljani, bi bilo po mnenju DPM smotno, zaradi seznanitve tujca s postopkom in pravicami, pripraviti tudi prevode obrazcev vsaj v jezike držav, katerih državljane PLP Brnik največkrat obravnava (po pojasnilih sogovornikov ob obisku so to največkrat državljani Turčije, Kosova in Grčije). S prevodi obrazcev bi se zagotovilo, da bi bila oseba takoj ob začetku postopka, še pred prihodom prevajalca, seznanjena s svojimi pravicami. MNZ se s tem žal ne strinja in ne vidi potrebe po prevodu uradnega zaznamka ali odločbe o zadržanju v posamezne tuje jezike. Policisti morajo osebo seznaniti z razlogi za zavrnitev vstopa, razlogih za zadržanje in z načrtovanimi ukrepi (npr. da bo odstranjena iz države); če to zaradi nepoznavanja jezika ni mogoče, jo seznanijo ob pomoči prevajalca. V brošuri Obvestilo o pravicah osebe, ki ji je odvzeta prostost, so pravice osebe prevedene tudi v turški in albanski jezik (državljanke Grčije zaradi pravic v zvezi s svobodo gibanja v državah Evropske unije oziroma schengenskega območja naj bi policisti redko obravnavali). MNZ je še dodalo, da policisti na podlagi Zakonika o schengenskih mejah uporabljajo tudi enotni standardni obrazec za zavrnitev na mejnem prehodu, ki se uporablja v vseh državah članicah schengenskega območja ter je natisnjen v slovenskem in angleškem jeziku.

warrant failed to indicate the time when the detained person had been informed of the right to a lawyer; the section "Surveillance of the detained person" and findings in the UZ on detention did not record surveillance, video or personal; the UZ on detention did not include the date and time of the termination of detention; the detention warrant did not include the time of service of this document to the detained person. The established deficiencies show that police officers have to be more careful and more consistent when completing documents. In two cases (PP Velenje and PP Medvode), we found a UZ on detention stating that detention took place in detention room "0". The DPM believes that such a designation is not reasonable. Even when a PP does not have a detention room, it must be indicated where the person was located during detention (e.g. hall, office).

It is a rather common practice (PP Šmarje pri Jelšah, PP Rogaška Slatina etc.) to state in the UZ on detention that the detained person has been informed of their rights in their mother tongue, but DPM considers this inadequate. It is not necessary to inform the detained person on the rights in his or her mother tongue; it can be a language he or she understands, and can be different to his or her mother tongue. We therefore proposed that the UZ on detention should indicate which language was used to inform the person on their rights.

In PP Trebnje, two UZ were completed in one of the files on detention: one for the time when the person was deprived of liberty in this PP and another when the person was taken to the detention room in PP Novo mesto. The DPM believes that two UZs (one for the procedure at PP Trebnje and another for the accommodation in PP Novo mesto) should not be completed for a single person deprived of liberty, or for whom detention has been ordered. In the case of PLP Brnik, none of the documents (UZ or decision on detention) stated that an interpreter had participated in the procedure, although we learned that an interpreter was present. The same occurred at PP Šiška, where we observed that the UZ on detention stated only that the person had been informed of the rights of a detained person in Romanian (an interpreter was present during the procedure). It would be correct to state the name of the interpreter in UZ on detention (e.g. in the comment section) and in the decision on detention, and the duration of their presence during the procedure should be specified. MNZ agrees with the DPM's opinion and has assured they would consider the need for more adequate recording of the interpreter's presence when preparing a new UZ for detention. In the same case, we observed that some detention forms (UZ and decision on detention) are available only in Slovenian. Since police officers from PLP Brnik perform the majority of procedures with foreign citizens, the DPM believes it would be reasonable, in order to inform a foreigner with the procedure and rights, to prepare translations of the forms into at least the languages of countries with which the citizens of which PLP Brnik usually originate (judging from the interviewees during our visit, these are mostly citizens of Turkey, Kosovo and Greece). Translations of the forms would ensure that the person would be informed of his or her rights when the procedure commence, before the arrival of the interpreter. Unfortunately, MNZ disagrees and does not see the need to translate the official note or the decision on detention into particular foreign languages. Police officers must inform the person on the reasons for denial of entry, the reasons for detention and the planned measures (e.g. deportation from the country); if this is not possible due to language barriers, the person is informed by means of an interpreter. In the Letter of Rights of a Person Deprived of Liberty, the person's rights are also translated into Turkish and Albanian (due to rights related to freedom of movement within the European Union countries or the Schengen area, police officers allegedly only rarely deal with citizens of Greece). MNZ added that on the basis of the Schengen Borders Code officers also use the uniform standard form for rejection at the border crossing, which is used in all Member States of the Schengen Area and is printed in Slovenian and English.

Zanimiv je bil tudi primer postopka policistov PP Bovec z osebo, ki je bila obravnavana zaradi suma kaznivega dejanja nasilja v družini. Policisti so ob zaznavi kaznivega dejanja in odvzemu prostosti izpolnili UZ o privedbi in evidentirali privedbo na podlagi prvega odstavka 157. člena Zakona o kazenskem postopku (ZKP). Ugotovili smo, da je bil z osebo dejansko opravljen enak postopek kot v primeru pridržanja po drugem odstavku 157. členu ZKP, saj je bila oseba ves čas, ko so policisti pripravljali kazensko ovadbo in jo nato odpeljali na zaslišanje k preiskovalnemu sodniku, v prostoru za pridržanje. Ob tem so policisti konec pridržanja oziroma izročitev preiskovalnemu sodniku evidentirali v zadnjem odstavku kazenske ovadbe, torej še pred dejansko izročitvijo osebe preiskovalnemu sodniku. Kot nam je takrat pojasnil komandir, policisti PP Bovec tako vodijo vse podobne postopke. DPM meni, da vnaprejšnje evidentiranje ure izročitve osebe preiskovalnemu sodniku v kazensko ovadbo v PP ni ustrezno oziroma da ta podatek ne more biti točen (še posebej v tem primeru, ko so policisti peljali osebo na zaslišanje k preiskovalnemu sodniku iz Bovca v Novo Gorico); uro izročitve preiskovalnemu sodniku bi bilo smiselno vpisati naknadno ali za arhivski izvod ovadbe dobiti potrdilo z navedbo ure sprejetja ovadbe in osebe pri preiskovalnem sodniku ter s podpisom preiskovalnega sodnika in pečatom sodišča. Le s takim evidentiranjem izročitve osebe preiskovalnemu sodniku bi se z gotovostjo potrdilo, kdaj oseba ni bila več v postopku pri policiji in je bilo pridržanje tudi končano. Po mnenju MNZ so policisti v tem postopku ravnali pravilno, saj so bili izpolnjeni pogoji za odvzem prostosti na podlagi prvega odstavka 157. člena ZKP; v policiji naj bi osebam, ki jim je odvzeta prostost na podlagi tega odstavka, zagotavljali enake pravice kot pridržanim osebam. Zagotovilo pa je, da bo proučilo možnost drugačnega evidentiranja zagotavljanja pravic v takih primerih (podobno je v primeru prijete osebe na podlagi evropskega naloga za prijete in predajo po Zakonu o sodelovanju v kazenskih zadevah s članicami Evropske unije (ZSKZDČEU)), saj UZ o privedbi, ki ga policist izpolni v takih primerih, dejansko nima vseh rubrik, v katerih bi bilo uresničevanje pravic ustrezno evidentirano. V PP Bovec naj bi bili še opozorjeni, da so v kazensko ovadbo vnesli dogovorjeno, ne pa dejansko uro izročitve osebe preiskovalnemu sodniku. Podobno smo v PP Nova Gorica ugotovili, da je v UZ o pridržanju v rubriki Zaključek pridržanja navedena ura 18.50, v kazenski ovadbi pa smo zasledili podatek, da je bila oseba izročena v postopek preiskovalnemu sodniku ob 20.00. DPM meni, da podatek o koncu pridržanja ni ustrezen, predvsem pa, da je v takem primeru nejasen status osebe v času med koncem pridržanja (čas, naveden v uradnem zaznamku) in dejansko izročitvijo preiskovalnemu sodniku v postopek. Menimo, da bi moral biti podatek o koncu pridržanja in izročitvi preiskovalnemu sodniku isti, saj je policija končala postopek s pridržano osebo z izročitvijo preiskovalnemu sodniku (torej šele ob 20.00). MNZ je nato le izpostavilo, da peti odstavek 157. člena ZKP določa, da pridržanje na podlagi drugega odstavka istega člena lahko traja največ 48 ur in da morajo policisti po preteku tega roka pridržano osebo izpustiti na prostost ali pa ravnati po prvem odstavku istega člena (privedba k pristojnemu preiskovalnemu sodniku). S pripravo usmeritev za delo policistov pa naj bi se poskrbelo za poenotenje prakse na tem področju.

Med obiskom PP Medvode smo iz FIO-izpisa pridržanih oseb izbrali tudi primer pridržanja osebe na podlagi drugega odstavka 110. člena Zakona o prekrških (ZP-1) za dan 27. 4. 2010. Ugotovili smo, da je bilo za navedeno osebo v tem času dejansko vodenih več postopkov o pridržanju na podlagi ZP-1 (trikrat) in nazadnje še postopek o pridržanju na podlagi drugega odstavka 157. člena Zakona o kazenskem postopku (ZKP). Med pregledom dokumentacije pridržanj te osebe smo ugotovili, da PP Medvode nima dokumentacije (UZ o pridržanju in sklepa o pridržanju) za pridržanje 27. 4. 2010 med 21.05 in 23.30. Iz dokumenta je bilo še razvidno, da je bila pridržana oseba odpeljana v takojšnji postopek na oddelek za

There was an interesting case of a procedure performed by police officers from PP Bovec involving a person under consideration due to suspicion of a criminal act of family violence. Upon the detection of the crime and deprivation of liberty, the police officers completed a UZ on arrest and recorded the arrest on the basis of the first paragraph of Article 157 of the Criminal Procedure Act (ZKP). We learned that the person was subject to the same procedure as in the case of arrest under the second paragraph of Article 157 of ZKP, as the person was in the detention room throughout the time the police officers were preparing the charges; they then brought the person for interrogation to the investigating judge. Moreover, the police officers recorded the completion of arrest or delivery to the investigating judge in the last paragraph of the criminal complaint, which means before the actual delivery of the person to the investigating judge. As explained by the commander at the time, police officers from PP Bovec conduct all similar procedures in such a way. The DPM believes that advance recording of the time of delivery of a person to the investigating judge in the charges at the PP is not appropriate, or that this information cannot be accurate (especially in this case, when the person was taken to the investigating judge for interrogation from Bovec to Nova Gorica); it would be reasonable to enter the time of delivery to the investigating judge subsequently, or to receive confirmation for the archive copy of the charges stating the time of its receipt and the delivery of the person to the investigation judge signed by the investigation judge and stamped by the court. Only such recording of the delivery of the person to the investigating judge would ascertain the time when the person was no longer subject to the arrest and charging procedure and the arrest completed. According to MNZ, the police officers in this procedure acted correctly, since the condition for deprivation of liberty under the first paragraph of Article 157 of ZKP were fulfilled; on the basis of this paragraph, the police should provide persons deprived of liberty with the same rights as detained persons. Nevertheless, they assured us they would examine the possibility of changing the recording of provision of rights in such cases (the same applies to the arrest of a person on the basis of a European arrest and surrender warrant according to the Act on International Co-operation in Criminal Matters between Member States of the European Union (ZSKZDČEU)), since the UZ on arrest completed by the police officer in such cases actually does not have all the sections in which the exercise of rights could be adequately recorded. PP Bovec was also warned of the fact that they entered the agreed and not the actual time of delivery of the person to the investigation judge. Similar observations were made at PP Nova Gorica, where the UZ on arrest in the "End of apprehension" section stated the time as 18.50, while the criminal complaint stated the time 20.00 as the time when the person was allegedly delivered to the investigating judge. The DPM believes that the information on the completion of the arrest procedure is not adequate, and particularly that the status of the person in the period between when this procedure has been completed (the time stated in the official note) and the actual delivery to the investigating judge for procedure is not clear. We believe that the information on the completion of arrest and delivery to the investigation judge should be in agreement, since the police complete the procedure with the detained person only by delivery to the investigating judge (which did not happen until 20.00). MNZ only underlined that the fifth paragraph of Article 157 of ZKP specifies that arrest on the basis of the second paragraph of the same article is permitted for longer than 48 hours and that police officers must release the detained person at the end of this period or act according to the first paragraph of the same article (delivery to the competent investigating judge). Instructions on procedures carried out by police officers would establish uniform practice in this field.

During the visit to PP Medvode, we selected a case of detention on the basis of the second paragraph of Article 110 of the Minor Offences Act (ZP-1) for 27 April 2010 from the FIO print-out. We established that several detention procedures on the basis of ZP-1 (three) and final detention procedure on the basis of the second paragraph of Article 157 of the Criminal Procedure Act (ZKP) were conducted for the stated person. While reviewing the detention documents for this person, we observed that PP Medvode did not have documentation (UZ on detention and detention warrant) for detention, which had taken place on 27 April 2010 between 21.05 and 23.30. The document showed that the detained person was taken to the

prekrške okrajnega sodišča v Ljubljani, kjer ji je bil izdan sklep, s katerim ji je bilo odrejeno pridržanje do streznitve, ki pa je začelo teči 28. 4. 2010 ob 1.15. Pri tem iz dokumentacije PP Medvode ni bilo mogoče ugotoviti, kdaj točno je bila oseba izročena v postopek na okrajnem sodišču v Ljubljani (v FIO-evidenci je za ta primer končano pridržanje ob 23.30). MNZ nam je sporočilo, da so policisti to osebo večkrat obravnavali zaradi kršitve javnega reda in miru ter kaznivega dejanja nasilja v družini, zato so ji 25. 4. 2010 ob 17.15 izrekli ukrep prepovedi približevanja po 39.a členu Zakona o policiji (ZPol). Dežurni preiskovalni sodnik okrajnega sodišča v Ljubljani je 26. 4. 2010 osebi nato izdal sklep o podaljšanju prepovedi približevanja, ki ji je bil vročen istega dne ob 16.40. Zaradi večkratnih kršitev ukrepa so policisti 27. 4. 2010 ob 21.05 odredili pridržanje na podlagi 110/2. člena ZP-1 in osebo ob 23.30 (ta ura je kot konec pridržanja navedena tudi v evidenci pridržanih oseb) istega dne izročili v takojšnji postopek sodnici okrajnega sodišča v Ljubljani. V času pridržanja (v prostorih PP) do izročitve sodnici so policisti preverili vsa dejstva in okoliščine, izpolnili potrebne dokumente in jo naposled z obdolžilnim predlogom odpeljali k dežurni sodnici. Po zaslišanju je sodnica 28. 4. 2010 ob 1.15 zoper osebo odredila pridržanje, ki se je izvedlo v ljubljanskem centru za pridržanje. V PP Moste naj bi sicer zatrjevali, da so v zvezi s pridržanjem te osebe izpolnili vse dokumente, vendar niso vedeli, zakaj nekaterih dokumentov ni (UZ in sklepa o pridržanju). Domnevali naj bi, da so dokumenta pomotoma z obdolžilnim predlogom poslali na okrajno sodišče v Ljubljani ali pa s kazensko ovadbo na ODT Ljubljana oziroma prek PL in GPU zunanji instituciji, ki je opravila raziskavo na tem področju, dokumentov pa kljub preverjanju niso našli. MNZ naj bi tako vse policijske enote posebej opozorilo na doslednost pri izpolnjevanju uradnih dokumentov (vključno s podatki o prostorih, kjer je bila oseba v času pridržanja) in skrbnost pri ravnanju z dokumentarnim gradivom. DPM na koncu kot primere dobre prakse izpostavlja PP Nova Gorica za ločeno vodenje dokumentacije za vsa pridržanja v tej PP (pridržanja za druge PP) in pridržanja, ki so jih odredili njeni policisti; PP Trbovlje in PP Šmarje pri Jelšah za zelo dosledno oziroma izčrpno zapisovanje podatkov v rubriki »drugo« v UZ o pridržanju (o ponujeni vodi, brošuri MNZ ipd.); PP Vič za vročitev sklepa o pridržanju takoj ob podpisu tega, tako da ga ima pridržana oseba pri sebi v prostoru za pridržanje; PP Slovenske Konjice pa vodi dodatno interno evidenco, v katero se za vsako pridržano osebo zapiše, ali ji je bila ponujena voda oziroma hrana in ali jo je sprejela oziroma odklonila.

4. Obisk Centra za tujce

Center za tujce (CT) v Postojni smo obiskali 16. 6. 2010. V skupini, ki je izvedla obisk, sta sodelovali tudi predstavnici dveh pogodbenih nevladnih organizacij, Pravno-informacijskega centra nevladnih organizacij (PIC) in Rdečega križa Slovenije. Ob obisku je bila navzoča tudi specialistka psihiatrije, ki na podlagi pogodbe o sodelovanju pri obiskih državnega preventivnega mehanizma (DPM) izvaja naloge izvedenke in pri tem podaja svoje ugotovitve zlasti o zdravstvenem varstvu oziroma oskrbi. To je bil tretji obisk CT DPM (pred tem ga je že obiskal 22. 4. 2008 in 9. 6. 2009).

Ob obisku sta nas sprejela vodja CT in pomočnik vodje; na začetku smo se pogovorili z vodjo in pomočnikom ter si ogledali sprejemne, nastanitvene in sanitarne prostore, sobe za obiske, za Eurodac, za pogovore, za nevladne organizacije in za tišino, jedilnico, pralnico in skladišče, pri čemer smo se tudi pogovorili s socialno delavko in nekaterimi tujci. Pogodbena izvedenka se je v ambulanti pogovorila tudi z medicinsko sestro. Nato je bil opravljen še sklepni pogovor z vodjo in pomočnikom.

Minor Offences Department of the Ljubljana Local Court for immediate procedure, where the person was issued a warrant ordering detention until they sobered up, which only began to run on 28 April 2010 at 1.15. The documents of PP Medvode did not allow us to discover exactly when the person had been delivered for appearance at Ljubljana Local Court (for this case, the FIO register shows the end of detention at 23.30). MNZ informed us that police officers had dealt with this person several times for breaches of law and order and the criminal act of family violence, so he had been placed under a restraining order on 25 April 2010 at 17.15 according to Article 39.a of the Police Act (ZPol). The investigating judge on duty at the Ljubljana Local Court then issued a warrant on a restraining order renewal served on the same day at 16.40. Due to multiple violations of the order, on 27 April 2010 at 21.05, police officers ordered detention on the basis of Article 110/2 of ZP-1 and the person was delivered for immediate procedure to the judge of Ljubljana Local Court at 23.30 (the time was also stated as the end of detention in the register of detained persons). While in detention (on PP premises) and until delivered to the judge, police officers verified all the facts and circumstances and completed the required documents; the person was finally taken to the judge on duty with the charge sheet. After the interrogation, the judge ordered detention on 28 April 2010 at 1.15, which took place in Ljubljana Detention Centre. Police officers from PP Moste claimed to have completed all documents related to the detention of this person, but they did not know why some documents were missing (UZ on detention and the detention warrant). They assumed that the documents had been mistakenly sent together with the accusation petition to Ljubljana Local Court or with the criminal complaint to ODT Ljubljana, or through PL and GPU to an external institution which had performed research in this field, but the documents were not found, despite a search. MNZ specifically warned all police units to be consistent in completing official documents (including information on the room where the person was held during detention and on the time of detention) and careful in handling documents. Finally, good practice examples as highlighted by the DPM are the following: PP Nova Gorica for filing documents separately for all detentions in this PP (detentions performed for other PPs) and detentions ordered by their police officers; PP Trbovlje and PP Šmarje pri Jelšah for very consistent and extensive recording of information in the "Other" section (offers of water, MNZ brochure, etc.); PP Vič for serving detention warrants as soon as it is signed, so that the detained person keeps it with him or herself in the detention room; PP Slovenske Konjice for keeping additional internal records which states for each detained person whether water or food was offered to him or her and whether he or she accepted or rejected it.

4. Visit to the Aliens Centre

On 16 June 2010, we visited the Aliens Centre (CT) in Postojna. Two participants of two contractual non-governmental organisations, the Legal Information Centre of NGOs (PIC) and Slovenian Red Cross, also joined the visiting group. A specialist in psychiatry who - pursuant to a cooperation contract - performs expert tasks on visits of the National Prevention Mechanism (DPM) and submits findings, in particular from the aspect of health care, was also present. That was the third DPM visit to CT (previously visited on 22 April 2008 and 9 June 2009).

The Head of the Centre and the Assistant Head received us; first, we talked to them and inspected the reception, accommodation and sanitary rooms, visiting rooms, rooms for Eurodac, for discussions, for non-governmental organisations, the quiet room, the dining room, the laundry and the warehouse, and we also spoke to the social worker and to some of the residents. The contractual expert talked to the nurse in the infirmary. A final discussion with the Head and the Assistant was conducted.

Na dan našega obiska je bilo v CT 18 tujcev. Vodja je presodil, da jih je navadno približno 30. Tudi to je še precej pod uradnimi zmogljivostmi centra, 220 tujcev. Omeniti še kaže, da so trenutne dejanske zmogljivosti centra nekoliko pod uradnimi, saj je bilo zaradi večletne manjše zasedenosti CT nekaj bivalnih sob preurejenih in jih uporabljajo v druge koristne namene (tako je bila na primer urejena igralnica za otroke).

V letu 2009 je bilo v CT na novo nastanjenih skupno 408 tujcev, kar je najmanj v zadnjem desetletju, za katero je tudi značilno stalno zmanjšanje števila tujcev iz leta v leto (z izjemo leta 2005). V letu 2010 pa je bilo do konca maja v CT na novo nastanjenih 145 tujcev. Tudi zasedenost posameznih oddelkov je bila občutno pod zmogljivostjo. Na oddelku za moške, ki ima uradno 66 mest, je bilo nastanjenih 14 tujcev (v eni sobi štirje, v dveh sobah po trije in v dveh sobah po dva, eden izmed njih je bil ob našem obisku na dovoljenem izhodu). Na oddelku za ranljive skupine z uradno zmogljivostjo 72 so bili nastanjeni le štirje tujci, v dveh sobah po dva skupaj. Oddelka za strožji policijski nadzor in za mladoletnike brez spremstva (prvi uradno z 48, drugi pa s 24 razpoložljivimi mesti) sta bila nezasedena. Vodja nam je nato pri ogledu prostorov še pojasnil, da mladoletnike brez spremstva že dalj časa nastanjujejo na oddelku za ranljive skupine in ne na oddelku, ki je bil predviden posebej za njih. Eden izmed razlogov je bil tudi ta, da so pogosto izražali želje, da bi bili več med drugimi tujci. Oddelku za ranljive skupine, kamor se nastanjujejo otroci, starejši, ženske in družine, je v tem pogledu ustrezna rešitev, oddelku za moške ali oddelku za strožji policijski nadzor pač ne. Tudi v sprejemnih prostorih in v prostoru za osamitev tokrat ni bilo nobenega tujca. Čeprav bi bilo v danih razmerah to kar mogoče, je vodja pojasnil, da tujcev ne nastanijo vsakega v svojo sobo, ker je to prevelik varnostni problem, vendar skrbijo, da v nobeni sobi ni zasedenih vseh šest ležišč. DPM je takšno ravnanje centra pozdravil, saj je zaradi manjšega števila nastanjenih tujcev v sobah njihovo bivanje manj utesnjeno. Vodja je pojasnil, da je v CT zaposlenih skupno 57 oseb. Med njimi sta dva administratorja, štiri medicinske sestre, pet socialnih delavk (ena od teh je na porodniški), sedem delavcev za logistiko, pet inšpektorjev, ki vodijo postopke s tujci, 26 policistov in vodja z dvema pomočnikoma. Po njegovem mnenju je kadrovska zasedba zadostna, v pomoč pa jim je tudi to, da se v delo s tujci redno vključuje Jezuitska služba za begunce.

Izvedeli smo še, da imajo zaposleni možnosti za strokovno izobraževanje v organiziranih tečajih (na primer obnovitveni tečaj prve pomoči, seminar o postravmatski stresni motnji in podobno), v skladu z možnostmi pa tudi drugje (pred nedavnim sta se tako na primer dve od socialnih delavk udeležili delavnic o ročnih spretnostih). To velja tako za uniformirane delavce policije kot za socialne in zdravstvene delavce, saj sta dobra usposobljenost zaposlenih in izmenjava izkušenj in dobrih praks na čim več področjih vselej dobrodošli. DPM takšno usmeritev vodstva pozdravlja. Tudi Evropski odbor za preprečevanje mučenja in nehumanega ali ponižujočega ravnanja ali kaznovanja (CPT) je že poudaril, da ima osebje centrov za tujce, ki jim je omejena prostost, posebej zahtevno nalogo in da mora biti zato pazljivo izbrano in primerno izobraženo ter usposobljeno, predvsem za prepoznavanje morebitnih simptomov stresnih odzivov pridržanih tujcev. Osebje mora imeti tudi dobre sposobnosti medosebne komunikacije in biti seznanjeno z različnimi kulturami, vsaj nekaj pa bi jih moralo poznati tudi tuje jezike.

Opisane razmere v CT nudijo dobro izhodišče tako glede bivalnih razmer kot dela s tujci, čeprav za nekatere dejavnosti (z)manjka potrebnih sredstev. Kot poglobitvo novost je vodja izpostavil sodelovanje z Mednarodno organizacijo za migracije (IOM), ki se je vzpostavilo na pobudo CT. Gre za program pomoči pri vrnitvi in reintegraciji v državo izvora tistim tujcem, ki se želijo vrniti. IOM v okviru tega programa kvalificiranim zainteresiranim tujcem nudi dve možnosti. Pri prvi gre za pomoč tujcu pri vrnitvi, predvsem s seznanitvijo z relevantnimi konkretnimi informacijami, plačilom vozovnice in dodeljene žepnine ter po potrebi tudi spremljanjem na potovanju. Pri drugi možnosti pa gre za pomoč tudi pri reintegraciji tujca v državi izvora. V tem primeru lahko dobijo žepnino, obenem pa se jim pomaga pri urejanju

On the day of our visit, there were 18 detainees in the Centre. The Head assessed that there were usually around 30, which is still considerably below the official capacity of the Centre, i.e. 220 aliens. It should be noted that due to several years of under-occupancy, the current actual capacity of the Centre is slightly below the official one, since some accommodation rooms were rearranged and are now used for other useful purposes (for example, a children's playroom was arranged).

In 2009, a total of 408 people were newly accommodated in CT, which is the lowest number in the last decade, which was characterised by a constant decrease in the number of aliens every year (with the exception of 2005). By the end of May 2010, 145 people were newly accommodated in CT. Individual sections were also considerably under-occupied. In the male section, with an official capacity of 66 places, 14 people were accommodated (four in one room, three in two rooms and two in two rooms, one of them was on a permitted leave). In the section for vulnerable groups, with an official capacity of 72, only four people were accommodated, two in two rooms. The sections for more stringent police control and for unaccompanied minors (the first with official 48 and the other with 24 official available places) were unoccupied. While examining the rooms, the Head explained that unaccompanied minors had for some time been accommodated in the section for vulnerable groups and not in the section intended for them. One of the reasons was also their wish to be more among other people. In this respect, the department for vulnerable groups, in which children, the elderly, women and families are accommodated, is a suitable solution; while the male section and the section for more stringent police control are not. There were also no residents in the reception rooms or the isolation room. In the present situation, it would be possible to accommodate each person in his or her own room, but the Head explained that the issue of safety precluded this; nevertheless, they seek to ensure that none of the rooms has six occupants. The DPM welcomed this arrangement by the Centre, as the lower number of the people in each room allows them to feel less cramped. The Head explained that a total of 57 persons were employed in CT. Among them are two administrators, four nurses, five social workers (one of them on maternity leave), seven logistics workers, five inspectors conducting procedures with residents, 26 police officers and the Head with two Assistants. He adjudged the staff level sufficient, and that the Jesuit Refugee Service regularly involved in work with the residents is also helpful.

We also found that employees have the opportunity for professional education in organised courses (such as first aid refresher course, seminary on posttraumatic stress disorder and similar), or elsewhere if possible (recently, two of the social workers had attended workshops on manual skills). This applies both to uniformed employees of the police and social and health care workers, since well-qualified employees and exchange of experience and good practices in all areas are always welcome. The DPM welcomes this approach by the management. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) has already emphasised that the personnel at centres for aliens deprived of liberty have a particularly demanding task and must therefore be carefully selected and adequately educated and qualified, especially to recognise potential symptoms of stressful reaction among detainees. The personnel must be skilled in interpersonal communication and have knowledge of different cultures, and at least some of them should speak foreign languages.

The situation as we describe it in CT is a good starting point both in terms of living conditions and work with detainees, although the funding is not sufficient for all activities. As the main innovation, the Head highlighted cooperation with the International Organisation for Migration (IOM) established at the initiative of CT. This is a programme of aid for return and integration in the country of origin for those who want to return home. Under this programme, IOM is qualified to provide those interested with two options. The first is to help the alien to return, especially by providing them with relevant, concrete information, travel costs and funds for travel and, if necessary, with an escort for the journey. The other option is aimed at helping the person reintegrate in the country of origin. In this case, they receive pocket money

bivalnih, zaposlitvenih, zdravstvenih (na primer na katerega zdravnika naj se obrne ali kje lahko dobi zdravilo, ki ga potrebuje, in podobno) in drugih možnosti. Poglavitna prednost tega programa je, da je tujec precej bolj pripravljen na vrnitev. Na podlagi tega programa se je v svojo državo vrnilo že več tujcev, ki so bili na podlagi dovolitve zadrževanja v Republiki Sloveniji že pet ali več let. Po mnenju pomočnika vodje CT je bilo od začetka leta 2010 s programom seznanjenih 23 tujcev, za sodelovanje pa se jih je nato odločilo 11. Ker je IOM organizacija, ki že več kot pol stoletja deluje na področju migracij in ima mrežo svojih pisarn ter partnerjev razširjeno po vsem svetu, so centru večkrat v pomoč tudi pri pridobivanju informacij v zvezi z državami, s katerimi se pri svojih postopkih ne srečujejo pogosto. DPM pozdravlja opisano udeležanje določbe iz drugega odstavka 50. člena Zakona o tujcih (ZTuj-1), ki policiji daje možnost, da pri prostovoljni odstranitvi tujca sodeluje tudi z drugimi državnimi organi, mednarodnimi ali nevladnimi organizacijami. Element prostovoljnosti in izvajanje reintegracijskega programa v državi izvora je za tujca nedvomno možnost z boljšimi pogoji vrnitve.

Po mnenju DPM je ključno tudi to, da so tujci čim bolj vsestransko obveščeni o svojem položaju, pravicah in dogajanju zunaj centra. Tujce o postopkih seznanjajo policijski inšpektorji. Tujci lahko tudi pokličejo na svoje diplomatsko-konzularno predstavništvo in se o zadevah prepričajo sami. Vedno pa se lahko obrnejo tudi na socialno delavko, ki jih po potrebi tudi prijavi na pogovor s pristojnim delavcem centra. Vodja je pojasnil, da je tujcem poleg ustnega obveščanja, za kar skrbijo strokovni delavci centra, zagotovljeno tudi pisno obveščanje. Tako ob sprejemu oziroma nastanitvi v center prejmejo informacijsko zloženko, ki je trenutno prevedena v sedem tujih jezikov in v kateri so navedene temeljne informacije o CT, predpisih, pravilih, razlogih nastanitve, možnostih nastanitve na različnih oddelkih, bivanju zunaj centra, pravicah in dolžnostih ter zdravstveni oskrbi. Poleg tega so navedeni še nekatere pomembne telefonske številke in naslovi nevladnih in drugih organizacij, na katere se lahko tujci obrnejo po nasvet in pomoč.

Prosilce za mednarodno zaščito, ki so nastanjeni v CT, obiskujejo socialni delavci iz azilnega doma in predstavniki referata za operativne zadeve, ki jih obveščajo v zvezi s postopkom za pridobitev mednarodne zaščite. Nevšečnosti v postopkih s tujci so po pojasnilih pomočnika predvsem takrat, ko ni zadovoljivega sodelovanja tujca, ker ta namerno skriva svojo identiteto, in je nato tudi odzivanje izvirne države vse prej kot hitro ali pa odziva sploh ni. Če se osebe v danem trenutku ne more zadovoljivo sporazume(va)ti s tujcem zaradi jezikovnih ovir, izberejo s seznama ustreznega prevajalca in se dogovorijo za posredovanje. Če to okoliščine dopuščajo, poteka komunikacija s tujcem v tem primeru kar po telefonu. Po pojasnilih vodje se tako lahko hitreje ugotovi problem, kar je v nekaterih primerih ključno, ali se vsaj prihranijo stroški in čas, ki bi ga prevajalec potreboval za prihod v center le zaradi pojasnila. Prevajalec po potrebi pride tudi v CT.

Če želijo tujci nekatere informacije pridobiti prek svetovnega spleta, se morajo obrniti na socialno delavko, ki jim zelene vsebine izroči v pisni obliki. Po pojasnilih vodje je glede zagotovitve neposrednega dostopa tujcem do tega medija sporen predvsem varnostni vidik, saj bi bilo praktično nemogoče preprečevati dostop do vseh vsebin, ki bi utegnile biti sporne. Na naše vprašanje o morebitnih investicijah v CT po našem prejšnjem obisku nam je vodja pojasnil, da ni izvedena preureditev stavbe ob nastanitvenem delu v telovadnico. Do leta 2012 naj bi bila šele pripravljena potrebna dokumentacija. Po njegovih zagotovilih pa naj bi že v dveh do treh mesecih od našega tokratnega obiska prenovili oddelek za moške. Za to so se odločili predvsem zaradi izboljšanja varnosti. Pridobili naj bi nadzorno sobo, drugače naj bi uredili kadilnico in prostor za namizni tenis. Vodja je še dodal, da bodo obenem poskrbeli tudi za še en TV-sprejemnik na tem oddelku, kot je DPM predlagal ob lanskem obisku, ker so nekateri tujci navajali, da so pri izbiranju televizijskega programa prek edinega TV-sprejemnika pogosti spori. V CT naj bi še letos uredili tudi atrij.

and they are assisted in arranging housing, employment, health care (for example, which doctor to contact or where the medication they need can be obtained and similar) and other issues. The main advantage of this programme is the fact that the person is much better prepared for the return. Several people who had been staying in the Republic in Slovenia for five or more years on the basis of a residence permit returned to their countries under this programme. According to the Assistant Head of CT, 23 detainees had been informed about this programme since the beginning of 2010 and 11 had decided to participate. Since IOM is an organisation operating in the migration field for more than half a century and it has offices and partners around the world, they frequently help the Centre in obtaining information on countries with which the Centre does not often come into contact. The DPM welcomes this exercise the provision referred to in the second paragraph of Article 50 of the Aliens Act (ZTuj-1), which gives the police the opportunity to cooperate with other authorities, international or non-governmental organisations when performing the voluntary removal of a detainees. The element of free choice and implementation of the reintegration programme in the country of origin undoubtedly provides people with better conditions of return.

According to the DPM, it is essential that the detainees receive as much information as possible on their situation, rights and events outside the Centre. Police inspectors inform the residents on the procedures. The detainees may also telephone their diplomatic mission or consular post for confirmation. They can always contact the social worker, who can act on their behalf to apply for a meeting with the competent worker of the centre. The Head explained that in addition to verbal information, which was provided by the expert workers of the Centre, the aliens were also informed in writing. Upon admission and accommodation in the Centre, they receive an information leaflet currently translated into seven languages which states essential information on CT, the rules and regulations, reasons for the detention, possibilities of being accommodated in various sections, staying outside the Centre, rights and obligations, and health care. The leaflet also includes some important telephone numbers and addresses of non-governmental and other organisations that may be contacted for advice and help.

Applicants for international protection accommodated in CT are visited by social workers from the Asylum Centre and representatives of the Operational Desk, who inform them regarding procedures for obtaining international protection. According to the Assistant, inconvenience related to the aliens procedures happen when they do not cooperate to a satisfactory extent by he or she intentionally hiding his or her identity, and the response of the country of origin is then slow or non-existent. If at any given time the personnel cannot adequately communicate with the detainee due to language barriers, a suitable interpreter is selected from the list and intervention is agreed upon. If the situation allows, in such cases, communication with the detainee is performed by telephone. As the Head explained, this is the quickest way to find the problem, which is sometimes essential, or at least the costs and time needed for the interpreter to come to the Centre only for an explanation are saved. If required, the interpreter also comes to CT.

If the detainees wish to obtain some information through the internet, they must address the social worker, who then provides the desired information in written form. As the Director explained, the security aspect is the most important in providing detainees with direct access to this medium, since it would be practically impossible to prevent access to any potentially controversial page. As a response to our questions referring to potential investments in CT after our previous visit, the Head explained that the building next to the accommodation area had not been transformed into a gym. All the required documents should be prepared by 2012. He assured that in two to three months after the current visit, the male department would be refurbished. This is being done to improve security. A surveillance room would be obtained, and a smoking room and place for table tennis would be rearranged. The Head added that they would also provide another television set in this department, as the DPM had proposed on the previous visit, because some detainees had stated that disagreements frequently occur when selecting the TV programme on the only TV-set. An atrium will also be arranged in CT.

Vodja je povedal, da je še vedno precej uničevanja inventarja. Tujci namreč pogosto trgajo ležišča in vanje skrivajo razne predmete. Tudi člani DPM smo opazili, da so bila vratca nabiralnika za pritožbe na moškem oddelku tudi tokrat nekoliko poškodovana (a drugače kot ob lanskem obisku).

Tujci, nastanjeni na oddelku za ranljive skupine, lahko nosijo svoja oblačila, če želijo, pa tudi oblačila centra; ta morajo nositi tujci na oddelku za moške. Leta 2006, ko je Varuh obiskal CT, takrat na podlagi Zakona o varuhu človekovih pravic, je predlagal manjšo uniformiranost z večjim poudarkom na individualnosti in spoštovanju. Center je temu predlogu sledil in je tujcem delil majice v različnih barvah, vendar se zdaj dogaja, da želijo tujci prav tako majico, kot jo ima nekdo drug.

Ob ogledu prostorov CT se je bilo z nami pripravljenih pogovoriti 12 tujcev, od tega tri ženske in sin ene izmed njih na oddelku za ranljive skupine ter osem tujcev na oddelku za moške. Tujci se v teh pogovorih večinoma niso pritoževali nad odnosom osebja do njih ali nad bivanjem v centru. Dodajamo le, da je tujec na oddelku za ranljive skupine kot edino moteče izpostavil, da »se nič ne dogaja«.

V letu 2009 je bilo v CT osem primerov obravnavanja tujcev zaradi suma storitve prekrška po Zakonu varstvu javnega reda in miru (od tega je šlo štirikrat za nedostojno vedenje do uradne osebe in štirikrat za obračun med tujci), trikrat pa zaradi suma storitve kaznivega dejanja (tatvina, napad na policista, ponarejen bankovec). V istem letu so bila prisilna sredstva uporabljena v desetih primerih zoper 12 tujcev. Pri tem je bila petkrat uporabljena fizična sila, trikrat vezanje in vklepanje, enkrat plinski razpršilec in vklepanje ter enkrat plinski razpršilec in fizična sila. V nobenem primeru pa pri tem ni bil nihče poškodovan, tudi nobene pritožbe ni bilo. Te okoliščine po mnenju DPM ne kažejo na čezmerno uporabo prisilnih sredstev in tudi tujci tega v pogovorih niso izpostavljali. To je treba pozdraviti.

V istem obdobju so štirje tujci poskušali storiti samomor ali se poškodovati (poskus obešanja, ki ga je preprečil policist, zaužitje večje količine tablet, primer razbitja ogledala, s katerim se je tujec nato porezal, in primer poškodbe s kemičnim svinčnikom). Izvedenih je bilo tudi sedem gladovnih stavk, vendar nobena ni trajala več kot šest dni. Po pojasnilih vodje pri tem vselej ravnajo po t. i. malteških načelih (ko oseba sporoči svojo odločitev, da gladovno stavka, jo zdravnik pregleda, jo seznanijo z njenim zdravstvenim stanjem, posledicami namernega stradanja, dnevno spremlja njeno odločitev, ali bo stavko nadaljevala, in podobno). V CT so zaposlene štiri medicinske sestre, ki delajo v dveh izmenah od 7.00 do 22.00, tudi ob koncih tedna, z dvema splošnima zdravnikoma in dvema psihiatroma pa imajo sklenjene pogodbe. Vodja je posebej izpostavil, da oba zdravnika delata na urgenci, kar je prednost, saj sta vajena hitrega ukrepanja, to pa je v nekaterih primerih poglavitno. Medicinska sestra je navzoči izvedenki še pojasnila, da zdravnika prihajata v center po potrebi, ko ga pokliče katera izmed medicinskih sester. Te so večkrat na oddelkih in tujci se lahko takrat tudi prijavijo za obisk pri zdravniku. Vsakega tujca zdravnik pregleda v 24 urah od sprejema v CT, razen ob koncih tedna, ko to naredi sestra, po potrebi pa tudi obvesti zdravnika. Tudi psihiatra prihajata v CT po potrebi, vsi pa so tudi vselej na voljo za svetovanje po telefonu. V nujnih primerih posredujejo zdravniki iz zdravstvenega doma Postojna in tudi s tem naj ne bi bilo težav. Tujce po potrebi odpeljejo tudi k specialistu (zobozdravniku, ginekologu, pediatru, pulmologu idr.). Občasno se zgodi, da kdo ostane na zdravljenju v bolnišnici.

Po navedbah medicinske sestre vsa zdravila delijo same, tujcem pa se predpisujejo predvsem antidepresivi, pomirjevala, uspavala in zeliščne tablete. Vodja je v uvodnem pogovoru pojasnil, da se trudijo preprečevati, da bi imeli tujci zdravila pri sebi oziroma jih kopičili, saj se je že zgodilo, da je kdo zaužil večje količine tablet naenkrat. Zdaj jih drobijo, če je to mogoče, in tujec mora zdravilo zaužiti v navzočnosti zdravstvenega delavca. Če so tujci odvisni od psihoaktivnih snovi, odtegnitveno krizo obravnava psihiater, sicer pa se po

The Director said that inventory was still being destroyed. The detainees often tear mattresses and hide various objects in them. Member of the DPM also noticed that the lid of the complaint box in the male department was somewhat damaged (but not in the same way as on last year's visit).

Detainees accommodated in the department for vulnerable groups may wear their own clothes, or, if they wish, the Centre uniform; detainees in the male department are obliged to wear the Centre uniform. When the Ombudsman visited CT in 2006 on the basis of the Human Rights Ombudsman Act, he proposed less uniformity by putting more emphasis on individualism and respect. The Centre followed the proposal and detainees received T-shirts in various colours; however, now the detainees want to have exactly the same T-shirt as another person.

During the inspection of the CT premises, 12 detainees were willing to talk to us: three women and the son of one of them in the department for vulnerable groups, and eight men. In general, they did not complain about the attitude of the personnel towards them or about staying in the Centre. We should add that the only disturbing thing pointed out by one person in the department for vulnerable groups was that "nothing was going on".

In 2009, there were eight cases of dealing with the detainees in CT due to suspicion of an offence under the Protection of Public Order Act (of which four were cases of indecent conduct towards an official, and four were confrontations between detainees) and three cases of suspicion of a criminal act (theft, assault on a police officer, forged banknote). In the same year, force was used in ten cases against 12 detainees. Physical force was used five cases, restraint and mechanical constraints were used three times, a gas dispenser and mechanical constraints were used once, and a gas dispenser and physical force were used once. No one was hurt and there were no complaints. According to the DPM, these circumstances show that means of force were not used excessively, nor did the detainees highlight it in our meetings. This is commendable.

In the same period, four detainees attempted to commit suicide or self-injury (attempted hanging which was prevented by a police officer; attempted overdose on tablets; broken mirror, which was used by the person to cut himself; and injury with a ball-point pen). Seven hunger strikes took place, but none lasted for more than six days. As the Head explained, they always act according to the so-called Maltese principles (when a person declares a hunger strike, the doctor examines them, informs them on their health status and on the consequences of deliberate starvation, monitors daily their decision to continue, and similar). CT employs four nurses working in two shifts from 7.00 to 22.00 including weekends and has contracts with two general practitioners and two psychiatrists. The Head specifically pointed out that both doctors work in the emergency department, which is an advantage as they are used to acting quickly, which is sometimes essential. The nurse additionally explained to the expert present that the doctors came to the Centre if necessary, when one of the nurses called. Nurses go to the departments frequently and detainees can apply for a consultation with a doctor. Each detainee is examined by the doctor within 24 hours of admission to CT, except on weekends, when they are examined by the nurse who informs the doctor if necessary. The psychiatrists also come to CT when necessary, and all doctors are always available for telephone consultations. In cases of emergency, doctors from Postojna Health Care Centre intervene, which does not pose problems. If necessary, detainees are also taken to a specialist (dentist, gynaecologist, paediatrician, pulmonologist, etc.). Occasionally someone stays in hospital for treatment.

According to the nurse, all medications are dispensed by nurses, and detainees are mostly prescribed antidepressants, sedatives, soporifics and herbal tablets. In the introductory discussion, the Head explained that they made efforts to prevent detainees from having medicines with them or accumulating them, as someone had once ingested a large number of tablets. If possible, tablets are crushed and the detainee must take the medication in the

pojasnilih vodje trudijo čim prej končati nastanitev takega tujca v CT. Medicinska sestra je izvedenki še povedala, da odvisniki v odtegnitveni krizi dobijo metadon, če imajo dokazilo, da so ga dobivali že zunaj. CT dobi metadon v zdravstvenem domu Ljubljana Center, in to za več dni, shranjujejo pa ga v hladilniku. Urinskih testov ne izvajajo, ker po pojasnilih medicinske sestre za to ni potrebe, saj pacienti niso videti intoksicirani. Za pritožbe v zvezi z zdravstveno oskrbo je v CT predvidena enaka pritožbena pot kot za vse drugo. Kot je zagotovila medicinska sestra, tovrstnih pritožb ni, teh nismo slišali v pogovorih niti od tujcev. Da je zagotavljanje zdravstvene oskrbe za tujce v CT ustrezno, kaže tudi podatek, da je bilo v letu 2009 opravljenih 91 specialističnih in 1.394 kurativnih pregledov. Tudi izvedenka meni, da je zdravstvena oskrba v CT ažurna in kakovostna.

Tako kot že ob lanskem obisku tudi letos nismo opazili jedilnika na vidnem mestu niti v jedilnici. Dobili smo ga na vpogled od ravno tedaj navzoče razdeljevalke hrane, ki ga je kmalu spet potrebovala, saj je ravno delila kosilo. Pozneje nam je fotokopiran izvod jedilnika izročil vodja CT, ki je pojasnil, da jedilnikov ne prevajajo v noben tuj jezik. Nekaj časa so jih nameščali na vrata oddelkov, vendar se to ni obneslo, ker so jih tujci trgali. Kljub takšni izkušnji je DPM predlagal, naj CT poskrbi za prevod tedenskega oziroma mesečnega jedilnika v tujcem razumljive jezike, saj jedilnik v slovenskem jeziku večini nastanjenih tujcev ni razumljiv in zato tudi nima pravega pomena – seznanitvi tujcev s hrano, ki jo bodo užili. V zvezi z organiziranimi dnevnimi aktivnostmi za tujce v CT po lanskem obisku ni bilo večjih sprememb. Pri izvajanju kulturnih, rekreativnih in drugih družabnih aktivnosti za tujce je ključna jezuitska služba za begunce, ki v okviru prostovoljnega dela dvakrat na teden prihaja v CT. Nazadnje so le približno teden dni pred našim obiskom organizirali tokrat že četrte igre brez meja, pred tem pa so pripravili medkulturni večer, na katerem so tujci predstavili svoje države, ob velikonočnih praznikih pa ustvarjalne delavnice barvanja jajc.

CPT je že pojasnil, da morajo centri, v katerih se tujcem omejuje prostost za daljši čas, nuditi ustrezne materialne razmere in hišni red, primeren pravnem položaju pridržanih tujcev, v njih pa mora biti zaposleno primerno kvalificirano osebje. V zvezi z organiziranimi aktivnostmi za tujce pa naj bi veljalo, da daljše ko je obdobje, v katerem jim je omejena prostost, večja bi morala biti ponudba aktivnosti. Ob tokratnem obisku se je še izkazalo, da so materialne razmere bivanja tujcev v CT večinoma dobre. Enako velja za splošen vtis ob obisku, opisan zgoraj. Med tujci je vladalo sproščeno vzdušje in tudi v pogovorih niso izpostavljali okoliščin, ki bi kazale na mučenje ali drugo kruto, nečloveško ali ponižujoče ravnanje z njimi v centru. Manj spodbudno pa je stanje glede organiziranih aktivnosti za tujce. CT je v odzivnem poročilu izpostavil prizadevanja socialnih delavk centra, ki se poleg drugega trudijo in organizirajo razne tematske delavnice izdelovanja izdelkov ter spodbujajo ročne spretnosti tujcev. Ugotavlja pa, da so tujci kljub trudu in prizadevanju osebja velikokrat le pasivni opazovalci dogajanja.

Ministrstvo za notranje zadeve (MNZ) nam je sporočilo, da nimajo pripomb na naše poročilo o obisku CT in da bo center naše predloge za izboljšanje kakovosti bivanja upošteval pri načrtovanju in izvajanju svojih aktivnosti. Uresničitev te napovedi pa bomo preverili ob naslednjem obisku CT.

presence of a health care professional. If a detainee is addicted to psychoactive substances, the withdrawal crisis is treated by the psychiatrist; otherwise, as the Head explained, they attempt to terminate the accommodation of such detainees in CT. The nurse also told the expert that addicts in the withdrawal phase receive methadone if there is evidence they had been receiving it before detention outside. CT obtains methadone in quantities sufficient for several days from Ljubljana Center Health Care Centre and keeps it in a refrigerator. Urine tests are not performed, as, according to the nurse, they are not necessary, since the patients do not appear intoxicated. The same complaint procedure as for other issues also applies to complaints related to health care. As assured by the nurse, there are no such complaints, nor did we hear them when talking to detainees. The provision of health care for the detainees in CT is adequate, as also evidenced by the fact that 91 specialist and 1394 curative examinations were performed in 2009. The expert also believes that the health care in CT is prompt and good quality.

The menu was not located in a visible position, not even in the dining room, which was the same as on last year's visit. The person serving the food enabled us to inspect it, but she soon needed it again because she was in the middle of serving lunch. The Head of CT provided us with a photocopied menu and explained that the menus were not translated into any foreign language. For some time, they had been placing it on section doors, but this was unsuccessful as detainees had torn them. Despite such experience, the DPM proposed that CT provide a translation of the weekly or monthly menu into languages comprehensible to detainees, as a menu in Slovenian was not understandable for the majority of them and therefore did not serve its purpose – to inform them of what food was on offer. There were no major changes related to the organised daily activities for detainees in CT since our last visit. The key role for performing cultural, recreational and other social activities for the detainees is assumed by the Jesuit Refugee Service, who visit twice weekly on a voluntary basis. A week before our visit, they organised the fourth Games without Borders, and before that, they had prepared an intercultural evening where the aliens presented their countries; for Easter, they organised creative workshops of egg painting.

CPT already explained that centres where detainees are deprived of liberty for a longer period must provide adequate physical conditions and house rules corresponding to the legal situation of aliens and employ adequately qualified personnel. When organised activities for aliens are concerned, the period their liberty is deprived, the more activities should be provided. This visit also demonstrated that the physical conditions for detainees in CT are generally good. The same applies to the general impression described above. The atmosphere among the detainees was relaxed and they did not draw attention to any circumstances indicating torture or other cruel, inhuman or degrading treatment. Less encouraging is the situation relating to the organised activities for detainees. In its response report, CT emphasised the efforts of the Centre's social workers, who organise different thematic workshops of manufacturing products and stimulate the detainees manual skills. However, they establish that the detainees, despite all the efforts of the personnel, often remain passive observers of the event.

The Ministry of the Interior (MNZ) informed us that they did not have any comments on our report on the visit to CT and that the Centre would consider our proposals on how to improve the quality of life in planning and implementing their activities. Whether this forecast is realised, we will determine on the next visit to CT.

5. Obiski psihiatričnih bolnišnic

Varuh človekovih pravic Republike Slovenije (Varuh) je na podlagi nalog in pooblastil državnega preventivnega mehanizma (DPM) po Opcijskem protokolu h Konvenciji proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju v letu 2010 obiskal psihiatrični bolnišnici v Vojniku in Idriji. Pri tem smo si ogledali tiste oddelke bolnišnic, ki so v skladu z Zakonom o duševnem zdravju (ZDZdr) oddelki pod posebnim nadzorom. Oba obiska sta bila nenapovedana. V enem primeru so obisk opravili predstavniki Varuha skupaj s predstavnikoma pogodbenih nevladnih organizacij, in sicer Pravno-informacijskega centra nevladnih organizacij (PIC) in Rdečega križa Slovenije, v drugem primeru pa so obisk bolnišnice zaradi nezmožnosti sodelujočih nevladnih organizacij zagotoviti svojega predstavnika opravili le predstavniki Varuha. Glavni namen obiska je bil preveriti ravnanje z osebami, nastanjenimi na oddelkih pod posebnim nadzorom, s ciljem, da se odpravijo morebitne ugotovljene pomanjkljivosti. Prvi del obiska je bil namenjen uvodnemu pogovoru z vodstvom bolnišnice, ki so mu sledili ogled oddelkov pod posebnim nadzorom, pregled naključno izbranih primerov v evidencah, ki jih morajo bolnišnice voditi v skladu z določbami ZDZdr, in pogovor z naključno izbranimi bolniki, ki so se bili pripravljene z nami pogovarjati. Obisk smo končali s ponovnim pogovorom z vodstvom bolnišnice, v katerem smo vodstvo seznanili z najpomembnejšimi opažanji in v primerih, ko je bilo to mogoče, predlagali tudi takojšnje odpravo ugotovljenih nepravilnosti. O obeh obiskih smo pripravili poročilo z ugotovitvami in priporočili za izboljšanje stanja. Končno poročilo je pripravljeno po odzivnem poročilu obiskanih bolnišnic, upoštewane so njihove morebitne pripombe, v nekaterih primerih tudi že sprejeti ukrepi v zvezi s priporočili DPM. Vsako končno poročilo je bilo posredovano v vednost razširjenemu strokovnemu kolegiju za psihiatrijo pri Ministrstvu za zdravje in tudi Ministrstvu za zdravje. V nadaljevanju predstavljamo ključne ugotovitve DPM o teh dveh obiskih, posamezna končna poročila pa so objavljena na spletni strani <http://www.varuh-rs.si/o-instituciji/podrocja-delavaruha/varuh-kot-drzavni-preventivni-mehanizem/>.

Oddelki pod posebnim nadzorom

Bolnišnica Vojnik ima dva oddelka pod posebnim nadzorom, in sicer sprejemni ženski in sprejemni moški oddelek s po 25 posteljami. Bolnišnica Idrija pa ima štiri oddelke pod posebnim nadzorom, in sicer sprejemni ženski oddelek z 21 posteljami, sprejemni moški oddelek z 20 posteljami, gerontopsihiatrični (mešani) oddelek s 17 posteljami in splošni psihiatrični (moški) oddelek z 22 posteljami.

Čeprav se število forenzičnih pacientov (pacienti, ki so v bolnišnico nameščeni na podlagi izrečenega ukrepa obveznega psihiatričnega zdravljenja in varstva v zdravstvenem zavodu) v obeh bolnišnicah zmanjšuje, je bila zaradi posebnosti tovrstnih pacientov v obeh bolnišnicah izpostavljena potreba po ustanovitvi t. i. forenzične bolnišnice. Po pridobljenih informacijah so forenzični pacienti za obe bolnišnici tudi precejšnja finančna obremenitev, saj je za njihovo zdravljenje le za prvih 48 dni »priznana« polna cena oskrbnega dne, po tem pa le polovična cena oskrbnega dne (približno 45 evrov na dan). Med našim obiskom v oddelkih pod posebnim nadzorom v nobeni bolnišnici posteljne zmogljivosti niso bile presežene. Sobe so bile prostorne, z dnevno svetlobo in možnostjo prezračevanja. Standardna oprema v sobah je vključevala posteljo, nočno omarico in garderobno omaro. Oprema v sobah je bila ustrezno vzdrževana in je imela svoj namen. V bolnišnici Vojnik smo pogrešali nočne lučke pri posteljah. To je lahko moteče v večposteljni sobi, ko pacient ponoči prižge glavno luč in zmoti nočni počitek drugih pacientov. Zato smo bolnišnici predlagali, naj prouči možnosti za namestitev nočnih lučk pri vseh posteljah v obeh oddelkih pod posebnim nadzorom. Bolnišnici Idrija pa smo predlagali, naj namesti manjkajoče nočne omarice ob posteljah.

Presodili smo, da je v vseh oddelkih pod posebnim nadzorom ustrezno poskrbljeno za higieno pacientov ter da razpoložljive posteljne zmogljivosti in drugi prostori oddelkov

5. Visits to psychiatric hospitals

In 2010, on the basis of exercising the duties and powers of the National Preventive Mechanism according to the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the Human Rights Ombudsman of the Republic of Slovenia (the Ombudsman) visited the psychiatric hospitals in Vojnik and Idrija. We inspected all hospital wards which, in accordance with the Mental Health Act (ZDZdr), are secure wards. Both visits were unannounced. One visit was performed by the Ombudsman's representatives together with representatives of the contractual non-governmental organisations, namely the Legal Information Centre of NGOs (PIC) and Slovenian Red Cross, and the other visit was performed only by the Ombudsman's representatives since the participant non-governmental organisations were not able to provide their representative. The main purpose of the visit was to monitor how persons accommodated in secure wards were treated, with the aim of eliminating any potential established irregularities. The first part of the visit was dedicated to an introductory interview with the management of the hospital, followed by an inspection of secure wards, a review of randomly chosen cases in files which have to be kept in accordance with the provisions set forth in ZDZdr, and interviews with randomly chosen patients who were willing to talk to us. At the end of the visit, we spoke to the management of the hospital again and informed them of the most important observations and, when possible, proposed that they promptly eliminate the established irregularities. Reports on the findings were prepared after both visits, including recommendations to improve the situation. The final report was prepared following the response report by the visited hospitals, taking into account potential comments and in some cases, the adopted measures related to DPM recommendations. Each final report was submitted for information to the Expanded Professional Board of Psychiatry at the Ministry of Health and to the Ministry of Health. The key findings of the DPM relating to the two visits are presented below, and both final reports are published on the web page <http://www.varuh-rs.si/o-instituciji/podrocja-delavaruha/varuh-kot-drzavni-preventivni-mehanizem/>.

Secure wards

Vojnik Hospital has two secure wards, a female reception ward and a male reception ward, each having 25 beds. The Idrija Hospital has four secure wards, a female reception ward with 21 beds, a male reception ward with 20 beds, a geronto-psychiatric (mixed gender) ward with 17 beds, and a general psychiatric (male) ward with 22 beds.

Although the number of forensic patients (patients accommodated in the hospital on the basis of imposed obligatory psychiatric treatment and custody in a health institution) in both hospitals is decreasing, the need to set up a so-called forensic hospital was emphasised in both hospitals due to the particular needs of such patients. According to the obtained information, forensic patients also constitute a major financial burden for both hospitals, since the full cost of a day of care is only "recognised" for the first 48 days of treatment; thereafter, only half the cost is recognised (approximately EUR 45 per day). During our visit, capacities in secure wards were not exceeded in any hospital. The rooms were spacious, with daylight and the possibility of ventilation. The standard room equipment included a bed, a night-stand table and a wardrobe. Equipment in the rooms was properly maintained and served its purpose. There were no bed-side reading lights in Vojnik Hospital. This could be disturbing in multiple-bed room when a patient switches on the main light and disturbs other patients. Therefore, we proposed that the hospital consider the possibility of installing bed-side reading lights for all beds in both secure wards. We proposed to the Idrija Hospital to replace the missing bed-side night stand tables.

We assessed that in all secure wards, the hygiene of patients was adequately provided for and that the available beds and other rooms in secure wards provided the patients with sufficient

pod posebnim nadzorom pacientom nudijo zadosten bivalni prostor. Smo pa ugotovili, da so skupni prostori in sobe oddelkov pod posebnim nadzorom delovali hladno in pusto, brezosebno in nič kaj spodbudno, saj opremljena oziroma dekoraciji bolnišnici (očitno) ne namenjata dovolj pozornosti. DPM meni, da je vizualno primeren bivalni prostor prav gotovo pomemben za ustvarjanje pozitivnega terapevtskega okolja. Tako v nekaterih sobah nismo opazili niti enega osebnega predmeta v sobi nastanjenih pacientov ali katerega drugega dekorativnega predmeta. Še več, dobili smo vtis, da v sobi ni bil nastanjen nihče. Tudi na stenah hodnikov in v sobah drugih oddelkov pod posebnim nadzorom ni bilo mogoče opaziti vsaj likovnih izdelkov pacientov, ki jih, izdelanih v okviru aktivacijske terapije, prav gotovo ni malo. Bolnišnicama smo predlagali, naj sobe pacientov, vsekakor pa skupne prostore opremlita z izdelki pacientov, ki imajo estetsko vrednost in ustvarjajo bolj optimistično vzdušje. Okrasitev prostora za paciente pomeni tudi vizualno spodbudo, ki naredi prostor bolj domač in tako pacientu prijazen.

V obeh bolnišnicah, tudi v posameznih oddelkih pod posebnim nadzorom, smo opazili različno prakso nošenja dnevniških oblačil pri pacientih. Tako so bili v obeh oddelkih pod posebnim nadzorom bolnišnice Vojnik pacienti v bolniškem perilu, v bolnišnici Idrija pa je bila v bolniškem perilu večina pacientov v gerontopsihiatričnem oddelku, nekateri pa tudi v sprejemnem moškem oddelku.

Izkušnje kažejo, da praksa nošenja bolniškega perila ne prispeva h krepitvi osebne identitete pacienta in njegove samozavesti. Ker je individualizacija oblačenja v oddelkih pod posebnim nadzorom lahko pomemben del terapevtskega procesa, je prav, da bolnišnice paciente čim bolj seznanjajo z možnostjo nošenja lastnih dnevniških oblačil in jih pri tem spodbujajo, razen tedaj, ko to otežujejo ali celo onemogočajo posebnosti zdravstvene nege posameznega pacienta. Tudi po mnenju razširjenega strokovnega kolegija za psihiatrijo (RSK) je oblačilo, ki ga nosijo osebe, ki so hospitalizirane na oddelkih pod posebnim nadzorom, izredno pomembno za njihovo samopodobo in osebno dostojanstvo, zato tudi na teh oddelkih spodbujajo nošnjo osebnih oblačil ter jo argumentirajo s strokovnimi in humanističnimi dejavniki. RSK spodbuja nošnjo osebnih oblačil tudi pri osebjem na psihiatričnih oddelkih. Obe bolnišnici se srečujeta s kadrovsko stisko zaradi pomanjkanja zdravnikov psihiatrov, kar se kaže pri kakovosti dela s pacienti, saj so zaposleni zdravniki psihiatri zaradi velikega števila pacientov preobremenjeni in se pacientom ne morejo posvetiti tako, kot bi želeli. Ena od bolnišnic pa je opozorila tudi na neustrezno ureditev opravljanja specializacij, ki ne upošteva dejanskih potreb regije in bolnišnice po specializantih.

Sprejemi brez privolitve v oddelk pod posebnim nadzorom

Bolnišnici vodita centralno evidenco o sprejemih na zdravljenje v oddelk pod posebnim nadzorom brez privolitve v nujnih primerih, hkrati pa dokumentacijo o sprejemih brez privolitve vodijo tudi v zdravstvenih kartonih posameznih pacientov. Obe bolnišnici pa sta ob obisku DPM izpostavili, da so zakonsko določeni roki za obveščanje (pre)kratki. Za obveščanje o sprejemih brez privolitve bolnišnici uporabljata obrazce, za katere smo ugotovili, da so pripravljene na podlagi Zakona o duševnem zdravju (ZDZdr).

Vpogled v naključno izbrane zdravstvene kartone pacientov in evidenco sprejemov brez privolitve pa je pokazal, da v nekaterih primerih niso bili spoštovani roki, ki jih ZDZdr določa za obveščanje, v nekaterih primerih pa zaradi navedene ure sprejema brez privolitve na obvestilo ni bilo mogoče preveriti, ali je bilo obvestilo o sprejemu brez privolitve poslano pravočasno. V nekaterih primerih smo ugotovili, da je pomanjkljivo tudi vodenje individualne dokumentacije o sprejemih brez privolitve, saj v zdravstvenih kartonih ni bilo nekaterih obrazcev.

accommodation space. However, we observed that common rooms and secure ward rooms left a cold and bleak impression, impersonal and not really stimulating, as the hospitals (obviously) do not pay enough attention to the equipment or decor. The DPM believes that a visually suitable accommodation room is certainly important to create a positive therapeutic environment. In some patient rooms, no personal or decorative items were observed. We even had the impression that no one was accommodated in that room. Artistic creations made by patients, which must be quite numerous considering the activation therapy, were neither observed on the walls of secure ward halls nor in the rooms of other secure wards. We suggested that the hospitals furnish patient rooms, and particularly common rooms, with patient creations, which have aesthetic value and create a more optimistic atmosphere. Room decoration is also a visual stimulus, making the place more homely and patient-friendly.

In both hospitals, even within each secure ward, we observed different practices regarding the day clothes of patients. In both secure wards in the Vojnik hospital, patients wore hospital clothes; in the Idrija hospital, the majority of patients in gerontopsychiatric ward and some patients in the reception male ward wore hospital clothes.

Experience shows that the practice of wearing hospital clothes does not contribute to strengthening the patient's personal identity and his or her self-confidence. Since the individualisation of clothing in secure wards might be an important part of the therapeutic process, the hospital should inform the patients of the possibility of wearing their own day clothes and encourage them to do so, except when such practice would aggravate or disable the therapeutic care of a patient. Also, according to the Expanded Professional Board of Psychiatry (RSK), clothes worn by persons hospitalised in secure wards are highly important for their self-image and personal dignity; therefore, these wards should encourage the wearing of personal clothes, which is supported by professional and humanistic factors. RSK also encourages personnel working at psychiatric wards to wear personal clothing. Both hospitals are faced with personnel issues due to the lack of psychiatrists, which is evident in the quality of work with patients, since the employed psychiatrists are overburdened by the large number of patients and cannot devote themselves to them to the desired extent. One of the hospitals also pointed out the inadequate organisation of specialisations, which does not take into account the actual region's and hospital's needs for trainee specialists.

Admissions without consent to secure wards

The hospitals keep central records on admissions for treatment without consent to secure ward in urgent cases, and documents on admissions without consent are additionally kept in patient medical records. During the DPM visit, both hospitals highlighted that the statutory time limits for information were (too) short. As we have established, the forms used by the hospitals for notification on admissions without consent were prepared on the basis of the Mental Health Act (ZDZdr).

Access to randomly chosen patient medical records and to records on admissions without consent showed that the time limits specified by ZDZdr for notification were sometimes not observed, and in some cases, it was not possible to verify whether the notification on admission without consent had been submitted in due time, because the time of admission without consent had not been stated on the notification. Occasionally, the archiving of individual documents on admissions without consent was also insufficient, as some medical records did not contain certain forms.

V obeh bolnišnicah smo tako ugotovili, da način vodenja podatkov o obveščanju ne omogoča celovitega pregleda nad spoštovanjem zakonsko določenih rokov in jih ZDZdr določa v urah. Zato smo predlagali zagotovitev doslednega spoštovanja zakonskih rokov, ki so določeni za obveščanje direktorja bolnišnice, najbližje osebe, zakonitega zastopnika in zastopnika o sprejemu brez privolitve in za obveščanje sodišča, za kar poskrbi direktor bolnišnice. Predlagali smo še dosledno in skrbno vodenje evidenc in dokumentacije o sprejemih brez privolitve, saj le to omogoča dokazovanje zakonitosti ravnanja.

Ugotovili smo še, da se pristojno sodišče, na območju katerega je sprejemna psihiatrična bolnišnica, ažurno odziva na obvestila o sprejemu brez privolitve.

Ob obisku smo bili opozorjeni tudi na pogosta razhajanja med mnenjem lečečega zdravnika psihiatra in odločitvijo sodišča glede nujnosti, dopustnosti in trajanja pridržanja oseb proti njihovi volji v oddelku pod posebnim nadzorom ter na to, da sodišče le redko zasliši lečečega zdravnika psihiatra, ampak pri odločitvi upošteva predvsem mnenje zunanjega izvedenca. V primeru enega oddelka pod posebnim nadzorom ene bolnišnice smo ugotovili, da v zdravstvenem kartonu pacienta ni sklepa sodišča o zadržanju osebe v oddelku pod posebnim nadzorom, ampak je le fotokopija sklepa sodišča o uvedbi postopka. Po pojasnilih, ki smo jih prejeli na tem oddelku, sodišče bolnišnici ne pošilja sklepov o zadržanju osebe v oddelku pod posebnim nadzorom. Nasprotno pa nam je bilo pojasnjeno na drugem oddelku pod posebnim nadzorom iste bolnišnice, v katerem smo ob vpogledu v naključno izbrane zdravstvene kartone lahko ugotovili, da so v njih tudi sklepi sodišča o zadržanju. Opozorili smo, da mora sodišče po 66. členu ZDZdr sklep, s katerim odloči o zadržanju (65. člen ZDZdr), vročiti tudi bolnišnici, ki ima pravico do pritožbe zoper tak sklep in ji je z zgoraj opisano prakso ta pravica kršena. Če bolnišnica ne bi vedela za končno odločitev, bi se lahko zgodilo, da bi bil pacient v oddelku pod posebnim nadzorom zadržan brez pravne podlage. Zato smo predlagali, naj bolnišnica v primerih, ko ima le sklep sodišča o uvedbi postopka, ne pa tudi končno odločitev sodišča, predsednika oziroma predsednico sodišča, pri katerem poteka postopek, opozori na to in od sodišča zahteva, naj ji posreduje končno odločitev.

Posebni varovalni ukrepi (PVU)

O odreditvi, izvedbi, trajanju in odpravi PVU bolnišnici vodita evidenco v vsakem oddelku pod posebnim nadzorom in centralno evidenco. Pregled naključno izbranih primerov je pokazal nekatere nepravilnosti oziroma nedoslednosti pri vodenju evidence o PVU, zaradi česar smo predlagali, naj bolnišnici zagotovita dosledno izpolnjevanje podatkov, ki so v skladu s petim odstavkom 29. člena ZDZdr potrebni za vodenje evidence o PVU. V primeru ene bolnišnice smo ob vpogledu v evidenco fiksacij na enem od oddelkov pod posebnim nadzorom ugotovili, da je fiksacija v dveh primerih trajala precej dlje, kot dovoljuje ZDZdr. Izpostavili smo, da bi moral zdravnik v teh primerih posebej pozorno zapisati pacientovo stanje, razloge za podaljšanje PVU in se podpisati. DPM ugotavlja, da je ZDZdr predpisal množico postopkov in evidenc, ni pa zagotovil ustreznega in preglednega načina za spremljanje teh podatkov. Čeprav so se psihiatrične bolnišnice skupaj pripravljale na izvajanje ZDZdr, uporabljajo različne obrazce. Ob množici obrazcev izstopa, da je treba na vsakega ročno vpisovati identifikacijske podatke, poskrbeti, da izpolnjeni obrazci pridejo do vseh naslovnikov in da so arhivirani tako, da jih je mogoče pregledovati. Osebe z izpolnjevanjem teh obrazcev porablja veliko časa, ki so ga pred uvedbo ZDZdr lahko namenjali pogovorom s pacienti. DPM priporoča, naj Ministrstvo za zdravje naroči izdelavo računalniškega programa, ki bi omogočil hitrejšo, doslednejšo in učinkovitejšo spremljanje izvajanja ZDZdr.

In both hospitals, we thus established that the method of keeping data on notification did not provide an integral overview of the observation of the statutory time limits defined in hours by ZDZdr. Therefore, we proposed that they adhere strictly to the statutory time limits specified for the notification of the hospital manager, the next of kin, the legal representative, and the representative on admission without consent, and for the notification of the court, which is arranged by the manager. We also suggested that the records and documents on admissions without consent be kept with consistency and due care, as they constitute evidence on the legality of the action.

We also found that the court competent for the area of the receiving psychiatric hospital promptly responded to the notifications on admissions without consent.

During the visit, we were warned of frequent disagreements between the consulting psychiatrist and the court's decision regarding the urgency, admissibility and duration of detention of persons against their will in the secure ward, and of the fact that the court only rarely heard the consulting psychiatrist and preferred to consider the external expert's opinion. In the case of one secure ward in one hospital, we found that the patient's medical record did not include the court's decision on detaining the person in the secure ward and contained only a copy of the court's decision instituting a procedure. According to the explanations by the ward, the court does not send decisions on the detention of persons in the secure ward to the hospital. However, we received another explanation at the other secure ward of the same hospital, and when accessing the randomly chosen medical records, we were able to locate the court's decisions on detention. We pointed out that according to Article 66 of ZDZdr, the court must submit decisions on detention (Article 65 of ZDZdr) to the hospital, which has the right to appeal against such decisions, and so the above-mentioned practice violates this right. If the hospital is not informed of the final decision, a patient could be detained in a secure ward without a legal basis. We therefore proposed that in cases when the hospital has the only court's decision instituting a procedure and not the final decision of the court, the hospital should warn the president of the court thereof and demand that the court submit a final decision.

Special protection measures (PVU)

The hospitals maintain records of the order, execution, duration and termination of PVUs in each secure ward, and also maintain a central record. A review of some randomly chosen cases showed certain irregularities or inconsistencies in the maintenance of records on PVU, which prompted us to suggest to the hospitals that they provide consistent completion of data required for keeping records on PVU in accordance with the fifth paragraph of Article 29 of ZDZdr. In the case of one hospital, access to the record of restraints in one of the secure wards showed that fixation in two cases had lasted considerably longer than permitted by ZDZdr. We pointed out that in such cases, doctors should be particularly careful in writing down the patient's condition, and reasons for PVU prolongation, and should append their signature. The DPM finds that ZDZdr prescribed a number of procedures and records, but failed to provide an adequate and transparent method of monitoring the data. Although the psychiatric hospitals were preparing together for ZDZdr implementation, they use different forms. With the multitude of forms, it stands out that each of them requires the manual entry of identification data, that submission of the completed forms to all addressees has to be provided, and that they should be archived in a way that enables review. Completing the forms takes up the staff's time, which prior to the implementation of ZDZdr was used for patient interviews. The DPM recommends that the Ministry of Health commission software to enable faster, more consistent and more efficient monitoring of ZDZdr implementation.

Pritožbene poti

V obeh bolnišnicah so pritožbene poti opredeljene v zloženki, ki jo dobi vsak pacient ob sprejemu v bolnišnico. Pacientom se pritožbeni postopek obrazloži tudi ustno. Ob obisku smo ugotovili, da vsebina zloženek ni povsem skladna z vsebino, ki jo narekuje ZDZdr, pravice niso pravilno povzete ali pa so bili navedeni nepopolni podatki. Bolnišnicama smo predlagali, naj zloženke popravita oziroma dopolnita z ustreznimi podatki.

Ugotovili smo še, da v obeh bolnišnicah ni bil spoštovan 16. člen ZDZdr, saj na oglasni deski v nekaterih oddelkih pod posebnim nadzorom nista bila objavljena seznam pravic, ki jih ima oseba po ZDZdr, in hišni red. V obeh bolnišnicah smo tudi opazili, da v nekaterih oddelkih pod posebnim nadzorom ni bilo nabiralnika za pohvale in pritožbe (ali pa je bil pred vrati oddelka) oziroma nabiralnik ni bil primeren zaradi oblike (PVC-mapa za vlaganje papirja) in lokacije (v sestriški sobi). Predlagali smo, naj bolnišnici zagotovita, da bosta v vseh oddelkih pod posebnim nadzorom na vidnem mestu izobešena tako seznam pravic po ZDZdr kot hišni red, ter namestita ustrezen nabiralnik za pohvale in pritožbe v vseh oddelkih pod posebnim nadzorom in tako omogočita pacientom, nastanjenim v teh oddelkih, da pritožbo oddajo anonimno.

6. Obiski domov starejših in posebnih socialnovarstvenih zavodov

V letu 2010 smo obiskali Dom starejših Lendava, Center starejših Cerknica, Dom starejših občanov Krško, Dom starejših občanov Kočevje, Dom počitka Mengeš (naknadno si je ta dom in delovanje zdravstvene službe ogledala tudi izvedenka, ki sodeluje z državnim preventivnim mehanizmom (DPM) s priporočili z zdravstvenega vidika glede nastanitve oseb, ki jim je bila odvzeta prostost) in dva posebna socialnovarstvena zavoda, in sicer Dom upokoencev in oskrbovancev Impoljca, Sevnica, in Dom Nine Pokorn, Grmovje. Vsi obiski domov za starejše in posebnih socialnovarstvenih zavodov so bili nenapovedani. Ob prihodu v dom oziroma posebni socialnovarstveni zavod (zavod) se je skupina najprej pogovorila z njegovim vodstvom, čemur je sledil ogled varovanih oddelkov in drugih prostorov zavoda ter pogovori z naključno izbranimi stanovalci. Že med ogledom ali takoj po njem smo v naključno izbranih primerih pregledali tudi pisne evidence, ki jih morajo zavodi voditi na podlagi Zakona o duševnem zdravju (ZDZdr), preverili smo pravočasnost obveščanja sodišča in njegovo odzivnost. Po ogledu smo se po potrebi ponovno pogovorili z vodstvom zavoda, ob čemer smo glede na opažanja obiskani instituciji posredovali tudi primere dobre prakse, ki smo jih že zasledili ob svojem delu v drugih zavodih. Tako smo vsaj posredno poskušali vplivati na izboljšanje razmer in odpravo posameznih pomanjkljivosti obiskane institucije. Po vsakem obisku je skupina, ki so jo sestavljali predstavniki Varuha človekovih pravic RS (Varuh) in praviloma tudi predstavniki izbranih nevladnih organizacij, pripravila poročilo o svojih ugotovitvah in priporočilih. Poročilo je bilo najprej posredovano obiskani instituciji, ki ji je bila s tem dana možnost pripomb na naše ugotovitve, kar obiskani zavodi večkrat tudi izkoristijo. Velikokrat nas je obiskana institucija v odzivu seznanila z že sprejetimi ukrepi glede danih priporočil DPM. Vsako končno poročilo o obisku pa je bilo posredovano tudi Ministrstvu za delo, družino in socialne zadeve.

Varovani oddelki

Ob obiskih domov starejših in posebnih socialnovarstvenih zavodov z zadovoljstvom ugotavljamo, da se zmanjšuje število sob s štiri, pet in celo več posteljami. Tudi zavodi, ki še imajo takšne sobe, se trudijo, da bi sobe ob prenovi varovanih oddelkov pregradili tako, da bi v eni sobi bivala dva ali največ trije stanovalci. Takšna prizadevanja smo pozdravili. Čeprav imajo morebiti tudi sobe z več posteljami nekatere prednosti (stanovalci lažje najdejo stik s sostanovalci, čutijo bližino in toplino druge osebe), manjše sobe stanovalcem omogočajo več zasebnosti. Zato bi bilo po mnenju DPM najprimernejše, da bi se v sobe

Complaints procedures

Complaints procedures in both hospitals are specified in a brochure given to each patient upon admission to the hospital. Patients also receive an oral explanation of the complaints procedure. During the visit, we found that the content of the brochures is not entirely compliant with the content dictated by ZDZdr - the rights are not correctly summarised, or incomplete information is given. We proposed that the hospitals correct the brochures and complete them with adequate information.

We also established that Article 16 of ZDZdr was not observed in any of the hospitals, since the list of rights as set forth by ZDZdr and the house rules in some secure wards were not posted on the bulletin board. We also noticed that in some secure wards both hospitals there was no collection box for comments and complaints (or it was outside the ward door) or the collection box was of unsuitable design (PVC folder for paper insertion) or location (nurse's room). We suggested that the hospitals post the the list of rights as per ZDZdr and the house rules in a visible location in all secure wards, and install a suitable collection box for comments and complaints in all secure wards, thereby allowing the patients accommodated in these wards to submit the complaint anonymously.

6. Visits to nursing homes and special social care institutions

In 2010, we visited Lendava Retirement Home, Cerknica Elderly Centre, Krško Elderly Home, Kočevje Elderly Home, Mengeš Rest Home (this home and its health care service were also inspected later by the expert cooperating with the National Preventive Mechanism (DPM) with recommendations from the aspect of health regarding the accommodation of persons deprived of liberty) and two special social care institutions, Impoljca Retirement and Nursing Home, Sevnica, and Nina Pokorn Home, Grmovje. All visits to nursing homes and special social care institutions were unannounced. Upon entering the home or special social care institution (the institution), the group first talked to the management, then inspected secure wards and other rooms of the institution, and held interviews with individual residents. During the inspection or immediately afterwards, we reviewed written records (which should be kept by the institution on the basis of the Mental Health Act (ZDZdr)) of randomly chosen cases and checked whether the court had been notified in due time and how it had responded. After the inspection, and if necessary, we again talked to the institution's management and presented to them good practice examples observed in other institutions in respect of the findings. This is how we indirectly tried to improve the situation and eliminate particular irregularities in the visited institutions. After each visit, the group, comprised of representatives of the Human Rights Ombudsman of the Republic of Slovenia (the Ombudsman) and usually of representatives of selected non-governmental organisations, prepared a report on their findings and recommendations. The report was first submitted to the institution, thereby giving it the opportunity to comment on our findings, which they often use. In its response, the institution frequently informed us of measures they had taken regarding the recommendations issued by the DPM. Each final report on the visit was also submitted to the Ministry of Labour, Family and Social Affairs.

Secure wards

During the visits to the elderly homes and special social care institutions, we were pleased to establish that the number of rooms with four, five or even more beds is decreasing. Even those institutions which still have such rooms are striving to divide the rooms by walls when renovating secure ward rooms in order to accommodate two, or at most three occupants. We welcomed such efforts. Although rooms with several beds might have certain advantages (occupants more easily make contact with each other, they feel the proximity and warmth of another person), smaller rooms provide the occupants with more privacy. According to the

z več posteljami namestili stanovalci, ki to sami želijo ali pri katerih bi strokovno osebje presodilo, da bo takšna namestitev pozitivno vplivala na njihovo zdravstveno stanje. Drugim stanovalcem pa bi moral dom omogočiti namestitev v sobe z manj posteljami (eno- oziroma dvoposteljne sobe). Posebej pa se stiska s prostorom občuti, ko zavod zaradi potrebe po nujnem sprejemu na oddelek namesti dodatna (zasilna) ležišča. Ta po kakovosti dostikrat niso le neenakovredna drugim ležiščem, temveč stanovalci na teh ležiščih velikokrat nimajo prostora za namestitev svojih osebnih stvari in potrebščin. Tako ni prostora za nočno omarico, ni možnosti za namestitev nočne lučke, niti omare za obleko in druge osebne predmete novega stanovalca. Zaradi dodatne ali celo dodatnih postelj v sobi se zmanjša tudi kakovost bivanja drugih stanovalcev. Zato bi to moral biti skrajni ukrep, potem ko bi bile izčrpane vse druge možnosti (npr. namestitev v drugem domu, premestitev manj dementnega stanovalca na drugi oddelek in podobno). Na to problematiko opozarjamo tudi v poglavju o osebah z duševnimi motnjami in osebah v socialnovarstvenih zavodih – Mimo vrste v varovani oddelek.

Še vedno smo v nekaterih obiskanih zavodih ugotavljali, da se vsem stanovalcem ne zagotavljajo osnovni pripomočki za ohranjanje osebne higiene (milo, brisačke, toaletni papir). Zagotovitev teh pripomočkov je nujna, da se stanovalcu omogoči, da sam poskrbi za osebno higieno, ne da bi moral osebje posebej prositi za najosnovnejši higienski pripomoček. Čeprav smo se strinjali, da so nekateri pripomočki za dementne stanovalce lahko tudi nevarni, bi lahko z izbiro drugačnih pripomočkov (npr. tekoče naravno milo namesto trdega mila) to nevarnost odpravili. Posebej smo opozorili, da morajo biti vsi tovrstni pripomočki na voljo tudi inkontinentnim stanovalcem.

Večkrat smo tudi opazili, da so prostori na varovanem oddelku (tako sobe kot skupni prostori) pusti, brez okraskov, slik stanovalcev, izdelkov delovne terapije, osebnih predmetov. Posamezne zavode smo opozorili na dobre izkušnje iz drugih obiskanih zavodov, kjer so z minimalnimi stroški ob trudu zaposlenih in stanovalcev varovani oddelek naredili precej bolj prijeten za bivanje. DPM spodbuja, da se sobe stanovalcev preuredijo tako, da se iz skoraj sterilne bolniške sobe ustvari prostor, ki daje večji občutek domačnosti. Še vedno ugotavljamo težave pri zagotavljanju potrebnega osebja na posameznih varovanih oddelkih. Zlasti v nekaterih obiskanih domovih za starejše smo morali opozoriti na očitno kadrovske primanjkljaje tudi v dnevnem času (npr. v enem od domov je bil popoldne za 50 stanovalcev odgovoren le en zaposleni, v drugem pa ves dan dva zaposlena za celotno oskrbo 27 stanovalcev), posebej očitno pa se težava pokaže ponoči. Praviloma sta v domovih starejših za ves zavod v tem času odgovorni le dve osebi, zato ni stalno zagotovljene navzočnosti osebja na varovanem oddelku. Domovi očitno kadrovske stisko rešujejo (le) s pogostejšimi obhodi na teh oddelkih in z videonadzorom. V nekaterih domovih za starejše pa so na varovanem oddelku že zagotovili stalno navzočnost zaposlenega tudi v nočnem času, kar smo posebej pozdravili in k takšni odločitvi spodbujamo tudi druge zavode. V enem izmed obiskanih domov starejših smo opozorili tudi na pomanjkljivo psihiatrično oskrbo, dom je namreč zagotavljal navzočnost psihiatra le dvakrat na mesec po šest ur, kar glede na skupno število stanovalcev (158) in veliko stanovalcev na varovanem oddelku (48) po mnenju DPM ni dovolj. V drugem domu smo predlagali, da se vzpostavi pisna evidenca čakajočih na splošnega zdravnika in psihiatra. S primerno evidenco bi se lahko preprečila možnost, da se pozabi želja stanovalca ali zdravstvena težava, ki jo ugotovi osebje. Z redno evidenco opravljenih pregledov bi se tudi zagotovilo, da bi prav vse stanovalce z diagnozo demence redno pregledal psihiater. Opozorili smo še, da morajo biti pregledi psihiatra dovolj pogosti. Če namreč psihiater varovani oddelek obiše le redko, se lahko stanje stanovalca, ki terapije ne dobi pravočasno, poslabša tako, da je potrebno bolnišnično zdravljenje ali pa se (sicer redko, vendar možno) stanje tako izboljša, da pridržanje na varovanem oddelku ne bi bilo več potrebno.

DPM, it would be the most appropriate to use multiple-bed rooms for occupants who want to be in them, or for whom expert personnel establish the positive effect of such accommodation on their health. However, all other residents should be accommodated in rooms with fewer beds (single- or double-bed room). Overcrowding is especially evident when the institution installs additional (auxiliary) beds after an urgent admission to the ward. In terms of quality, they are as not good as other beds, and residents have nowhere to put their personal items. There is no space for a night-stand table, no possibility of installing a reading light, and no wardrobe or cabinet for other personal items of the new residents. An additional bed or even more beds in a room reduces the quality of life of other residents. This should therefore be an extreme measure when all other options have been exhausted (e.g. accommodation in another home, transfer of a less demented occupant to another ward and similar). This issue is also noted in the chapter on persons with mental disorders and persons in social care institutions – Skipping the Line to the Secure Ward.

In certain visited institutions, we still observed that not all residents are provided with the basic utensils for maintaining personal hygiene (soap, towels, toilet paper). These utensils must be provided, as this enables residents to take care of their hygiene without having to ask the personnel for the most basic items. We agreed that some accessories might be dangerous for demented residents, but a different choice of accessories (e.g. liquid natural soap instead of hard soap) would eliminate the danger. We specifically emphasised that all such accessories should also be available to incontinent residents.

We also frequently observed that rooms in secure wards (bedrooms and common rooms) were bleak and with no decoration, residents' pictures, creations made in occupational therapy, or personal items. Certain institutions were informed of good experiences from other visited institutions, which made the secure ward much more pleasant at only minimum cost and effort by the personnel and residents. The DPM encourages the rearrangement of residents' rooms, so that almost sterile hospital rooms are turned into homely places. We still observe problems in providing sufficient staff in individual secure wards. Particularly in some visited nursing homes, we had to point out the obvious lack of personnel, also during the day (e.g. in one of the homes, a single employee was responsible in the afternoon for 50 residents; in another home, two employees were responsible for the full care of 27 residents for the whole day), and the problem is even more serious at night. At night, usually only two persons in the nursing homes are responsible for the entire institution, so there is no constant presence of personnel in the secure ward. The homes try to resolve this issue (only) with more frequent rounds to these wards and video-surveillance. In some nursing homes, an employee is present throughout the night, which we specifically welcomed, and we encourage other institutions to do the same. In one of the nursing homes, we drew attention to the insufficient psychiatric care; the home provided a psychiatrist for only six hours twice per month, which in the judgement of the DPM is not enough, considering the total number of residents (158) and the number of residents in the secure ward (48). In another home, we suggested that written records of persons waiting for a general practitioner or a psychiatrist should be established. With appropriate records, the possibility of forgetting the residents' wishes or a medical condition established by personnel could be prevented. Regular records of consultation would also provide regular examinations by the psychiatrist for all residents diagnosed as demented. We also recalled that the examinations performed by the psychiatrist should be frequent enough. If the psychiatrist comes to the secure ward only rarely, the condition of a resident who does not receive therapy in due time might be aggravated, so that hospital treatment is required or (rarely, but possibly) the condition improves to the extent that detention in the secure ward would not be necessary.

V enem izmed obiskanih domov za starejše smo se srečali s primerom, ko so na varovanem oddelku perilo za pranje odbirale strežnice z vpogledom v omaro stanovalcev. Menili smo, da bi moral biti ob takem odbiranju perila vedno navzoč tudi stanovalec. Če bi imel pripombe ali želje, bi mu moralo osebje primerno pojasniti, zakaj bodo oprali izbrana oblačila. V večini od obiskanih institucij smo dobili pojasnilo, da je verska oskrba za osebe rimskokatoliške vere zagotovljena, obiski duhovnika so bili redni, vsaj ob večjih praznikih so bile v zgradbi tudi maše. Večinoma pa je bil odgovor, da potreb po verski oskrbi stanovalcev drugih veroizpovedi ni bilo. Predlagali smo, da bi bilo prav v zloženko, ki jo stanovalci dobijo ob sprejemu, zato pripisati tudi, na koga od zaposlenih se lahko stanovalec obrne glede verske oskrbe, ali tako obvestilo vsaj natisniti in namestiti na oglasno desko.

Pridržalni postopki

Tudi v letu 2010 smo se srečali s težavami pri opredelitvi varovanega oddelka. Tega Zakon o duševnem zdravju (ZDZdr) opredeljuje kot oddelek v socialnovarstvenem zavodu, kjer so osebe zaradi svojih potreb nepretrgoma deležne posebne zaščite in varstva ter zavoda ne morejo zapustiti po svoji volji. V praksi domovi starejših velikokrat poskušajo varnost stanovalcev zagotavljati na nekoliko bolj odprt način. Zato oddelka ne zaklepajo, vendar pa stanovalce osebje (ali v skrajnem primeru receptor) zadrži in vrne na oddelek. Varuh ne more dajati avtentične razlage zakona. Zato bo natančnejša opredelitev, kaj se lahko šteje kot varovani oddelek, kot ga opredeljuje 2. člen ZDZdr, naloga pristojnega ministrstva ob morebitni spremembi ZDZdr in sodne prakse. Ravno zato je po mnenju državnega preventivnega mehanizma (DPM) še toliko bolj pomembno, da se presoja v vseh mejnih (dvomljivih) primerih prepusti sodišču.

Obiskani zavodi, ki niso imeli (deklarirano) vzpostavljenega varovanega oddelka, praviloma sodišča niso obveščali o pridržanju oseb na tem oddelku brez soglasja. Predlagali smo, da ravnajo po ZDZdr in sodišče obvestijo o osebah, ki so na tem oddelku, in o osebah, ki jih bodo na ta oddelek nameščali v prihodnje. S tem bo končna presoja dvoma o tem, ali je na primer oddelek za dementne stanovalce varovani oddelek, ker izpolnjuje pogoje po 2. členu ZDZdr, prepuščena sodišču. Predlagali smo še, naj nas seznanijo, če sodišče ne bi o obvestilih odločilo oziroma postopka ne bi uvedlo, ter z drugimi aktivnostmi, ki naj bi ob pomoči drugih organov pomagale razčistiti dilemo oddelka za dementne stanovalce (pristojno ministrstvo, socialna inšpekcija, sodišče).

Domovi za starejše praviloma obveščajo sodišče o namestitvi na varovani oddelek šele po namestitvi stanovalca. Razlog za to je v tem, da takšna oseba težko čaka na sprejem (neurejene razmere doma, zdravstveno stanje, premestitev iz bolnišnice), zavod pa ima težko posteljo dalj časa (do končanja sodnega postopka) prazno. Čeprav so ti razlogi razumljivi in dostikrat tudi utemeljeni, je takšno ravnanje v nasprotju z veljavno zakonodajo. ZDZdr. v 2. odstavku 75. člena namreč določa, da se za postopek sprejema osebe na varovani oddelek socialnovarstvenega zavoda uporabljajo določila o sprejemu na zdravljenje brez privolitve na podlagi sklepa sodišča (40. do 52. člen ZDZdr). Sodni postopek za sprejem na varovani oddelek bi bilo tako treba izvesti še pred sprejemom osebe, saj je po ZDZdr mogoče osebo, ki ne da soglasja za namestitev na varovani oddelek, namestiti šele na podlagi sodne odločbe. Ob enem izmed obiskov smo ugotovili, da dom starejših tudi po začetku uporabe ZDZdr o stanovalcih, ki so bili na varovanem oddelku brez soglasja, ni obvestil sodišča. Pristojno okrajno sodišče očitno res ni vsebinsko odločalo o pridržanju oseb na varovanem oddelku tega doma starejših pred začetkom uporabe ZDZdr, temveč je tovrstne prijave zavrglo. Takšno ravnanje sodišča je bilo po mnenju Varuha in DPM (že večkrat izraženem v preteklosti) sporno. Nikakor pa to ne odvezuje zavoda, da po jasni novi zakonski ureditvi v členih 75. do 79. ZDZdr o osebah, ki jih sprejme na varovani oddelek brez privolitve, nemudoma obvesti sodišče in mu prepusti odločitev o pridržanju. Zato po mnenju DPM ni opravičila, da je imel obiskani dom starejših skoraj leto dni po začetku uporabe ZDZdr še vedno sedem

In one of the nursing homes, we encountered a case when chamber maids in the secure ward chose the laundry to be washed by accessing the residents' wardrobe. We believe that residents should always be present when such laundry selection is being carried out. If the resident had remarks or wishes, the personnel should explain in an appropriate manner why the selected clothes are to be washed. In the majority of the institutions, we were informed that religious care for persons of Roman Catholic religion was provided, a priest attended them regularly, and masses were held in the building for at least major holidays. In general, it was said that there was no need for the religious care of residents of other religions. We proposed that the brochure received by residents upon admission should also include the name of the employee to contact in respect of religious care, or at least such a notice should be printed and posted on the bulletin board.

Detention procedures

In 2010, we again faced the problem of what a secure ward is. A secure ward is defined by the Mental Health Act (ZDZdr) as a ward in a social care institution where persons receive constant special protection and care, and where such persons may not leave the institution of their own free will because of their needs. In practice, elderly homes often try to provide protection for residents in a slightly more open manner. Therefore, the wards are not locked, but residents are constrained by the personnel (or by the receptionist as the last resort) and returned to the ward. The Ombudsman cannot provide the authentic interpretation of law. A more exact interpretation of a secure ward as defined by Article 2 of ZDZdr is the task of the competent ministry, considering possible amendments to ZDZdr and case-law. According to the National Preventive Mechanism (DPM), it is therefore even more important that the assessment of all borderline (doubtful) cases remain a matter for the courts.

The institutions which we visited did not have a (formally) established secure ward and usually did not notify the courts of a detention without the consent of the persons on this ward. We suggested that the institutions act in accordance with ZDZdr and notify the court of persons who had or were to be accommodated in this ward. A final judgement as to whether a ward for demented residents is a secure ward because it meets the conditions under Article 2 of ZDZdr will therefore be a matter for the courts. We also suggested that we be informed if the court fails to decide on the notifications or to institute a procedure, and of other activities supported by other authorities which should assist in resolving the dilemma of wards for demented residents (the competent ministry, the Social Affairs Inspection Service, the courts).

Nursing homes typically notify the court on accommodation in a secure ward only after the resident has been accommodated. This is because it is difficult for such a person to wait for admission (unsettled situation at home, health condition, transfer from a hospital), and the institution cannot wait with an empty bed for a long period (after the judicial procedure has ended). Although these reasons are understandable and often justified, such conduct is contrary to the applicable legislation. The second paragraph of Article 75, ZDZdr lays down that provisions on admission to treatment without consent on the basis of a court order (Articles 40 to 52 of ZDZdr) should be used for the admission of a person to a secure ward of a social care institution. The judicial procedure for the admission to a secure ward should thus be carried out before the person is admitted as, according to ZDZdr, a person who does not consent to accommodation in a secure ward can only be accommodated on the basis of a judicial decision. During one of the visits, we observed that even after the entry into force of ZDZdr, the nursing home had failed to notify the court of residents accommodated in the secure ward without consent. Before the entry into force of ZDZdr, the competent local court evidently had not decided on the substance of the detention of persons in secure wards of this nursing home and rejected such applications. As the Ombudsman and DPM have expressed several times in the past, such conduct of the court is disputable. Nevertheless, this in no way releases the institution from its obligation under the clear new legal regulation in Articles 75 to 79 of ZDZdr to promptly notify the court on persons admitted to secure ward without consent and leave

oseb v varovanem oddelku, ne da bi o njih obvestil sodišče. Ob obisku tega doma smo tudi ugotovili, da ima še en varovani oddelk, na katerem je bilo brez odločitve sodišča o pridržanju še 27 stanovalcev. Vodstvo doma je pojasnilo, da še ne vedo, kakšna bo narava tega oddelka. Vendar lahko dom na oddelk z vzpostavljenim režimom, ki onemogoča prost izhod, namesti le osebe, ki se s takšno namestitvijo strinjajo oziroma glede katerih je sodišče že odločilo o pridržanju in ga dovolilo. Zato je bilo ravnanje doma, ko je vzpostavil dodatni varovani oddelk in šele po obisku DPM obvestil sodišče o pridržanih na tem oddelku, v nasprotju z zakonom. Ob obiskih smo ugotavljali tudi različne prakse pri vročanju poštnih pošilk stanovalcem varovanih oddelkov, še posebej tistim, ki zaradi svojega zdravstvenega stanja niti ne morejo dobro razumeti pomena prejetega pisma. V eni izmed obiskanih institucij je vročevalec, ker stanovalcu ni bila mogoča vročitev, pustil obvestilo na recepciji, kjer je nato po preteku 15 dni pustil tudi samo pisanje. Ker se po preteku tega roka šteje vročitev za opravljeno in začnejo teči roki, ki so za stranko v postopku lahko ključni (ali pa celo že potečejo), smo poudarili, da mora dom še posebej v takem primeru poskrbeti, da bo pošiljka prišla čim prej v prave roke (stanovalca ali na primer skrbnika).

V enem izmed obiskanih zavodov pa smo ugotovili, da sodišče pošilja sklepe o sprejemu v varovani oddelk oziroma o podaljšanju zadržanja v varovanem oddelku neposredno zavodu s pripisom, da se, če stanovalec ni sposoben razumeti pomena oziroma vsebine sklepa, sklep vložiti v spis oziroma njegova vsebina stanovalcu ustno pojasni. O tem, ali se bo sklep sodišča vročil posameznemu stanovalcu, je v praksi tega doma odločila socialna služba, ki stanovalcu praviloma tudi pojasni pomen sklepa. To prakso, ko se stanovalcu ne vroči sklep o sprejemu v varovani oddelk ali podaljšanju zadržanja v varovanem oddelku, nismo ocenili za primerno. Razumemo, da v nekaterih primerih odločitve sodišča morda ni mogoče pravilno vročiti (ker npr. stanovalec ni sposoben podpisati vročilnice ali ni sposoben razumeti vsebine sodne odločitve), zaradi česar se lahko pojavi tudi dvom o smiselnosti vročanja sodnih pošilk. Vendar ZDZdr, tako kot prejšnji Zakon o nepravdnem postopku, ne določa izjem pri vročanju sklepov, izdanih v postopku sprejema v varovani oddelk brez privolitve. Zato bi bilo prav, da bi zakon posebej uredil primere, v katerih zaradi psihofizičnega stanja posameznika vročitev odločitve sodišča ni potrebna. Do tedaj pa je vsako drugačno ravnanje po mnenju DPM nezakonito.

Posebni varovalni ukrepi

Zakon o duševnem zdravju (ZDZdr) v šestem in sedmem odstavku 29. člena določa, da o odreditvi in izvedbi posebnega varovalnega ukrepa (PVU) zdravnik, ki tak ukrep odredi, najpozneje v 12 urah od odreditve ukrepa pisno obvesti direktorja socialnovarstvenega zavoda, najbližjo osebo, odvetnika in zastopnika. Če gre za osebo, ki ji je odvzeta poslovna sposobnost, se o tem obvesti tudi zakoniti zastopnik. Če zdravnik ni navzoč ob osebi (kar se v socialnovarstvenih zavodih zgodi pogosto), lahko PVU uvede tudi drugi zdravstveni ali strokovni delavec oziroma delavka v socialnovarstvenem zavodu, vendar o tem takoj obvesti zdravnika, ki brez odlašanja odloči o utemeljenosti uvedbe ukrepa. Če zdravnik ukrepa ne odredi, se izvajanje ukrepa takoj opusti. Zdravstveni oziroma strokovni delavec poskrbi za pisni zaznamek o obvestilu zdravnika.

ZDZdr v četrtem odstavku 29. člena določa, da se PVU uporabi le izjemoma in lahko traja le toliko časa, kolikor je nujno potrebno glede na razlog njegove uvedbe, pri čemer PVU telesnega oviranja s pasovi ne sme trajati več kot štiri ure, PVU omejitve svobode gibanja v enem prostoru pa ne več kot 12 ur. Po preteku tega obdobja zdravnik preveri utemeljenost ponovne uvedbe PVU.

the decision on detention to the court. According to the DPM, there is therefore no excuse for the visited nursing home to have seven persons in the secure ward without notifying the court almost a year after the entry into force of ZDZdr. During the visit to this home, we also found that it had another secure ward in which 27 residents were detained without a court decision on detention. The management of the home explained that they still did not know the status of this ward. However, only persons who agree to such accommodation, or persons for whom the court has already decided on detention and allowed it, may be accommodated in a ward with a regime restricting their freedom of movement. The conduct of the home in setting up an additional secure ward and notifying the court on detentions in this ward only after the DPM visit was contrary to the law. During the visits, we also observed different practices in the delivery of postal items to the occupants of secure wards, especially to those who cannot understand the meaning of the received letter due to their medical condition. In one of the visited institutions, the courier left a notification at the reception because delivery to the resident was not possible; after 15 days, he delivered the consignment. Since after this time limit, delivery is deemed to have been effected and the period which can be essential for a party to proceedings might begin (or even expire), we pointed out that the home must ensure that the consignment is delivered to the addressee (the resident, or his or her custodian, for example).

In one of the visited institutions, we established that the court sent decisions on admission to a secure ward or on renewal of detention in a secure ward directly to the institution, with the note that if the resident was not able to understand the meaning or the content of the decision, the decision should be inserted in the file, or its content should be explained to the resident orally. In the practice of this home, the decision on whether the court's decision would be served on the resident was made by the social service, which typically also explains the meaning of the decision to the occupant. We estimated that the practice of not serving the decision on admission to the secure ward or renewal of detention in the secure ward on the resident was inappropriate. We understand that in some cases the court's decisions cannot be served correctly (e.g. because the resident is not able to sign the return receipt or is not able to understand the content of the court's decision), which might raise doubt about the rationality of delivering the court's consignments. However, ZDZdr, like the previous Non-litigious Civil Procedure Act, makes no exception in serving decisions issued in the procedure for admission to a secure ward without consent. Therefore, it would be right for the law to make a special regulation for cases where the serving of the court's decision is not necessary due to the psychophysical condition of the individual. Until then, according to the DPM, to act otherwise is unlawful.

Special protection measures

In the sixth and seventh paragraph of Article 29, the Mental Health Act stipulates that the doctor who orders such a special protection measure (PVU) to be implemented must, no later than 12 hours after the measure has been ordered, notify the director of the social care institution, the next of kin, a lawyer, and a representative in writing thereof. If the person's contractual capacity has been discontinued, his/her legal representative is also notified. If the doctor is not present (which is frequent in social care institutions), PVZ can be implemented by another health care professional or expert workers in the social care institution; however, they must immediately notify the doctor thereof, who promptly decides if the measure is justified. If the doctor does not order the measure to be implemented, the measure is discontinued immediately. The health care professional or expert worker makes a written note on the notification of the doctor.

In the fourth paragraph of Article 28, ZDZdr stipulates that PVU may be used only in extraordinary situations, and may only continue for as long as is urgently necessary with regard to the cause of its implementation; a PVU of physical restraint with belts may be not imposed for more than four hours, while a PVU of confinement to one room may not be imposed for more than 12 hours. After the above-mentioned period, the doctor verifies the justification for a renewal of PVU.

Na problematiko, ki se nanaša na PVU, opozarjamo že v poglavju o osebah z duševnimi motnjami in osebah v socialnovarstvenih zavodih ter poglavju o zdravstvenem varstvu. Glede na opravljene obiske v zavodih pa ugotavljamo, da je posebna težava pri uporabi PVU to, da zdravnik večino časa ni navzoč. Zato zlasti domovi za starejše njegovo soglasje za uporabo posebnega varovalnega ukrepa pridobijo na različne načine. V nekaterih primerih zdravnik že vnaprej odobri uporabo ukrepa pri posameznem stanovalcu »po potrebi oziroma po presoji osebja«. V drugih primerih že izvedeni ukrep pozneje, ob svojem obisku, le potrdi. Takšno ravnanje domov je v nasprotju z ZDZdr, zato smo ob obiskih državnega preventivnega mehanizma (DPM) opozarjali na napačno ravnanje in predlagali uskladiitev ravnanja z zakonom.

ZDZdr v petem odstavku 29. člena določa, da se oseba, pri kateri je bil uporabljen PVU, nadzoruje, spremlja njene vitalne funkcije in strokovno obravnava ves čas izvajanja PVU. O izvajanju PVU se v zdravstveno dokumentacijo osebe vpisujejo natančni podatki o razlogu, namenu, trajanju in nadzoru nad izvajanjem ukrepa. Psihiatrične bolnišnice in socialnovarstveni zavodi vodijo evidenco o izvajanju PVU, in sicer v skladu z drugim odstavkom 99. člena tega zakona. Te evidence pa so bile v obiskanih zavodih velikokrat pomanjkljive. Ob obisku enega izmed domov starejših smo tako ugotovili, da iz evidenc (raportne knjige) ni razvidno, kdaj točno so ukrep začeli izvajati, kdo ga je odredil, koliko časa je trajal in kakšna so bila opažanja med njegovim izvajanjem. Zato tudi nismo mogli ugotoviti, ali dom sploh spoštuje časovne omejitve, kot jih določa ZDZdr. Ugotavljamo tudi, da fiksirana oseba ni vedno nameščena primerno, na kar smo posebej opozorili. Predvsem to velja za fiksacijo v večposteljni sobi, kjer stanovalec sicer biva. Ob nezadostnem nadzoru osebja se lahko drugi stanovalci čudijo fiksaciji stanovalca, tega v skrajnem primeru celo šikanirajo ali nadlegujejo. Poleg tega bi morebiti tudi pogost reden nadzor, predvsem v času počitka ali nočnem času, lahko motil druge sostanovalce. Stalen in po možnosti neprekinjen nadzor nad izvajanjem PVU je nujen zaradi zagotavljanja varnosti ter hitre in učinkovite pomoči osebi, nad katero se ukrep izvaja, če bi bilo to potrebno. Enemu izmed obiskanih zavodov smo predlagali, naj natančneje določi, kako je treba izvajati nadzor nad izvajanjem ukrepa (kdo nadzor izvaja, kako pogosto in kako). Natančno naj se tudi določi, kdo izvaja nadzor nad pravilnostjo ravnanja osebja in izpolnjevanja evidenc. V letu 2010 obiskani domovi starejših in posebna socialnovarstvena zavoda nimajo posebne sobe za umirjanje. Za umiritev stanovalca večinoma po potrebi uporabljajo pasove segufix. Ob tem se v primerih, ko gre za uporabo PVU na nemirni osebi, postavlja vprašanje, ali je fiksacija s pasovi (predvsem, ko vežejo tudi okončine) primernejši ukrep kot namestitev v sobo za umirjanje. Fiksirana oseba se namreč ne more premikati, ne more opravljati niti osnovnih gibov, ob pogledih drugih stanovalcev se nedvomno čuti degradirano. Zato bi bila namestitev v posebno (oblazinjeno) sobo za umirjanje po mnenju DPM lahko (vsaj) v nekaterih primerih boljša rešitev. Seveda je ureditev posebne sobe za umirjanje, ki jo med posebne varovalne ukrepe uvršča tudi ZDZdr (omejitev gibanja v enem prostoru), nedvomno vezana na prostorske zmožnosti institucije in zadostna finančna sredstva. Za najustreznejšo obliko PVU bi se moral v vsakem posameznem primeru, z upoštevanjem ZDZdr, odločiti zdravnik, ki tak ukrep tudi odobri.

Pritožbene poti

Še vedno se srečujemo s primeri, ko na varovanih oddelkih domov starejših ni (posebnega) nabiralnika za anonimne pritožbe stanovalcev. Vztrajamo, da je prav, da se takšen nabiralnik zaradi omejene možnosti odhoda stanovalca z oddelka in tako oddaje pritožbe na drug način namesti na vsak takšen oddelok. Čeprav je verjetnost, da bo kakšen stanovalec varovanega oddelka oddal pisno pritožbo majhna, je prav, da se vsem stanovalcem omogoči tak način oddaje pritožbe. Obiskani zavodi so tovrstna opozorila državnega preventivnega mehanizma (DPM) praviloma upoštevali in namestili nabiralnik na varovani oddelok. Zakon o duševnem zdravju (ZDZdr) v 16. členu med drugim tudi določa, da mora socialnovarstveni

The issues related to PVU are also noted in the chapter on persons with mental disorders and persons in social care institutions and in the chapter on health care. In respect of the visits to the institutions, we established that a particular problem in using the PVU is that the doctor is not present for most of the time. Therefore, nursing homes in particular obtain permission to implement a special protection measure through various means. In some cases, the doctor approves the implementation of the measure in advance for a particular occupant "if necessary or at the discretion of the personnel". In other cases, the doctor only confirms the implemented measure after the event, when he or she is there. This practice in homes is contrary to ZDZdr; therefore, during National Preventive Mechanism visits, we warned of the misconduct and proposed that the practice be harmonised with the law.

The fifth paragraph of Article 29, ZDZdr stipulates that a person upon whom a PVU has been implemented shall be supervised, his/her vital functions monitored and he/she be given expert treatment throughout the time the PVU is being implemented. Detailed data on the reason, intention, duration and supervision of implementation of PVU is entered into the person's medical records, with regard to the implementation of a PVU. Psychiatric hospitals and social care institutions keep records of the implementation of PVUs in accordance with the second paragraph of Article 99 of this Act. Such records in the visited institutions were often inadequate. When visiting one of the nursing homes, we observed that the records (report book) did not indicate the exact time when the measure had been implemented; who had ordered them; how long the measure had been imposed; and what observations were made during its implementation. Therefore, we could not discover whether the home had respected the time limits specified by ZDZdr. We also established that the person subject to restraint was not always placed in an appropriate manner, to which we pointed out. This is especially true for restraint in a multi-bed room where the resident is accommodated. If the supervision by personnel is insufficient, other occupants may be surprised at the restraint of their fellow resident and may even mob or molest him or her. Moreover, frequent regular supervision could be disturbing for other residents, particularly during rest or at night. Constant and, if possible, continuous supervision of PVU implementation is required to provide security and quick and efficient help to the person subject to the measure, if necessary. We suggested to one of the institutions that the procedure for supervising the implementation of the measure (who, how frequent and in what manner) should be defined more precisely. Who supervises the proper conduct of the personnel and keeping of records should also be specified. The nursing homes and special social care institutions visited in 2010 do not have a special room for calming down. Segufix belts are generally used to calm down residents, if necessary. When PVU is used on a restless person, a question is raised as to whether restraint with belts (particularly when the extremities are also restrained) is a more suitable measure compared to placement in a room for calming down. A person subject to restraint cannot move, cannot make a basic movement, and undoubtedly feels degraded when other inmates watch him or her. According to the DPM, accommodation in a special (padded) room for calming down would thus be (at least) in some cases a better solution. Arranging a special room for calming down, which is also classified among special protection measures by ZDZdr (confinement to one room), is undoubtedly associated with the spatial capacity of the institution and sufficient resources. In order to find the most suitable form of PVU, each particular case should be decided upon - by taking into account ZDZdr - by a doctor who also approves such measures.

Complaints procedures

There are still cases when secure wards in nursing homes do not have a (special) collection box for anonymous complaints by the residents. We insist that such collection boxes be installed in each such ward due to the limited possibilities of the residents leaving the ward and submitting a complaint. The possibility of a resident of a secure ward submitting a written complaint is slight; nevertheless, each resident should have the opportunity to submit a complaint in such a manner. The visited institutions generally considered such warnings of the National Preventive Mechanism (DPM) and installed collection boxes in the

zavod na vidnem mestu objaviti seznam pravic, ki jih ima oseba po tem zakonu, in hišni red. Zakon določa, da mora seznam vsebovati tudi službene naslove in telefonske številke zastopnikov, odgovornih za območje, na katerem deluje socialnovarstveni zavod. O tem mora pripraviti tudi posebno zloženko. Žal smo ugotavljali, da velikokrat takšnega seznama na oddelku ni bilo, vsak obiskani zavod ni imel niti potrebnih zloženk ali pa stanovalcem niso bile preprosto dostopne.

Pogovori s stanovalci

Sestavni del obiska DPM je tudi pogovor z naključno izbranimi stanovalci obiskane ustanove. Očitek, ki smo ga v teh pogovorih zasledili pri obiskih zavodov, je bil večkrat ta, da se stanovalcem varovanega oddelka preredko omogočita izhod in zadrževanje na svežem zraku. Še posebej je ta težava izrazita v zavodih, ki so umeščeni v urbano okolje in imajo v okolici le malo ali celo nič ograjenih zelenih površin, ki bi stanovalcem omogočile varno bivanje zunaj oddelka. O izhodih stanovalcev zavodi praviloma tudi ne vodijo (posebne) evidence, zato je nadzor tega, kdo in kolikokrat je varovani oddelek morda zapustil, omejena. V enem izmed zavodov je bil razlog za omejeni odhod na sveži zrak očitno tudi pomanjkanje kadra, ki bi stanovalce spremljal. Osebe je bilo ob obisku DPM zaposleno z drugimi nujnimi obveznostmi, zato željam stanovalcev ni moglo (takoj) ugoditi. Predlagali smo, da se temu vprašanju nameni več pozornosti. Morebiti bi lahko za pomoč stanovalcem pri odhodu na sveži zrak, torej v okolico zavoda, bolj angažirali prostovoljce, ki sicer prihajajo v zavod. Lahko pa bi razmislili tudi o pomoči med stanovalci zavoda.

Stanovalci so v enem izmed domov starejših opozorili, da morajo delati v kuhinji in opravljati druga hišna opravila. Opravljanje nekaterih del v zavodu je lahko koristno zaradi ohranjanja delovnih sposobnosti in navad stanovalca, povezanih s skrbjo zase in za svojo okolico. Lahko je tudi del delovne terapije. Takšno delo je stanovalcem zato lahko v korist in ga je smiselno spodbujati. Opozorili pa smo, da je vse, kar presega te okvire, ne glede na razlog (npr. nadomeščanje primanjkljaja kadra z delom stanovalcev) nedopustno in bi lahko pomenilo primer nepravilnega ravnanja s starostniki.

Nismo niti spregledali očitka stanovalke enega izmed varovanih oddelkov obiskanega zavoda, ki je povedala, da je osebe včasih neprijazno in da »znajo kdaj tudi klofniti«. Takšna izjava je skrb vzbujajoča, saj kaže na primer telesnega kaznovanja stanovalcev. Predlagali smo, da je obiskani zavod posebej pozoren na znake, ki bi lahko kazali na primere grdega ravnanja s stanovalci, jih evidentira in analizira ter v primeru ugotovljenega nedopustnega ravnanja s stanovalci tudi nemudoma primerno ukrepa.

V enem izmed pogovorov pa je stanovalka varovanega oddelka opozorila tudi na slabo obveščanje stanovalcev. Pojasnila je, da so teden dni pred obiskom državnega preventivnega mehanizma stanovalci varovanega oddelka »nekam šli« in jim ni nihče povedal, kdaj in kam natančno bodo šli ter kdaj se bodo vrnil. Zavedamo se, da lahko osebe z eno od vrst demence težje razumejo dogajanje okoli sebe in pojasnila osebja. Vendar mora biti to le spodbuda, da se poskuša takšnim osebam pojasnila podajati še bolj skrbno in na način, ki jim bo razumljiv. S tem se preprečijo njihovo nezadovoljstvo, negotovanje in pretirano vznemirjenje ob aktivnostih, ki odstopajo od običajnega dnevnega reda.

Drugi stanovalki pa sta v enem izmed posebnih socialnovarstvenih zavodov izrazili željo, da bi se kopali sami, brez navzočnosti osebja. Uporaba prh in kopanje ob pomoči in nadzoru osebja sta po mnenju DPM sprejemljiva, če to zahtevajo razlogi varnosti stanovalcev ali je to potrebno zaradi nujne pomoči ob opravljanju tovrstnih higienskih opravil. V drugih primerih pa je nedvomno smiselno, tudi zaradi posameznikovega dostojanstva in krepitve njegove samostojnosti, da se pomoč ob prhanju omeji na potrebni minimum.

secure ward. In Article 16, the Mental Health Act also stipulates that a social care institution must place in a visible location the list of rights as set forth by this Act and the house rules. The Act also specifies that the list should include the business addresses and telephone number of the representatives responsible for the area in which the social care institution operates. A special brochure should be prepared on this matter. Unfortunately, we frequently observed that there was no such list on the ward, and not every institution had the necessary brochures, or these were not easily accessible to the residents.

Interviews with residents

An integral part of the DPMs visit were interviews with randomly chosen residents of the visited institution. A frequently noted complaint expressed during our visits to the institution was that the residents in the secure ward were too rarely allowed to go outside and stay in the fresh air. This issue is particularly obvious in institutions in urban environments, which have only a few or no enclosed green areas that would allow the residents a safe stay outside the ward. Typically, there is no (special) record on when residents go outside; therefore, the monitoring of who leaves, and how many times someone leaves the secure ward is limited. In one of the institutions, the reason for limited stays outside was obviously the lack of personnel to escort the residents. During the DPM visit, the personnel were busy with other obligations and were not able to (immediately) satisfy the residents' needs. We suggested that this issue receive more attention. Perhaps volunteers working in the institutions could be more engaged in escorting residents outside, i.e. to the surroundings of the institution. Mutual help between the residents of the institution could also be considered.

In one of the nursing homes, the residents pointed out that they had to work in the kitchen and perform other housework. Performing certain tasks in the institution could be beneficial for preserving the working abilities and habits of residents related to taking care of oneself and the environment. It can also be a part of occupational therapy. Such work is therefore beneficial for residents and should be encouraged. However, we pointed out that everything outside these objectives, irrespective of the reason (e.g. compensating for lack of personnel with the work of residents), is intolerable and could mean inappropriate treatment of the elderly.

We did not overlook a complaint expressed by a resident of one of the secure wards of an institution, who said that the personnel were sometimes unfriendly and that "they are able to slap someone's face at times". Such a statement is worrying, as it indicates physical punishment of the residents. We suggested that the visited institution pay particular attention to signs of maltreatment of the residents, and record and analyse them, and if intolerable treatment of residents is established, take immediate appropriate action.

In one of the interviews, a resident of the secure ward emphasised the poor information received by residents. She explained that a week before the visit of the National Preventive Mechanism, the residents of the secure ward "went somewhere" and no one told them when and where exactly they were going or when they would return. We are aware that persons with a type of dementia might have difficulties understanding what is happening around them, and the explanations given by the personnel. However, this should be an encouragement to give explanations to such persons with due care and in a manner they can understand. This should prevent their dissatisfaction, disapproval and over-excitement about activities which deviate from the usual timetable.

Another two residents of a special social care institution expressed their wish to bathe alone, without the presence of personnel. According to the DPM, the use of showers and bathing with the help of and supervised by personnel are acceptable if so required for the safety of the residents or if it is necessary to provide emergency assistance in performing such hygienic activities. In other cases, it is undoubtedly reasonable to limit the assistance in showering to a minimum, also because of the dignity of the individual and to encourage their independence.

7. Pregled aktivnosti državnega preventivnega mehanizma v letu 2010

KDAJ	KJE	KAJ	UDELEŽENEC(-KA)	KRATEK OPIS	ORGANIZATOR
19. 1. 2010	Velenje, Radlje ob Dravi, Dravograd	Obisk PP Velenje, PP Radlje ob Dravi in PP Dravograd	Robert Gačnik in Andreja Srebotnik	Obisk v vlogi DPM	Varuh
20. 1. 2010	Lendava	Obisk Doma starejših Lendava	mag. Jure Markič in Nataša Bratož	Obisk v vlogi DPM	Varuh
26. 1. 2010	Milkavž na Dravskem polju	Obisk ZPKZ Maribor – Odprti oddelek Rogoza	Robert Gačnik in Andreja Srebotnik	Obisk v vlogi DPM	Varuh
27. – 28. 1. 2010	Padova, Italija	Srečanje kontaktnih oseb državnih preventivnih mehanizmov držav Sveta Evrope	Ivan Šelih	Predstavniki evropskih državnih preventivnih mehanizmov so razpravljali o konceptu prevencije in o medsebojnem sodelovanju s pododborom proti mučenju iz Opcijskega protokola h konvenciji proti mučenju.	Svet Evrope in Evropska komisija ob finančni podpori Human Rights Trust Fund in s sodelovanjem z Association for the Prevention of Torture (APT)
1. 2. 2010	Na sedežu Varuha	ureditev prostorov za pridržanje	Ivan Šelih in Robert Gačnik	Pogovor o možnih izboljšavah v prostorih za pridržanje.	Generalna policijska uprava in Varuh človekovih pravic RS
16. 2. 2010	Celje	Obisk ZPMZ in KZ Celje	Robert Gačnik in Andreja Srebotnik	Obisk v vlogi DPM	Varuh
23. 2. 2010	Šmarje pri Jelšah, Rogaška Slatina in Slovenske Konjice	Obisk PP Šmarje pri Jelšah, PP Rogaška Slatina in PP Slovenske Konjice	Ivan Šelih in Robert Gačnik	Obisk v vlogi DPM	Varuh
24. 2. 2010	Vojnik	Obisk Psihiatrične bolnišnice Vojnik	Varuhinja, mag. Jure Markič in Nataša Bratož	Obisk v vlogi DPM	Varuh
11. 3. 2010	Cerknica	Obisk Centra starejših Cerknica	mag. Jure Markič in Miha Horvat	Obisk v vlogi DPM	Varuh
17. 3. 2010	Trebnje, Novo mesto in Šentjernej	Obisk PP Trebnje, PP Novo mesto in PP Šentjernej	Robert Gačnik in Andreja Srebotnik	Obisk v vlogi DPM	Varuh
23. 3. 2010	Padova, Italija	Tematska delavnica »The Role of NPMs in preventing ill-treatment in psychiatric institutions«	mag. Jure Markič	Udeležba na delavnici	Svet Evrope in Evropska komisija ob finančni podpori Human Rights Trust Fund in s sodelovanjem z APT
23. 3. 2010	Ig	Obisk ZPKZ Ljubljana Odprti oddelek Ig	Robert Gačnik in Miha Horvat	Obisk v vlogi DPM	Varuh
1. 4. 2010	Vojnik	Obisk Psihiatrične bolnišnice Vojnik	Varuhinja, mag. Jure Markič in Nataša Bratož	Obisk v vlogi DPM	Varuh

7. Review of the activities of the National Preventive Mechanism in 2010

WHEN	WHERE	WHAT	PARTICIPANTS	SHORT DESCRIPTION	ORGANISER
19 January 2010	Velenje, Radlje ob Dravi, Dravograd	Visit to Velenje, Radlje and Dravograd Police Stations	Robert Gačnik and Andreja Srebotnik	Visit in the capacity of the NPM	Ombudsman
20 January 2010	Lendava	Visit to Lendava Residential Home for the Elderly	Jure Markič, MSc and Nataša Bratož	Visit in the capacity of the NPM	Ombudsman
26 January 2010	Milkavž na Dravskem polju	Visit to Maribor Prison - Rogoza Open Section	Robert Gačnik and Andreja Srebotnik	Visit in the capacity of the NPM	Ombudsman
27-28 January 2010	Padua, Italy	Meeting of the Council of Europe National Preventive Mechanism contact persons	Ivan Šelih	Representatives of European preventive mechanisms discussed the concept of prevention and mutual cooperation with the Committee against Torture and the CTP.	Council of Europe and the European Commission with financial support from the Human Rights Trust Fund and in cooperation with the Association for the Prevention of Torture (APT)
1 February 2010	Head office of the Ombudsman	Arrangement of detention facilities	Ivan Šelih and Robert Gačnik	Discussion on possible improvements to detention premises.	General Police Directorate and the Human Rights Ombudsman of the Republic of Slovenia
16 February 2010	Celje	Visit to Celje Juvenile Prison	Robert Gačnik and Andreja Srebotnik	Visit in the capacity of the NPM	Ombudsman
23 February 2010	Šmarje pri Jelšah, Rogaška Slatina and Slovenske Konjice	Visit to Šmarje pri Jelšah, Rogaška Slatina and Slovenske Konjice Police Stations	Ivan Šelih and Robert Gačnik	Visit in the capacity of the NPM	Ombudsman
24 February 2010	Vojnik	Visit to Vojnik Psychiatric Hospital	Ombudsman, Jure Markič, MSc and Nataša Bratož	Visit in the capacity of the NPM	Ombudsman
11 March 2010	Cerknica	Visit to Cerknica Centre for the Elderly	Jure Markič, MSc and Miha Horvat	Visit in the capacity of the NPM	Ombudsman
17 March 2010	Trebnje, Novo mesto and Šentjernej	Visit to Trebnje, Novo mesto and Šentjernej Police Stations	Robert Gačnik and Andreja Srebotnik	Visit in the capacity of the NPM	Ombudsman
23 March 2010	Padua, Italy	Thematic workshop "The Role of NPMs in preventing ill-treatment in psychiatric institutions"	Jure Markič, MSc	Participation at the workshop	Council of Europe and the European Commission with financial support from the Human Rights Trust Fund and in cooperation with the APT
23 March 2010	Ig	Visit to Ljubljana Prison - Ig Open Section	Robert Gačnik and Miha Horvat	Visit in the capacity of the NPM	Ombudsman
1 April 2010	Vojnik	Visit to Vojnik Psychiatric Hospital	Ombudsman, Jure Markič, MSc and Nataša Bratož	Visit in the capacity of the NPM	Ombudsman

KDAJ	KJE	KAJ	UDELEŽENEC(-KA)	KRATEK OPIS	ORGANIZATOR
7. 4. 2010	Postojna in Sežana	Obisk PP Postojna in PP Sežana	Robert Gačnik in Andreja Srebotnik	Obisk v vlogi DPM	Varuh
22. 4. 2010	Mirna na Dolenjskem	Obisk ZPKZ Dob pri Mirni – Odprti oddelek »Puščava«	Ivan Šelih in Robert Gačnik	Obisk v vlogi DPM	Varuh
4. 5. 2010	Ljubljana	Posvet	Tone Dolčič	Posvet na temo dela s stanovanjci z demenco – predstavitev naših ugotovitev z obiskov domov za starejše	Ministrstvo za delo, družino in socialne zadeve in Skupnost socialnih zavodov Slovenije
10. 5. 2010	Beograd, Srbija	Sodelovanje s srbskim omudsmanom pri obisku zapora in policijskih postaj	Ivan Šelih in Robert Gačnik	V sodelovanju s srbskim ombudsmanom smo obiskali Policijsko postajo Novi Beograd in Kazensko popravni zavod Padinska Skela.	Varuh
18. 5. 2010	Krško	Obisk Doma starejših občanov Krško	mag. Jure Markič in Nataša Bratož	Obisk v vlogi DPM	Varuh
24. 5. 2010	Na sedežu Varuha	Obisk predstavnikov armenskega Nacionalnega preventivnega mehanizma	člani državnega preventivnega mehanizma	Predstavniki armenskega Nacionalnega preventivnega mehanizma so bili od 24. do 26. maja pri Varuhu človekovih pravic RS z namenom seznaniti se z našim delovanjem v vlogi DPM.	Varuh
25. 5. 2010	Domžale	Obisk PP Domžale	Ivan Šelih in Robert Gačnik	Obisk v vlogi DPM	Varuh
26. – 27. 5. 2010	Ljubljana	Obisk ZPKZ Ljubljana	Ivan Šelih, Robert Gačnik in Andreja Srebotnik	Obisk v vlogi DPM	Varuh
9. – 10. 6. 2010	Tirana, Albanija	Tematska delavnica »The Role of NPMs in protecting individuals key rights upon deprivation of liberty by police«.	Andreja Srebotnik	Udeležba na delavnici.	Svet Evrope in Evropska komisija ob finančni podpori Human Rights Trust Fund in s sodelovanjem z APT.
15. 6. 2010	Kočevje	Obisk Doma starejših občanov Kočevje	mag. Jure Markič in Miha Horvat	Obisk v vlogi DPM	Varuh
16. 6. 2010	Postojna	Obisk Centra za tujce	Nataša Bratož in Miha Horvat	Obisk v vlogi DPM	Varuh
13. 7. 2010	Na sedežu Varuha	Pogovor z veleposlanico Brazilije v RS	Varuhinja	Varuhinja se je sestala z veleposlanico Brazilije. Obravnavali sta položaj človekovih pravic v Republiki Sloveniji in Braziliji. Varuhinja pa je veleposlanici Brazilije predstavila tudi delovanje Varuha v vlogi državnega preventivnega mehanizma v Sloveniji.	Varuh v sodelovanju z VP Brazilije

WHEN	WHERE	WHAT	PARTICIPANTS	SHORT DESCRIPTION	ORGANISER
7 April 2010	Postojna and Sežana	Visit to Postojna and Sežana Police Stations	Robert Gačnik and Andreja Srebotnik	Visit in the capacity of the NPM	Ombudsman
22 April 2010	Mirna na Dolenjskem	Visit to Dob Prison - Puščava Open Section	Ivan Šelih and Robert Gačnik	Visit in the capacity of the NPM	Ombudsman
4 May 2010	Ljubljana	Consultation	Tone Dolčič	Discussion about work with residents suffering from dementia - presentation of our findings from visits to residential homes for the elderly.	Ministry of Labour, Family and Social Affairs and the Association of Social Institutes of Slovenia
10 May 2010	Belgrade, Serbia	Cooperation with Serbian Ombudsman in visiting a prison and police stations	Ivan Šelih and Robert Gačnik	We visited Novi Beograd Police Station and Padinska Skela Penal Reform Institution together with the Serbian ombudsman.	Ombudsman
18 May 2010	Krško	Visit to Krško Residential Home for the Elderly	Jure Markič, MSc and Nataša Bratož	Visit in the capacity of the NPM	Ombudsman
24 May 2010	Head office of the Ombudsman	Visit by representatives of the Armenian National Preventive Mechanism	Members of the National Preventive Mechanism	Representatives of the Armenian NPM were on a visit to the Slovenian Human Rights Ombudsman from 24 to 26 May; the purpose of the visit was to get acquainted with our activities in the capacity of the National Preventive Mechanism.	Ombudsman
25 May 2010	Domžale	Visit to Domžale Police Station	Ivan Šelih and Robert Gačnik	Visit in the capacity of the NPM	Ombudsman
26-27 May 2010	Ljubljana	Visit to Ljubljana Prison	Ivan Šelih, Robert Gačnik and Andreja Srebotnik	Visit in the capacity of the NPM	Ombudsman
9-10 June 2010	Tirana, Albania	Thematic workshop "The Role of NPMs in protecting an individual's key rights upon deprivation of liberty by the police".	Andreja Srebotnik	Participation at the workshop	Council of Europe and the European Commission with financial support from the Human Rights Trust Fund and in cooperation with the APT
15 June 2010	Kočevje	Visit to Kočevje Residential Home for the Elderly	Jure Markič, MSc and Miha Horvat	Visit in the capacity of the NPM	Ombudsman
16 June 2010	Postojna	Visit to the Aliens Centre	Nataša Bratož and Miha Horvat	Visit in the capacity of the NPM	Ombudsman
13 July 2010	Head office of the Ombudsman	Talks with the Ambassador of Brazil to the Republic of Slovenia	Ombudsman	The Ombudsman met with the Ambassador of Brazil. They discussed the human rights situation in Slovenia and Brazil. The Ombudsman presented the activities of the Office carried out in Slovenia in the capacity of the National Preventive Mechanism.	The Ombudsman in cooperation with the Embassy of Brazil

KDAJ	KJE	KAJ	UDELEŽENEC(-KA)	KRATEK OPIS	ORGANIZATOR
13. 7. 2010	Idrija	Obisk Psihiatrične bolnišnice Idrija	Varuhinja, mag. Jure Markič in Nataša Bratož	Obisk v vlogi DPM	Varuh
20. 7. 2010	Mengeš	Obisk Doma počitka Mengeš	mag. Jure Markič in Miha Horvat	Obisk v vlogi DPM	Varuh
20. 8. 2010	Ljubljana	Delovno srečanje	Tone Dolčič in mag. Jure Markič	Delovno srečanje skupine »za prodorčje obravnave uporabnikov z demenco«	Ministrstvo za delo, družino in socialne zadeve
14. 9. 2010	Sevnica	Obisk Doma upokojencev in oskrbovancev Impoljca Sevnica	mag. Jure Markič in Nataša Bratož	Obisk v vlogi DPM	Varuh
21. 9. 2010	Vrhnika in Ljubljana	Obisk PP Vrhnika in PP Ljubljana Vič	Robert Gačnik in Andreja Srebotnik	Obisk v vlogi DPM	Varuh
23. 9. 2010	Murska Sobota	Obisk ZPKZ Maribor – Oddelek Murska Sobota	Andreja Srebotnik in Miha Horvat	Obisk v vlogi DPM	Varuh
28. 9. 2010	Brnik	Obisk Postaje letališke policije Brnik	Ivan Šelih in Robert Gačnik	Obisk v vlogi DPM	Varuh
12. 10. 2010	Trbovlje in Litija	Obisk PP Trbovlje in PP Litija	Robert Gačnik in Andreja Srebotnik	Obisk v vlogi DPM	Varuh
13. – 14. 10. 2010	Erevan, Armenija	Tretja tematska delavnica državnih preventivnih mehanizmov	Ivan Šelih	Namestnik varuhinje Ivan Šelih se je udeležil tretje delavnice državnih preventivnih mehanizmov, kjer je predstavil svoj prispevek o časovnih okvirjih in pogostostih obiskov državnih preventivnih mehanizmov.	Svet Evrope in Evropska komisija ob finančni podpori Human Rights Trust Fund in s sodelovanjem z APT
20. – 21. 10. 2010	Crikvenica, Hrvaška	Regijska okrogla miza o državnih preventivnih mehanizmih	mag. Jure Markič	Predstavitve DPM Slovenije	UNDP Bratislava Regional Center in UNDP Hrvaška in APT
21. 10. 2010	Novo mesto	Obisk ZPKZ Ljubljana – Oddelek Novo mesto	Andreja Srebotnik in Miha Horvat	Obisk v vlogi DPM	Varuh
21. – 22. 10. 2010	Ankara, Turčija	TAIEX workshop on Public monitoring of places of detention: Experiences from EU	Ivan Šelih	Namestnik varuhinje Ivan Šelih je na delavnici v Ankari predstavil svoj prispevek z naslovom: The NPM of Slovenia.	Evropska Komisija; Bruselj
27. 10. 2010	Ljubljana	Obisk PP Moste in pregled prostorov za pridržanje	Ivan Šelih in Robert Gačnik	Pregled prostorov za pridržanje ob prisotnosti predstavnikov Ministrstva za notranje zadeve Republike Srbije (prikaz izvedbe obiska državnega preventivnega mehanizma na policijski postaji).	Varuh v sodelovanju z ministrstvom za notranje zadeve
9. 11. 2010	Budimpešta, Madžarska	Mednarodna delavnica – The independence, impartiality and effectiveness of prison complaint mechanisms	Ivan Šelih	Namestnik varuhinje Ivan Šelih je na mednarodni delavnici predstavil delovanje državnega preventivnega mehanizma v Sloveniji.	Hungarian Helsinki Committee in Open Society Institute
11. 11. 2010	Bovec, Nova Gorica	Obisk PP Bovec in PP Nova Gorica	Robert Gačnik	Obisk v vlogi DPM	Varuh

WHEN	WHERE	WHAT	PARTICIPANTS	SHORT DESCRIPTION	ORGANISER
13 July 2010	Idrija	Visit to Idrija Psychiatric Hospital	Ombudsman, Jure Markič, MSc and Nataša Bratož	Visit in the capacity of the NPM	Ombudsman
20 July 2010	Mengeš	Visit to Mengeš Retirement Home	Jure Markič, MSc and Miha Horvat	Visit in the capacity of the NPM	Ombudsman
20 August 2010	Ljubljana	Working meeting	Tone Dolčič and Jure Markič, MSc	Working meeting of the group for "treatment of users suffering from dementia"	Ministry of Labour, Family and Social Affairs
14 September 2010	Sevnica	Visit to Impolca Retirement and Nursing Home in Sevnica	Jure Markič, MSc and Nataša Bratož	Visit in the capacity of the NPM	Ombudsman
21 September 2010	Vrhnika and Ljubljana	Visit to Vrhnika and Ljubljana Vič Police Stations	Robert Gačnik and Andreja Srebotnik	Visit in the capacity of the NPM	Ombudsman
23 September 2010	Murska Sobota	Visit to Maribor Prison - Murska Sobota Section	Andreja Srebotnik and Miha Horvat	Visit in the capacity of the NPM	Ombudsman
28 September 2010	Brnik	Visit to Brnik Airport Police Station	Ivan Šelih and Robert Gačnik	Visit in the capacity of the NPM	Ombudsman
12 October 2010	Trbovlje and Litija	Visit to Trbovlje and Litija Police Stations	Robert Gačnik and Andreja Srebotnik	Visit in the capacity of the NPM	Ombudsman
13-14 October 2010	Yerevan, Armenia	The third thematic workshop for National Preventive Mechanisms	Ivan Šelih	Deputy Ombudsman Šelih attended the third workshop of the National Preventive Mechanisms and presented his paper on the time-frame and frequency of visits by national preventive mechanisms.	Council of Europe and the European Commission with financial support from the Human Rights Trust Fund and in cooperation with the APT
20-21 October 2010	Crikvenica, Croatia	Regional round table on National Preventive Mechanisms	Jure Markič, MSc	Presentation of the National Preventive Mechanism of Slovenia	UNDP Bratislava Regional Centre and UNDP Croatia and the APT
21 October 2010	Novo mesto	Visit to Ljubljana Prison - Novo mesto Section	Andreja Srebotnik and Miha Horvat	Visit in the capacity of the NPM	Ombudsman
21-22 October 2010	Ankara, Turkey	TAIEX workshop on Public Monitoring of Places of Detention: Experiences from the EU	Ivan Šelih	Deputy Ombudsman Šelih presented his paper 'The NPM of Slovenia' at the workshop in Ankara.	European Commission; Brussels
27 October 2010	Ljubljana	Visit to Moste Police Station and inspection of detention facilities	Ivan Šelih and Robert Gačnik	Inspection of the detention premises in the presence of representatives of the Serbian Ministry of the Interior (demonstration of visit by a national preventive mechanism to a police station).	The Ombudsman in cooperation with the Ministry of the Interior
9 November 2010	Budapest, Hungary	International workshop on the independence, impartiality and effectiveness of prison complaint mechanisms	Ivan Šelih	Deputy Ombudsman Šelih presented the operation of the National Preventive Mechanism of Slovenia at the international workshop.	Hungarian Helsinki Committee in Open Society Institute
11 November 2010	Bovec, Nova Gorica	Visit to Bovec and Nova Gorica Police Stations	Robert Gačnik	Visit in the capacity of the NPM	Ombudsman

KDAJ	KJE	KAJ	UDELEŽENEC(-KA)	KRATEK OPIS	ORGANIZATOR
18. 11. 2010	Žalec	Obisk Doma Nine Pokorn – Grmovje	mag. Jure Markič in Nataša Bratož	Obisk v vlogi DPM	Varuh
23. – 25. 11. 2010	Mirna na Dolenjskem	Obisk ZPKZ Dob pri Mirni	Ivan Šelih, Robert Gačnik, Andreja Srebotnik in Miha Horvat	Obisk v vlogi DPM	Varuh
30. 11. – 2. 12. 2010	Strasbourg, Francija	Srečanje kontaktnih oseb državnih preventivnih mehanizmov držav Sveta Evrope	Ivan Šelih	Namestnik varuhinje Ivan Šelih se je udeležil drugega mednarodnega srečanja predstavnikov državnih preventivnih mehanizmov	Svet Evrope in Evropska komisija ob finančni podpori Human Rights Trust Fund in s sodelovanjem z APT.
1. 12. 2010	Maribor	Obisk ZPKZ Maribor	Robert Gačnik in Andreja Srebotnik	Obisk v vlogi DPM	Varuh
7. 12. 2010	Ljubljana	Letno srečanje državnega preventivnega mehanizma Slovenije	člani državnega preventivnega mehanizma in predstavniki izbranih nevladnih organizacij	Srečanje s predstavniki državnega preventivnega mehanizma Slovenije. Pogovor o možnostih izboljšanja delovanja v prihodnosti.	Varuh v sodelovanju z izbranimi nevladnimi organizacijami
10. 12. 2010	Ljubljana	Posvet in okrogla miza ob dnevu človekovih pravic	mag. Jure Markič in dr. Ingrid Zagožen Russi	Predstavitev kršitev pravic starejših kot jih zaznava Varuh človekovih pravic RS	Varuh
13. 12. 2010	Maribor	Obisk UKC Maribor – Oddelek za psihiatrijo	Varuhinja, mag. Jure Markič in Miha Horvat	Obisk v vlogi DPM	Varuh
13. 12. 2010	Slivnica pri Mariboru	Obisk Vzgojnega zavoda Slivnica pri Mariboru	Ivan Šelih, dr. Ingrid Russi Zagožen	Obisk v vlogi DPM	Varuh
14. 12. 2010	Ljubljana, Medvode	Obisk PP Ljubljana Šiška in PP Medvode	Robert Gačnik	Obisk v vlogi DPM	Varuh
22. 12. 2010	Ljubljana	Obisk Azilnega doma	Miha Horvat in Mojca Valjavec	Obisk v vlogi DPM	Varuh

WHEN	WHERE	WHAT	PARTICIPANTS	SHORT DESCRIPTION	ORGANISER
18 November 2010	Žalec	Visit to Nina Pokorn Home, Grmovje	Jure Markič, MSc and Nataša Bratož	Visit in the capacity of the NPM	Ombudsman
23-25 November 2010	Mirna na Dolenjskem	Visit to Dob Prison	Ivan Šelih, Robert Gačnik, Andreja Srebotnik and Miha Horvat	Visit in the capacity of the NPM	Ombudsman
30 November – 2 December 2010	Strasbourg, France	Meeting of the Council of Europe National Preventive Mechanism contact persons	Ivan Šelih	Deputy Ombudsman Šelih attended the second international meeting of representatives of national preventive mechanisms.	Council of Europe and the European Commission with financial support from the Human Rights Trust Fund and in cooperation with the APT
1 December 2010	Maribor	Visit to Maribor Prison	Robert Gačnik and Andreja Srebotnik	Visit in the capacity of the NPM	Ombudsman
7 December 2010	Ljubljana	Annual meeting of the National Preventive Mechanism of Slovenia	Members of the National Preventive Mechanism and representatives of selected non-governmental organisations	Meeting with representatives of the National Preventive Mechanism of Slovenia. Discussion on the opportunities for improving its functioning in the future.	The Ombudsman in cooperation with selected non-governmental organisations
10 December 2010	Ljubljana	Discussion and round table on the occasion of Human Rights Day	Jure Markič, MSc and Dr Ingrid Zagožen Russi	Presentation of violations of rights of the elderly as detected by the Slovenian Human Rights Ombudsman.	Ombudsman
13 December 2010	Maribor	Visit to the University Clinical Centre Maribor, Department of Psychiatry	Ombudsman, Jure Markič, MSc and Miha Horvat	Visit in the capacity of the NPM	Ombudsman
13 December 2010	Slivnica pri Mariboru	Visit to Slivnica Residential Treatment Institution	Ivan Šelih, Dr Ingrid Russi Zagožen	Visit in the capacity of the NPM	Ombudsman
14 December 2010	Ljubljana, Medvode	Visit to Ljubljana Šiška and Medvode Police Stations	Robert Gačnik	Visit in the capacity of the NPM	Ombudsman
22 December 2010	Ljubljana	Visit to the Asylum Centre	Miha Horvat and Mojca Valjavec	Visit in the capacity of the NPM	Ombudsman

KONVENCIJA IN PROTOKOL

CONVENTION AND PROTOCOL

II. KONVENCIJA IN PROTOKOL

1. Konvencija OZN proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju

Sprejeta ter na voljo za podpis, ratifikacijo in pristop, dne 10. decembra 1984, z resolucijo Generalne skupščine Združenih narodov 39/46.

Datum začetka veljavnosti konvencije: 26. junija 1987 – v skladu s 27(1) členom konvencije. Objavljena v Uradnem listu Republike Slovenije – Mednarodne pogodbe št. 7/93.

Države članice te konvencije,

menijo, da je v skladu z načeli ustanovne listine Združenih narodov priznavanje enakih in neodtujljivih pravic vseh članov človeške družine temelj svobode, pravice in miru v svetu,

menijo, da te pravice izhajajo iz dostojanstva, neločljivega od človekove osebnosti,

menijo, da morajo države na podlagi ustanovne listine, predvsem pa njenega 55. člena, spodbujati splošno in dejansko spoštovanje človekovih pravic in temeljnih svoboščin,

upoštevajo 5. člen splošne deklaracije o človekovih pravicah in 7. člen mednarodnega pakta o državljanskih in političnih pravicah, po katerih nihče ne sme biti izpostavljen mučenju in ne krutim, nečloveškim ali poniževalnim kaznim ali ravnanju,

upoštevajo tudi deklaracijo o varstvu vseh oseb pred mučenjem in drugimi krutimi, nečloveškimi ali poniževalnimi kaznimi ali ravnanju, ki jo je Generalna skupščina sprejela 9. decembra 1975,

želijo povečati učinkovitost boja proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju v vsem svetu, in

so se zedinile o naslednjem:

I. DEL

1. člen

1. V tej konvenciji pomeni izraz »mučenje« vsako dejanje, ki osebi namenoma prizadene hudo bolečino ali trpljenje, bodisi telesno ali duševno, da bi se od nje ali koga drugega dobila obvestila ali priznanja ali da bi se kaznovala za dejanje, ki ga je storila sama ali kdo drug ali je zanj osumljena sama ali kdo drug, da bi se ustražovala ali nanjo izvajal pritisk ali da bi se ustražoval kdo drug ali nanj izvajal pritisk, ali iz kateregakoli drugega razloga, ki temelji na katerikoli obliki diskriminacije, če to bolečino ali trpljenje prizadeva uradna oseba ali kdo drug, ki nastopa kot oseba z uradnim statusom ali na njeno pobudo ali z njeno izrecno privolitvijo ali privolitvijo molče. Ta izraz se ne nanaša na bolečino ali trpljenje, ki je posledica izključno zakonitih sankcij, ki ni ločljivo od teh sankcij ali ga te sankcije povzročajo.

2. Ta člen ne vpliva na noben mednarodni instrument ali nacionalni zakon, ki vsebuje ali utegne vsebovati določbe širšega pomena.

II. CONVENTION AND PROTOCOL

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

Adopted and opened for signature, ratification and accession by General Assembly resolution 39/46 of 10 December 1984, entry into force 26 June 1987, in accordance with article 27 (1).

Published in Uradni list RS - Mednarodne pogodbe, No. 7/93 (Official Gazette of the Republic of Slovenia - International Treaties).

The States Parties to this Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that those rights derive from the inherent dignity of the human person,

Considering the obligation of States under the Charter, in particular Article 55, to promote universal respect for, and observance of, human rights and fundamental freedoms,

Having regard to article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights, both of which provide that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

Having regard also to the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly on 9 December 1975,

Desiring to make more effective the struggle against torture and other cruel, inhuman or degrading treatment or punishment throughout the world,

Have agreed as follows:

PART I

Article 1

1. For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

2. This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application.

2. člen

1. Vsaka država članica izvaja zakonske, upravne, sodne ali druge učinkovite ukrepe, da bi na ozemlju pod svojo jurisdikcijo preprečila mučenje.
2. Kot opravičilo za mučenje se ne more navesti nikakršna izredna okoliščina – bodisi da gre za vojno stanje ali vojno nevarnost, notranjo politično nestabilnost ali kako drugo izredno stanje.
3. Kot opravičilo za mučenje se ne more navesti odredba kake nadrejene osebe ali organa oblasti.

3. člen

1. Nobena država članica ne bo pregnala, izgnala in ne izročila osebe drugi državi, če so resni razlogi za sum, da utegne biti mučena.
2. Da bi ugotovili, ali so taki razlogi, bodo pristojni organi upoštevali vse relevantne okoliščine, med drugim tudi to, ali obstaja v zadevni državi vrsta sistematičnih resnih, očitnih ali množičnih kršitev človekovih pravic.

4. člen

1. Vsaka država članica si prizadeva, da se po njenem kazenskem pravu vsa dejanja mučenja štejejo za kazniva dejanja. To velja tudi za poskuse mučenja ali kakega drugega dejanja, ki ga kdo stori, pomeni pa soudeležbo ali udeležbo pri dejanju mučenja.
2. Vsaka država članica določi za ta kazniva dejanja ustrezne kazni, ki upoštevajo njihovo težo.

5. člen

1. Vsaka država članica sprejme potrebne ukrepe, da bi določila svojo pristojnost za kazniva dejanja iz 4. člena v naslednjih primerih:
 - a) kadar je kaznivo dejanje storjeno na ozemlju pod njeno jurisdikcijo ali na letalih ali ladjah, vpisanih v njeni državi;
 - b) kadar je domnevni storilec kaznivega dejanja njen državljan;
 - c) kadar je žrtev njen državljan, če meni, da je to potrebno.
2. Vsaka država članica prav tako sprejme potrebne ukrepe, da bi določila svojo pristojnost za omenjena kazniva dejanja, če je domnevni storilec teh dejanj na ozemlju pod njeno jurisdikcijo in če ga v skladu z 8. členom ne izroči kaki državi iz prvega odstavka tega člena.
3. Ta konvencija ne izključuje nobene kazenske pristojnosti, ki temelji na nacionalni zakonodaji.

Article 2

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.
2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political in stability or any other public emergency, may be invoked as a justification of torture.
3. An order from a superior officer or a public authority may not be invoked as a justification of torture.

Article 3

1. No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.
2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

Article 4

1. Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.
2. Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.

Article 5

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 4 in the following cases:
 - (a) When the offences are committed in any territory under its jurisdiction or on board a ship or aircraft registered in that State;
 - (b) When the alleged offender is a national of that State;
 - (c) When the victim is a national of that State if that State considers it appropriate.
2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over such offences in cases where the alleged offender is present in any territory under its jurisdiction and it does not extradite him pursuant to article 8 to any of the States mentioned in paragraph 1 of this article.
3. This Convention does not exclude any criminal jurisdiction exercised in accordance with internal law.

6. člen

1. Če meni, da okoliščine to opravičujejo, in po poprejšnji obravnavi obvestil, s katerimi razpolaga, poskrbi vsaka država članica, na ozemlju katere je oseba, za katero se sumi, da je storila kaznivo dejanje iz 4. člena, da se zadevna oseba aretira, ali pa izvede vse potrebne zakonske ukrepe, da bi zagotovila njeno navzočnost. Ta aretacija in ti ukrepi morajo biti v skladu z zakonodajo omenjene države, toda izvajajo se lahko samo toliko časa, kolikor je potrebno za začetek kazenskega pregona ali postopka za izročitev.

2. Omenjena država takoj opravi predhodno preiskavo, da bi ugotovila dejstva.

3. Vsaka oseba, aretirana v skladu s prvim odstavkom tega člena, lahko takoj stopi v stik z najbližjim pooblaščenim predstavnikom države, katere državljanstvo ima, ali, če gre za apatrida, s predstavnikom države, v kateri ima običajno prebivališče.

4. Če je kaka država aretirala osebo v skladu s tem členom, mora o tej aretaciji in okoliščinah, ki jo opravičujejo, takoj obvestiti države iz prvega odstavka 5. člena. Država, ki izvaja predhodno preiskavo iz drugega odstavka tega člena, mora svoje ugotovitve takoj sporočiti omenjenim državam in jih obvestiti, ali namerava izvršiti jurisdikcijo.

7. člen

1. Država članica, na katere ozemlju pod njeno jurisdikcijo je odkrit domnevni storilec kaznivega dejanja iz 4. člena, če ga ne izroči, predloži v primerih iz 5. člena zadevo pristojnim organom, da bi izvedli kazenski postopek.

2. Ti organi odločajo pod enakimi pogoji kot za vsako hudo kaznivo dejanje splošnega prava v skladu s pravnimi predpisi zadevne države. V primerih iz drugega odstavka 5. člena dokazna pravila, ki se uporabljajo za pregon in obsodbo, nikakor ne smejo biti manj stroga od pravil, ki se uporabljajo v primerih iz prvega odstavka 5. člena.

3. Vsaki osebi, ki se preganja za katerokoli kaznivo dejanje iz 4. člena, je zajamčeno pravično ravnanje v vseh fazah postopka.

8. člen

1. Kazniva dejanja iz 4. člena so avtomatično vključena v vsako pogodbo o izročitvi, že sklenjeno med državami članicami. Države članice prevzemajo obveznost, da bodo omenjena kazniva dejanja vključile v vsako pogodbo o izročitvi, ki jo bodo sklenile med seboj.

2. Če dobi država članica, ki za izročitev postavlja kot pogoj pogodbo, od druge države članice, s katero ni vezana s pogodbo o izročitvi, zahtevo za izročitev, lahko šteje to konvencijo kot pravno podlago za izročitev glede omenjenih kaznivih dejanj. Izročitev je odvisna od drugih pogojev, določenih s pravom zaprosene države.

3. Države članice, ki za izročitev ne postavljajo kot pogoj pogodbe, medsebojno priznavajo omenjena kazniva dejanja kot primere za izročitev pod pogoj, predvidenimi s pravom zaprosene države.

Article 6

1. Upon being satisfied, after an examination of information available to it, that the circumstances so warrant, any State Party in whose territory a person alleged to have committed any offence referred to in article 4 is present shall take him into custody or take other legal measures to ensure his presence. The custody and other legal measures shall be as provided in the law of that State but may be continued only for such time as is necessary to enable any criminal or extradition proceedings to be instituted.
2. Such State shall immediately make a preliminary inquiry into the facts.
3. Any person in custody pursuant to paragraph 1 of this article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national, or, if he is a stateless person, with the representative of the State where he usually resides.
4. When a State, pursuant to this article, has taken a person into custody, it shall immediately notify the States referred to in article 5, paragraph 1, of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary inquiry contemplated in paragraph 2 of this article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

Article 7

1. The State Party in the territory under whose jurisdiction a person alleged to have committed any offence referred to in article 4 is found shall in the cases contemplated in article 5, if it does not extradite him, submit the case to its competent authorities for the purpose of prosecution.
2. These authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State. In the cases referred to in article 5, paragraph 2, the standards of evidence required for prosecution and conviction shall in no way be less stringent than those which apply in the cases referred to in article 5, paragraph 1.
3. Any person regarding whom proceedings are brought in connection with any of the offences referred to in article 4 shall be guaranteed fair treatment at all stages of the proceedings.

Article 8

1. The offences referred to in article 4 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.
2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention as the legal basis for extradition in respect of such offences. Extradition shall be subject to the other conditions provided by the law of the requested State.
3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize such offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

4. Med državami članicami se za omenjena kazniva dejanja za namene izročitve šteje, kot da so bila storjena ne le v kraju, kjer so se zgodila, temveč tudi na ozemljih držav, ki morajo določiti svojo pristojnost po prvem odstavku 5. člena.

9. člen

1. Države članice dajejo druga drugi kar največjo pravno pomoč v vsakem kazenskem postopku v zvezi s kaznivimi dejanji iz 4. člena, vštevši tudi pošiljanje vseh razpoložljivih dokaznih elementov, ki so potrebni za postopek.

2. Države članice izpolnjujejo svoje obveznosti v skladu s prvim odstavkom tega člena smiselno vsaki morebitni medsebojni pogodbi o pravni pomoči.

10. člen

1. Vsaka država članica bo zagotovila, da bosta seznanjanje s prepovedjo mučenja in informiranje o njej sestavni del izobraževanja civilnega ali vojaškega osebja, zadolženega za uporabo zakonov, medicinskega osebja, vršilcev javnih funkcij in drugih oseb, ki utegnejo kakorkoli sodelovati pri straženju aretirane, priprte ali zaprte osebe, pri njenem zaslišanju ali ravnanju z njo.

2. Vsaka država članica vključi omenjeno prepoved v pravila ali navodila v zvezi z obveznostmi in dolžnostmi teh oseb.

11. člen

Vsaka država članica sistematično nadzoruje pravila, navodila, metode in prakso zasliševanja ter določbe v zvezi s straženjem kakorkoli aretiranih, priprtih ali zaprtih oseb na kakem ozemlju pod njeno jurisdikcijo ter ravnanjem z njimi, da bi preprečila kakršnokoli mučenje.

12. člen

Vsaka država članica skrbi za to, da pristojni organi takoj opravijo nepristransko preiskavo vsakič, ko so upravičeni razlogi za sum, da je bilo dejanje mučenja storjeno, na kakem ozemlju pod njeno jurisdikcijo.

13. člen

Vsaka država članica zagotovi vsaki osebi, ki trdi, da je bila mučena na kakem ozemlju pod njeno jurisdikcijo, pravico, da se pritoži pristojnim organom omenjene države, ki takoj in nepristransko preučijo primer. Sprejeti bodo ukrepi, da se oseba, ki se je pritožila, in priče zavarujejo pred kakršnimkoli grdima ravnanjem ali ustrahovanjem zaradi vložene pritožbe ali dane izjave.

14. člen

1. Vsaka država članica v svojem pravnem sistemu jamči žrtvi dejanja mučenja odstranitev krivice ter pravico do pravične in ustrezne odškodnine, vštevši sredstva, potrebna za njeno čim popolnejšo rehabilitacijo. V primeru smrti žrtve dejanja mučenja imajo imetniki pravic te žrtve pravico do odškodnine.

2. Ta člen ne izključuje nobene pravice do odškodnine, ki bi jo imela žrtev ali kdo drug v skladu z nacionalno zakonodajo.

4. Such offences shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with article 5, paragraph 1.

Article 9

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of any of the offences referred to in article 4, including the supply of all evidence at their disposal necessary for the proceedings.

2. States Parties shall carry out their obligations under paragraph 1 of this article in conformity with any treaties on mutual judicial assistance that may exist between them.

Article 10

1. Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.

2. Each State Party shall include this prohibition in the rules or instructions issued in regard to the duties and functions of any such person.

Article 11

Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.

Article 12

Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

Article 13

Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.

Article 14

1. Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation.

2. Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law.

15. člen

Vsaka država članica skrbi za to, da se izjava, za katero se dokaže, da je bila dobljena z mučenjem, ne more navesti kot dokazni element v kakem postopku, razen zoper osebo, obtoženo za mučenje, da bi se ugotovilo, da je bila izjava dana.

16. člen

1. Vsaka država članica prevzema obveznost, da bo na ozemlju pod svojo jurisdikcijo preprečila druga dejanja krutih, nečloveških ali poniževalnih kazni ali ravnanja, ki niso dejanja mučenja, kot jih opredeljuje 1. člen, kadar takšna dejanja stori predstavnik javne funkcije ali kdo drug, ki nastopa kot oseba z uradnim statusom ali na njeno spodbudo ali z njeno izrecno privolitvijo ali privolitvijo molče. Zlasti obveznosti, navedene v 10., 11., 12. in 13. členu, se uporabljajo s tem, da se pojem mučenja nadomesti s pojmom drugih oblik krutih, nečloveških ali poniževalnih kazni ali ravnanja.

2. Določbe te konvencije ne vplivajo na določbe kateregakoli mednarodnega instrumenta ali nacionalnega zakona, ki prepoveduje krute, nečloveške ali poniževalne kazni ali ravnanja ali ki se nanaša na izročitev ali izgon.

II. DEL

17. člen

1. Ustanovi se komite proti mučenju (v nadaljnjem besedilu: komite), katerega funkcije so tu določene. Komite sestavlja deset izvedencev z visokimi moralnimi kvaliteta, katerih kompetentnost na področju človekovih pravic je priznana in ki zasedajo v osebnem statusu. Izvedence volijo države članice, pri tem pa upoštevajo pravično zemljepisno zastopanost in da je pomembno, da pri delu komiteja sodelujejo osebe s pravnimi izkušnjami.

2. Člani komiteja se volijo s tajnim glasovanjem z liste kandidatov, ki jih določijo države članice. Vsaka država članica določi enega kandidata izmed svojih državljanov. Države članice upoštevajo, kako pomembno je, da so določeni kandidati hkrati člani komiteja za človekove pravice, ustanovljenega v skladu z mednarodnim paktom o državljanskih in političnih pravicah, in da so pripravljeni biti člani komiteja proti mučenju.

3. Člani komiteja se volijo na sestanku držav članic, ki ga sklicuje generalni sekretar Organizacije združenih narodov in ki je vsako drugo leto. Na tem sestanku, ki je sklepčen, če so navzoči predstavniki dveh tretjin držav članic, so za člane komiteja izvoljeni kandidati, ki dobijo največ glasov in absolutno večino glasov predstavnikov držav članic, ki so navzoči in glasujejo.

4. Prve volitve se izvedejo najpozneje šest mesecev po uveljavitvi te konvencije. Najmanj štiri mesece pred vsakimi volitvami pošlje generalni sekretar Organizacije združenih narodov pismo državam članicam in jih pozove, naj predložijo svoje candidature v treh mesecih. Generalni sekretar sestavi abecedni seznam vseh tako določenih kandidatov z navedbo držav članic, ki so jih določile, in ga pošlje državam članicam.

5. Člani komiteja se volijo za štiri leta. Lahko so ponovno izvoljeni, če so znova kandidirani. Vendar mandat petih članov, izvoljenih na prvih volitvah, preneha po dveh letih. Neposredno po prvih volitvah izžreba imena teh petih članov predsednik sestanka, navedenega v tretjem odstavku tega člena.

Article 15

Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.

Article 16

1. Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article I, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment.

2. The provisions of this Convention are without prejudice to the provisions of any other international instrument or national law which prohibits cruel, inhuman or degrading treatment or punishment or which relates to extradition or expulsion.

PART II

Article 17

1. There shall be established a Committee against Torture (hereinafter referred to as the Committee) which shall carry out the functions hereinafter provided. The Committee shall consist of ten experts of high moral standing and recognized competence in the field of human rights, who shall serve in their personal capacity. The experts shall be elected by the States Parties, consideration being given to equitable geographical distribution and to the usefulness of the participation of some persons having legal experience.

2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals. States Parties shall bear in mind the usefulness of nominating persons who are also members of the Human Rights Committee established under the International Covenant on Civil and Political Rights and who are willing to serve on the Committee against Torture.

3. Elections of the members of the Committee shall be held at biennial meetings of States Parties convened by the Secretary-General of the United Nations. At those meetings, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

4. The initial election shall be held no later than six months after the date of the entry into force of this Convention. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within three months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.

5. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. However, the term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these five members shall be chosen by lot by the chairman of the meeting referred to in paragraph 3 of this article.

6. Če član komiteja umre, odstopi ali iz kakršnegakoli razloga ne more več opravljati svojih funkcij v komiteju, imenuje država članica, ki ga je določila, drugega izvedenca – svojega državljana, ki ostane v komiteju preostali čas mandata, če to odobri večina držav članic. Šteje se, da je privolitev dana, razen če polovica ali več kot polovica držav članic ne izrazi nasprotnega mnenja v šestih tednih od trenutka, ko jih generalni sekretar Organizacije združenih narodov obvesti o predlaganem imenovanju.

7. Države članice plačajo stroške članov komiteja, dokler opravljajo funkcije v komiteju.

18. člen

1. Komite voli svoj biro za dve leti. Člani biroja se lahko ponovno volijo.

2. Komite sam določi svoj poslovnik. Ta poslovnik mora imeti predvsem naslednji določbi:

a) za sklepčnost je potrebna navzočnost šestih članov;

b) sklepi komiteja se sprejemajo z večino glasov navzočih članov.

3. Generalni sekretar Organizacije združenih narodov da komiteju na razpolago osebje in prostore, ki jih ta potrebuje za učinkovito opravljanje del, ki so mu zaupana v skladu s to konvencijo.

4. Generalni sekretar Organizacije združenih narodov skliče prvi sestanek članov komiteja. Po svojem prvem sestanku se komite sestaja ob priložnostih, določenih z njegovim poslovníkom.

5. Države članice plačajo stroške sestankov držav članic in komiteja, vštevši plačilo vseh stroškov Organizaciji združenih narodov, kot so stroški za plačilo osebja in prostorov, ki jih organizacija angažira v skladu s tretjim odstavkom tega člena.

19. člen

1. Države članice predložijo komiteju s posredovanjem generalnega sekretarja Organizacije združenih narodov poročilo o ukrepih, ki so jih izvedle, da bi izpolnile svoje obveznosti v skladu s to konvencijo, in sicer v enem letu po uveljavitvi konvencije za zadevno državo članico. Države članice nato vsako četrto leto predložijo dodatno poročilo o vseh novih ukrepih in druga poročila, ki jih komite zahteva.

2. Generalni sekretar Organizacije združenih narodov pošlje poročila vsem državam članicam.

3. Komite obravnava vsako poročilo in lahko da o njem splošne komentarje, ki so po njegovem mnenju potrebni, omenjene komentarje pa pošlje zainteresirani državi članici. Ta država članica lahko pošlje komiteju kot odgovor vse pripombe, ki so po njenem mnenju koristne.

4. Komite lahko sklene, da v letnem poročilu, ki ga sestavi po 24. členu, ponovi vse komentarje, ki jih je dal v skladu s tretjim odstavkom tega člena, skupaj s pripombami, ki jih je v zvezi s tem vprašanjem dobil od zainteresirane države članice. Če zainteresirana država članica to zahteva, lahko komite priloži tudi poročilo, predloženo na podlagi prvega odstavka tega člena.

6. If a member of the Committee dies or resigns or for any other cause can no longer perform his Committee duties, the State Party which nominated him shall appoint another expert from among its nationals to serve for the remainder of his term, subject to the approval of the majority of the States Parties. The approval shall be considered given unless half or more of the States Parties respond negatively within six weeks after having been informed by the Secretary-General of the United Nations of the proposed appointment.

7. States Parties shall be responsible for the expenses of the members of the Committee while they are in performance of Committee duties.

Article 18

1. The Committee shall elect its officers for a term of two years. They may be re-elected.
2. The Committee shall establish its own rules of procedure, but these rules shall provide, inter alia, that:
 - (a) Six members shall constitute a quorum;
 - (b) Decisions of the Committee shall be made by a majority vote of the members present.
3. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under this Convention.
4. The Secretary-General of the United Nations shall convene the initial meeting of the Committee. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.
5. The States Parties shall be responsible for expenses incurred in connection with the holding of meetings of the States Parties and of the Committee, including reimbursement to the United Nations for any expenses, such as the cost of staff and facilities, incurred by the United Nations pursuant to paragraph 3 of this article.

Article 19

1. The States Parties shall submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have taken to give effect to their undertakings under this Convention, within one year after the entry into force of the Convention for the State Party concerned. Thereafter the States Parties shall submit supplementary reports every four years on any new measures taken and such other reports as the Committee may request.
2. The Secretary-General of the United Nations shall transmit the reports to all States Parties.
3. Each report shall be considered by the Committee which may make such general comments on the report as it may consider appropriate and shall forward these to the State Party concerned. That State Party may respond with any observations it chooses to the Committee.
4. The Committee may, at its discretion, decide to include any comments made by it in accordance with paragraph 3 of this article, together with the observations thereon received from the State Party concerned, in its annual report made in accordance with article 24. If so requested by the State Party concerned, the Committee may also include a copy of the report submitted under paragraph 1 of this article.

20. člen

1. Če komite prejme verodostojna obvestila, za katera se mu zdi, da vsebujejo zanesljiva obvestila o tem, da se mučenje sistematično izvaja na ozemlju kake države članice, pozove zadevno državo, da sodeluje pri obravnavanju teh obvestil in da ga v ta namen obvesti o svojih ugotovitvah v zvezi s tem vprašanjem.
2. Upoštevajoč vse morebitne pripombe zainteresirane države članice in druga ustrezna obvestila, s katerimi razpolaga, lahko komite, če je to po njegovem mnenju upravičeno, naloži enemu ali več svojim članom, da začnejo zaupno preiskavo in da mu o tem takoj predložijo poročilo.
3. Če se izvaja preiskava v skladu z drugim odstavkom tega člena, zaprosi komite za sodelovanje zainteresirano državo članico. V dogovoru z omenjeno državo članico lahko taka preiskava zajema obisk na njeno ozemlje.
4. Po obravnavi ugotovitev, ki mu jih predloži član ali člani v skladu z drugim odstavkom tega člena, pošlje komite te ugotovitve zainteresirani državi članici in tudi vse komentarje in sugestije, za katere meni, da so primerne glede na dano stanje.
5. Celotna dejavnost komiteja, navedena v prvem do četrtem odstavku tega člena, je zaupna, v vseh etapah tega dela pa se teži vzpostaviti sodelovanje z državo članico. Komite lahko po končanem delu v zvezi s preiskavo, ki je bila vodena v skladu z drugim odstavkom, po posvetovanju z zainteresirano državo članico odloči, da se v letno poročilo, ki ga izdela v skladu s 24. členom, vključi kratko poročilo o rezultatih dela.

21. člen

1. Država članica te konvencije lahko v skladu s tem členom kadarkoli izjavi, da prizna, da je komite pristojen prejemati in obravnavati poročila, v katerih ena država članica trdi, da kakšna druga država članica ne izpolnjuje svojih obveznosti na podlagi te konvencije. Ta sporočila se lahko prejemajo in obravnavajo v skladu s tem členom samo, če prihajajo iz države članice, ki je dala izjavo, da prizna pristojnost komiteja. Komite ne obravnava nobenega sporočila, ki se nanaša na državo članico, ki ni dala take izjave. Za sporočila, prejeta po tem členu, velja takle postopek:
 - a) če država članica te konvencije meni, da kakšna druga država, ki je tudi članica konvencije, ne uporablja določb konvencije, lahko pisno opozori zadevno državo na to vprašanje. Država, ki ji je poslano sporočilo, pošlje v treh mesecih po njegovem prejemu državi, ki ji je poslala sporočilo, pojasnilo ali kakršnokoli drugo pisno izjavo, ki pojasnjuje vprašanje in ki naj bi vsebovala čim več in čim koristnejša obvestila o pravilih postopka in o pravnih sredstvih, bodisi da so že uporabljena ali se uporabljajo ali se šele utegnejo uporabiti;
 - b) če v šestih mesecih od dneva, ko je prejemna država dobila začetno sporočilo, vprašanje ni zadovoljivo rešeno za obe zainteresirani državi članici, imata obe pravico predložiti to vprašanje komiteju, pri čemer se pošlje sporočilo komiteju in drugi zainteresirani državi;

Article 20

1. If the Committee receives reliable information which appears to it to contain well-founded indications that torture is being systematically practised in the territory of a State Party, the Committee shall invite that State Party to co-operate in the examination of the information and to this end to submit observations with regard to the information concerned.
2. Taking into account any observations which may have been submitted by the State Party concerned, as well as any other relevant information available to it, the Committee may, if it decides that this is warranted, designate one or more of its members to make a confidential inquiry and to report to the Committee urgently.
3. If an inquiry is made in accordance with paragraph 2 of this article, the Committee shall seek the co-operation of the State Party concerned. In agreement with that State Party, such an inquiry may include a visit to its territory.
4. After examining the findings of its member or members submitted in accordance with paragraph 2 of this article, the Commission shall transmit these findings to the State Party concerned together with any comments or suggestions which seem appropriate in view of the situation.
5. All the proceedings of the Committee referred to in paragraphs 1 to 4 of this article shall be confidential, and at all stages of the proceedings the co-operation of the State Party shall be sought. After such proceedings have been completed with regard to an inquiry made in accordance with paragraph 2, the Committee may, after consultations with the State Party concerned, decide to include a summary account of the results of the proceedings in its annual report made in accordance with article 24.

Article 21

1. A State Party to this Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under this Convention. Such communications may be received and considered according to the procedures laid down in this article only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be dealt with by the Committee under this article if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:
 - (a) If a State Party considers that another State Party is not giving effect to the provisions of this Convention, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication the receiving State shall afford the State which sent the communication an explanation or any other statement in writing clarifying the matter, which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending or available in the matter;
 - (b) If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;

c) komite je lahko pristojen za zadevo, ki jo dobi v skladu s tem členom, šele ko se prepriča, da so bila vsa razpoložljiva interna pravna sredstva izkoriščena in izčrpana v skladu s splošno priznanimi načeli mednarodnega prava. To pravilo se ne uporablja v primerih, ko pritožbeni postopki presegajo razumne roke ali ni pričakovati, da bodo dejansko učinkoviti za osebo, ki je žrtev kršenja te konvencije;

d) komite obravnava sporočila, predvidena s tem členom, na zaprtih sejah;

e) s pridržkom določb pod c) ponudi komite svoje dobre usluge zainteresiranima državama članicama, da bi mimo rešili vprašanje ob spoštovanju obveznosti iz te konvencije. Če komite meni, da je potrebno, lahko v ta namen ustanovi ad hoc spravno komisijo;

f) v vsaki zadevi, ki mu je predložena v skladu s tem členom, lahko komite zahteva od zainteresiranih držav članic iz pododstavka b), da mu pošljeta vsa ustrezna obvestila;

g) zainteresirani državi članici, navedeni v pododstavku b), imata pravico biti zastopani, ko komite obravnava zadevo, in dajati ustne in/ali pisne pripombe;

h) komite mora predložiti poročilo v dvanajstih mesecih od dneva, ko je prejel sporočilo, navedeno v pododstavku b);

i) če je bilo mogoče najti rešitev v skladu z določbo pod e), se komite v svojem poročilu omeji na kratko navedbo dejstev in dosežene rešitve;

ii) če rešitve ni bilo mogoče najti v skladu z določbo pod e), se komite v svojem poročilu omeji na kratko navedbo dejstev, besedilo pisnih pripomb in zapisnik o ustnih pripombah, ki sta jih navedli zainteresirani državi članici, se dodata k poročilu. Za vsako zadevo se pošlje poročilo zainteresiranima državama članicama.

2. Določbe tega člena začnejo veljati, ko pet držav članic te konvencije da izjavo, predvideno v prvem odstavku tega člena. To izjavo deponira država članica pri generalnem sekretarju Organizacije združenih narodov, ki pošlje kopijo drugim državam članicama. Izjava se lahko umakne kadarkoli s sporočilom, poslanim generalnemu sekretarju. Ta umik ne vpliva na obravnavo kakršnegakoli vprašanja, ki je predmet že poslanega sporočila v skladu s tem členom: nobeno nadaljnje sporočilo katerekoli države članice ne bo sprejeto v skladu s tem členom, ko generalni sekretar prejme sporočilo o umiku izjave, razen če zainteresirana država članica ne da nove izjave.

22. člen

1. Država članica te konvencije lahko v skladu s tem členom kadarkoli izjavi, da prizna, da je komite pristojen sprejemati in obravnavati sporočila, ki jih dobi od posameznikov ali v imenu posameznikov, ki so pod njeno jurisdikcijo in trdijo, da so žrtve kršenja določb konvencije s strani kakšne države članice. Komite ne sprejme nobenega sporočila, ki se nanaša na posamezno državo članico, ki ni dala take izjave.

2. Za komite bo nesprejemljivo vsako sporočilo, dano v skladu s tem členom, ki je anonimno ali za katerega meni, da pomeni zlorabo pravice do takih sporočil ali da je nezdržljivo z določbami te konvencije.

(c) The Committee shall deal with a matter referred to it under this article only after it has ascertained that all domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the person who is the victim of the violation of this Convention;

(d) The Committee shall hold closed meetings when examining communications under this article;

(e) Subject to the provisions of subparagraph (c), the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for the obligations provided for in this Convention. For this purpose, the Committee may, when appropriate, set up an ad hoc conciliation commission;

(f) In any matter referred to it under this article, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information;

(g) The States Parties concerned, referred to in subparagraph (b), shall have the right to be represented when the matter is being considered by the Committee and to make submissions orally and/or in writing;

(h) The Committee shall, within twelve months after the date of receipt of notice under subparagraph (b), submit a report;

(i) If a solution within the terms of subparagraph (e) is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;

(ii) If a solution within the terms of subparagraph (e) is not reached, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report. In every matter, the report shall be communicated to the States Parties concerned.

2. The provisions of this article shall come into force when five States Parties to this Convention have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by any State Party shall be received under this article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

Article 22

1. A State Party to this Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State Party of the provisions of the Convention. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration.

2. The Committee shall consider inadmissible any communication under this article which is anonymous or which it considers to be an abuse of the right of submission of such communications or to be incompatible with the provisions of this Convention.

3. Ob pridržku drugega odstavka pošlje komite vsako sporočilo, dano v skladu s tem členom, državi članici te konvencije, ki je dala izjavo v skladu s prvim odstavkom in se zanjo trdi, da je kršila katerokoli določbo konvencije. Navedena država v naslednjih šestih mesecih pošlje komiteju pisna pojasnila ali izjave, ki pojasnjujejo vprašanje in morebitne ukrepe, ki jih je že sprejela za izboljšanje položaja.

4. Komite obravnava sporočila, ki jih je prejel v skladu s tem členom, ob upoštevanju vseh informacij, ki jih je dobil od posameznikov ali v njihovem imenu in od zainteresirane države članice.

5. Komite ne obravnava nobenega sporočila posameznika v skladu s tem členom, ne da bi se poprej prepričal o naslednjem:

a) da navedeno vprašanje ni bilo obravnavano in ni v obravnavi pred kakšno drugo mednarodno instanco, pristojno za preiskavo ali reševanje spora;

b) da je posameznik izkoristili vsa interna razpoložljiva sredstva. To pravilo se ne uporablja, če pritožbeni postopki presegajo razumne roke ali ni pričakovati, da bodo dejansko učinkoviti za posameznika, ki je žrtev kršenja te konvencije.

6. Komite obravnava sporočila, predvidena v tem členu, na zaprtih sejah.

7. Komite sporoči svoje ugotovitve zainteresirani državi članici in posamezniku.

8. Določbe tega člena začnejo veljati, ko pet držav članic te konvencije da izjavo, predvideno v prvem odstavku tega člena. Država članica deponira to izjavo pri generalnem sekretarju Organizacije združenih narodov, ki pošlje kopijo drugim državam članicam. Izjava se lahko kadarkoli umakne s sporočilom, poslanim generalnemu sekretarju. Ta umik ne vpliva na obravnavo kakršnegakoli vprašanja, ki je predmet že poslanega sporočila v skladu s tem členom; nobeno nadaljnje sporočilo, ki ga je poslal posameznik ali je bilo poslano zanj, ne bo sprejeto v skladu s tem členom, ko generalni sekretar prejme sporočilo o umiku izjave, razen če zainteresirana država članica ni dala nove izjave.

23. člen

Člani komiteja in člani ad hoc upravne komisije, ki utegnejo biti imenovani v skladu s prvim odstavkom pod e) 21. člena, imajo pravico do olajšav, privilegijev in imunitet, ki so priznane izvedencem v službi Organizacije združenih narodov tako, kot so navedene v ustreznih delih konvencije o privilegijih in imunitetah Združenih narodov.

24. člen

Komite predloži državam članicam in generalni skupščini Organizacije združenih narodov letno poročilo o svojih dejavnostih po tej konvenciji.

3. Subject to the provisions of paragraph 2, the Committee shall bring any communications submitted to it under this article to the attention of the State Party to this Convention which has made a declaration under paragraph 1 and is alleged to be violating any provisions of the Convention. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

4. The Committee shall consider communications received under this article in the light of all information made available to it by or on behalf of the individual and by the State Party concerned.

5. The Committee shall not consider any communications from an individual under this article unless it has ascertained that:

(a) The same matter has not been, and is not being, examined under another procedure of international investigation or settlement;

(b) The individual has exhausted all available domestic remedies; this shall not be the rule where the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the person who is the victim of the violation of this Convention.

6. The Committee shall hold closed meetings when examining communications under this article.

7. The Committee shall forward its views to the State Party concerned and to the individual.

8. The provisions of this article shall come into force when five States Parties to this Convention have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by or on behalf of an individual shall be received under this article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party has made a new declaration.

Article 23

The members of the Committee and of the ad hoc conciliation commissions which may be appointed under article 21, paragraph 1 (e), shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

Article 24

The Committee shall submit an annual report on its activities under this Convention to the States Parties and to the General Assembly of the United Nations.

III. DEL

25. člen

1. Ta konvencija je odprta za podpis vsem državam.
2. Ta konvencija se mora ratificirati. Ratifikacijske listine bodo deponirane pri generalnem sekretarju Organizacije združenih narodov.

26. člen

Vse države lahko pristopijo k tej konvenciji. Pristop se uveljavi tako, da se pristopna listina deponira pri generalnem sekretarju Organizacije združenih narodov.

27. člen

1. Ta konvencija začne veljati trideseti dan potem, ko je dvajseta listina o ratifikaciji ali pristopu deponirana pri generalnem sekretarju Organizacije združenih narodov.
2. Za vsako državo, ki bo to konvencijo ratificirala ali k njej pristopila po deponiranju dvajsete listine o ratifikaciji ali pristopu, začne konvencija veljati trideseti dan potem, ko je deponirala svojo listino o ratifikaciji ali pristopu.

28. člen

1. Vsaka država lahko ob podpisu ali ratifikaciji ali pristopu izjavi, da ne prizna pristojnosti, ki jo ima komite v skladu z 20. členom konvencije.
2. Vsaka država članica, ki bo imela pridržek v skladu s prvim odstavkom tega člena, lahko kadarkoli umakne ta pridržek tako, da pošlje sporočilo generalnemu sekretarju Organizacije združenih narodov.

29. člen

1. Vsaka država članica te konvencije lahko predlaga amandma in da svoj predlog generalnemu sekretarju Organizacije združenih narodov. Generalni sekretar sporoči predlog amandmaja državam članicam, pri čemer od njih zahteva, da mu sporočijo, ali so za to, da se organizira konferenca držav članic, da bi se predlog obravnaval in dal na glasovanje. Če se v štirih mesecih od dneva, ko je bilo dano tako sporočilo, vsaj tretjina držav članic izjavi za konferenco, jo generalni sekretar organizira pod pokroviteljstvom Organizacije združenih narodov. Vsak amandma, ki ga sprejme večina držav članic, ki so navzoče na konferenci in glasujejo, predloži generalni sekretar v sprejetje vsem državam članicam.
2. Amandma, sprejet po prvem odstavku tega člena, začne veljati, ko dve tretjini držav članic te konvencije obvestijo generalnega sekretarja Organizacije združenih narodov, da so ga sprejele v skladu s postopkom, predvidenim z njihovo ustavo.
3. Ko začnejo amandmaji veljati, so obvezni za vse države članice, ki so jih sprejele, za druge države članice pa veljajo določbe te konvencije in vsi prejšnji amandmaji, ki so jih sprejele.

PART III

Article 25

1. This Convention is open for signature by all States.
2. This Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 26

This Convention is open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 27

1. This Convention shall enter into force on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying this Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

Article 28

1. Each State may, at the time of signature or ratification of this Convention or accession thereto, declare that it does not recognize the competence of the Committee provided for in article 20.
2. Any State Party having made a reservation in accordance with paragraph 1 of this article may, at any time, withdraw this reservation by notification to the Secretary-General of the United Nations.

Article 29

1. Any State Party to this Convention may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that within four months from the date of such communication at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted by the Secretary-General to all the States Parties for acceptance.
2. An amendment adopted in accordance with paragraph 1 of this article shall enter into force when two thirds of the States Parties to this Convention have notified the Secretary-General of the United Nations that they have accepted it in accordance with their respective constitutional processes.
3. When amendments enter into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of this Convention and any earlier amendments which they have accepted.

30. člen

1. Vsak spor med dvema ali več državami članicami v zvezi z razlago ali uporabo te konvencije, ki ga ni mogoče rešiti s pogajanjem, se predloži v arbitražo na zahtevo ene izmed teh držav. Če v šestih mesecih po dani zahtevi za arbitražo strani ne dosežejo sporazuma o organiziranju arbitraže, lahko vsaka med njimi predloži spor Mednarodnemu sodišču z zahtevo v skladu s statutom sodišča.

2. Vsaka država lahko ob podpisu ali ratifikaciji ali pristopu h konvenciji izjavi, da zanjo ne velja prvi odstavek tega člena. Za druge države članice ne velja navedena določba glede na vsako državo članico, ki izrazi tak pridržek.

3. Vsaka država članica, ki izrazi pridržek v skladu z drugim odstavkom tega člena, ga lahko kadarkoli umakne tako, da pošlje sporočilo generalnemu sekretarju Organizacije združenih narodov.

31. člen

1. Država članica lahko odpove to konvencijo s pisnim sporočilom, poslanim generalnemu sekretarju Organizacije združenih narodov. Odpoved začne veljati eno leto potem, ko je generalni sekretar prejel sporočilo.

2. Zaradi take odpovedi država članica ni oproščena obveznosti, ki jih ima v skladu s to konvencijo v zvezi z vsakim dejanjem ali vsako opustitvijo pred dnem, ko začne odpoved veljati. Odpoved tudi ni ovira za nadaljnjo obravnavo vsakega vprašanja, ki je bilo že predloženo komiteju na dan, ko je začela odpoved veljati.

3. Po dnevu, ko začne veljati odpoved posamezne države članice, komite ne obravnava več nobenega novega vprašanja v zvezi z zadevno državo.

32. člen

Generalni sekretar Organizacije združenih narodov sporoči vsem državam članicam Organizacije združenih narodov in vsem državam, ki bodo podpisale to konvencijo ali pristopile k njej:

a) podpise, ratifikacije in pristope, prejete na podlagi 25. in 26. člena;

b) datum, ko začne konvencija veljati na podlagi 27. člena, in datum, ko začne veljati vsak amandma po 29. členu;

c) odpovedi, prejete na podlagi 31. člena.

33. člen

1. Ta konvencija, katere besedila v arabskem, angleškem, francoskem, kitajskem, ruskem in španskem jeziku so enako verodostojna, bo deponirana pri generalnem sekretarju Organizacije združenih narodov.

2. Generalni sekretar Organizacije združenih narodov pošlje vsem državam overjene kopije te konvencije.

Article 30

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may, at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by paragraph 1 of this article with respect to any State Party having made such a reservation.

3. Any State Party having made a reservation in accordance with paragraph 2 of this article may at any time withdraw this reservation by notification to the Secretary-General of the United Nations.

Article 31

1. A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under this Convention in regard to any act or omission which occurs prior to the date at which the denunciation becomes effective, nor shall denunciation prejudice in any way the continued consideration of any matter which is already under consideration by the Committee prior to the date at which the denunciation becomes effective.

3. Following the date at which the denunciation of a State Party becomes effective, the Committee shall not commence consideration of any new matter regarding that State.

Article 32

The Secretary-General of the United Nations shall inform all States Members of the United Nations and all States which have signed this Convention or acceded to it of the following:

- (a) Signatures, ratifications and accessions under articles 25 and 26;
- (b) The date of entry into force of this Convention under article 27 and the date of the entry into force of any amendments under article 29;
- (c) Denunciations under article 31.

Article 33

1. This Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of this Convention to all States.

2. OPCIJSKI PROTOKOL h Konvenciji proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju

(Uradni list RS, št. 114/2006 – Mednarodne pogodbe, št. 20 z dne 9. novembra 2006)

ZAKON O RATIFIKACIJI OPCIJSKEGA PROTOKOLA H KONVENCIJI PROTI MUČENJU IN DRUGIM KRUTIM, NEČLOVEŠKIM ALI PONIŽEVALNIM KAZNIM ALI RAVNANJU (MOPPM)

1. člen

Ratificira se Opcijski protokol h Konvenciji proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju, sprejet na 57. zasedanju Generalne skupščine Združenih narodov 18. decembra 2002.

2. člen

Besedilo protokola se v izvirniku v angleškem jeziku ter v prevodu v slovenskem jeziku glasi:

PREAMBULA

Države pogodbenice tega protokola

ponovno potrjujejo, da so mučenje in druge oblike okrutnega, nečloveškega ali poniževalnega ravnanja ali kaznovanja prepovedane in pomenijo resno kršenje človekovih pravic,

so prepričane, da so potrebni nadaljnji ukrepi, da bi lahko uresničili cilje Konvencije proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju (v nadaljevanju: konvencija) in okrepili varstvo oseb, ki jim je bila odvzeta prostost, pred mučenjem in drugimi oblikami okrutnega, nečloveškega ali poniževalnega ravnanja ali kaznovanja,

se sklicujejo na 2. in 16. člen konvencije, ki zavezuje vse države pogodbenice, da učinkovito ukrepajo, da bi preprečile mučenje in druge oblike okrutnega, nečloveškega ali poniževalnega ravnanja ali kaznovanja na katerem koli ozemlju pod njihovo jurisdikcijo,

ugotavljajo, da so predvsem države odgovorne za izvajanje teh dveh členov, da je skupna odgovornost vseh držav okrepiti varstvo oseb, ki jim je bila odvzeta prostost, in v celoti spoštovati njihove človekove pravice, in da mednarodni organi izvajanja dopolnjujejo in krepijo državne ukrepe,

se sklicujejo na to, da sta za učinkovito preprečevanje mučenja in drugega okrutnega, nečloveškega ali poniževalnega ravnanja ali kaznovanja potrebni izobraževanje in povezovanje zakonodajnih, upravnih, sodnih in drugih ukrepov,

se sklicujejo na to, da so na Svetovni konferenci o človekovih pravicah odločno izjavile, da je treba prizadevanja za odpravo mučenja usmeriti predvsem na preprečevanje, in pozvale k sprejetju opcijskega protokola h konvenciji, ki naj bi vzpostavil preventivni sistem rednih obiskov na krajih odvzema prostosti,

2. **OPTIONAL PROTOCOL to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

(Official Gazette RS no. 114/06 – International Treaties no. 20/06)

ACT OF RATIFICATION OF THE OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Article 1

The Optional Protocol to the Convention against Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted at the 57th session of the General Assembly of the United Nations 18 December 2002 is hereby ratified.

Article 2

The text of the Protocol in the original in the English language and in translation into the Slovene language reads as follows:

PREAMBLE

The States Parties to the present Protocol,

Reaffirming that torture and other cruel, inhuman or degrading treatment or punishment are prohibited and constitute serious violations of human rights,

Convinced that further measures are necessary to achieve the purposes of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter referred to as the Convention) and to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment,

Recalling that articles 2 and 16 of the Convention oblige each State Party to take effective measures to prevent acts of torture and other cruel, inhuman or degrading treatment or punishment in any territory under its jurisdiction,

Recognizing that States have the primary responsibility for implementing those articles, that strengthening the protection of people deprived of their liberty and the full respect for their human rights is a common responsibility shared by all and that international implementing bodies complement and strengthen national measures,

Recalling that the effective prevention of torture and other cruel, inhuman or degrading treatment or punishment requires education and a combination of various legislative, administrative, judicial and other measures,

Recalling also that the World Conference on Human Rights firmly declared that efforts to eradicate torture should first and foremost be concentrated on prevention and called for the adoption of an optional protocol to the Convention, intended to establish a preventive system of regular visits to places of detention,

so prepričane, da se lahko varstvo oseb, ki jim je bila odvzeta prostost, pred mučenjem in drugimi oblikami okrutnega, nečloveškega ali poniževalnega ravnanja ali kaznovanja okrepi z nesodnimi preventivnimi sredstvi, ki temeljijo na rednih obiskih na krajih odvzema prostosti,

in so se dogovorile:

I. DEL

Splošna načela

1. člen

Namen tega protokola je vzpostaviti sistem rednih obiskov neodvisnih mednarodnih in državnih organov na krajih, kjer je ljudem odvzeta prostost, da bi preprečili mučenje in druge oblike okrutnega, nečloveškega ali poniževalnega ravnanja ali kaznovanja.

2. člen

1. Ustanovi se Pododbor za preprečevanje mučenja in drugega okrutnega, nečloveškega ali poniževalnega ravnanja ali kaznovanja Odbora proti mučenju (v nadaljevanju: pododbor za preprečevanje), ki opravlja naloge, določene s tem protokolom.

2. Pododbor za preprečevanje opravlja svoje delo v okviru Ustanovne listine Združenih narodov in spoštuje njene cilje in načela ter norme Združenih narodov glede ravnanja z ljudmi, ki jim je bila odvzeta prostost.

3. Pododbor za preprečevanje spoštuje tudi načela zaupnosti, nepristranskosti, nerazlikovanja, univerzalnosti in objektivnosti.

4. Pododbor za preprečevanje in države pogodbenice sodelujejo pri izvajanju tega protokola.

3. člen

Vsaka država pogodbenica na državni ravni ustanovi, določi ali vzdržuje enega ali več organov za obiskovanje zaradi preprečevanja mučenja in drugega okrutnega, nečloveškega ali ponižujočega ravnanja ali kaznovanja (v nadaljevanju: državni preventivni mehanizem).

4. člen

1. Vsaka država pogodbenica v skladu s tem protokolom dovoli obiske organov iz 2. in 3. člena na katerem koli kraju, ki je v njeni pristojnosti in pod njenim nadzorom, kjer so ali bi lahko bile osebe, ki jim je bila odvzeta prostost na podlagi odredbe javne oblasti ali na njihovo pobudo ali z njihovo izrecno ali tiho privolitvijo (v nadaljevanju: kraji odvzema prostosti). Namen teh obiskov je, če je potrebno, okrepiti varstvo teh oseb pred mučenjem in drugimi oblikami okrutnega, nečloveškega ali poniževalnega ravnanja ali kaznovanja.

2. V tem protokolu pomeni odvzem prostosti vsako obliko pridržanja ali zapora ali namestitve osebe v javni ali zasebni zavod, ki ga ta oseba po odredbi sodne, upravne ali katere koli druge oblasti ne sme zapustiti po svoji volji.

Convinced that the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment can be strengthened by non-judicial means of a preventive nature, based on regular visits to places of detention,

Have agreed as follows:

PART I

General principles

Article 1

The objective of the present Protocol is to establish a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.

Article 2

1. A Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture (hereinafter referred to as the Subcommittee on Prevention) shall be established and shall carry out the functions laid down in the present Protocol.

2. The Subcommittee on Prevention shall carry out its work within the framework of the Charter of the United Nations and shall be guided by the purposes and principles thereof, as well as the norms of the United Nations concerning the treatment of people deprived of their liberty.

3. Equally, the Subcommittee on Prevention shall be guided by the principles of confidentiality, impartiality, non-selectivity, universality and objectivity.

4. The Subcommittee on Prevention and the States Parties shall cooperate in the implementation of the present Protocol.

Article 3

Each State Party shall set up, designate or maintain at the domestic level one or several visiting bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment (hereinafter referred to as the national preventive mechanism).

Article 4

1. Each State Party shall allow visits, in accordance with the present Protocol, by the mechanisms referred to in articles 2 and 3 to any place under its jurisdiction and control where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence (hereinafter referred to as places of detention). These visits shall be undertaken with a view to strengthening, if necessary, the protection of these persons against torture and other cruel, inhuman or degrading treatment or punishment.

2. For the purposes of the present Protocol, deprivation of liberty means any form of detention or imprisonment or 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.

II. DEL

Pododbor za preprečevanje

5. člen

1. Pododbor za preprečevanje sestavlja 10 članov. Po petdeseti ratifikaciji ali pristopu k temu protokolu se število članov v pododboru za preprečevanje poveča na 25.
2. Člani pododбора so izbrani med osebami, ki imajo visok moralni ugled, morajo imeti poklicne izkušnje na področju pravosodja, zlasti kazenskega prava, upravljanja zaporov ali policijske uprave ali na različnih področjih, povezanih z ravnanjem z osebami, ki jim je bila odvzeta prostost.
3. Pri sestavi pododбора za preprečevanje se upoštevata pravična geografska zastopnost in zastopnost različnih oblik civilizacij in pravnih sistemov držav pogodbenic.
4. V tej sestavi se upošteva tudi uravnotežena zastopnost spolov na podlagi načel enakosti in nediskriminacije.
5. Vsak član pododбора mora biti državljan druge države.
6. Člani pododбора za preprečevanje opravljajo svoje delo kot posamezniki, morajo biti neodvisni in nepristranski ter morajo biti pododboru na razpolago za učinkovito opravljanje dela.

6. člen

1. Vsaka država pogodbenica lahko v skladu z drugim odstavkom tega člena predlaga največ dva kandidata, ki sta ustrezno usposobljena in izpolnjujeta zahteve iz 5. člena, pri čemer mora predložiti podrobne podatke o njuni usposobljenosti.
2. (a) Kandidati morajo biti državljani držav pogodbenic tega protokola.
(b) Vsaj eden od obeh kandidatov mora biti državljan države pogodbenice, ki ga je predlagala.
(c) Posamezna država pogodbenica lahko predlaga največ dva svoja državljana.
(d) Preden država pogodbenica predlaga državljana druge države pogodbenice, zaprosi za njeno soglasje in ga pridobi.
3. Generalni sekretar Združenih narodov vsaj pet mesecev pred dnevom sestanka držav pogodbenic, na katerem bodo potekale volitve, pošlje pismo državam pogodbenicam, s katerim jih pozove, naj v treh mesecih predlagajo svoje kandidate. Generalni sekretar nato predloži abecedni seznam vseh predlaganih oseb z navedbo držav pogodbenic, ki so jih predlagale.

PART II

Subcommittee on Prevention

Article 5

1. The Subcommittee on Prevention shall consist of ten members. After the fiftieth ratification of or accession to the present Protocol, the number of the members of the Subcommittee on Prevention shall increase to twenty-five.
2. The members of the Subcommittee on Prevention shall be chosen from among persons of high moral character, having proven professional experience in the field of the administration of justice, in particular criminal law, prison or police administration, or in the various fields relevant to the treatment of persons deprived of their liberty.
3. In the composition of the Subcommittee on Prevention due consideration shall be given to equitable geographic distribution and to the representation of different forms of civilization and legal systems of the States Parties.
4. In this composition consideration shall also be given to balanced gender representation on the basis of the principles of equality and non-discrimination.
5. No two members of the Subcommittee on Prevention may be nationals of the same State.
6. The members of the Subcommittee on Prevention shall serve in their individual capacity, shall be independent and impartial and shall be available to serve the Subcommittee on Prevention efficiently.

Article 6

1. Each State Party may nominate, in accordance with paragraph 2 of the present article, up to two candidates possessing the qualifications and meeting the requirements set out in article 5, and in doing so shall provide detailed information on the qualifications of the nominees.
2. (a) The nominees shall have the nationality of a State Party to the present Protocol;
 (b) At least one of the two candidates shall have the nationality of the nominating State Party;
 (c) No more than two nationals of a State Party shall be nominated;
 (d) Before a State Party nominates a national of another State Party, it shall seek and obtain the consent of that State Party.
3. At least five months before the date of the meeting of the States Parties during which the elections will be held, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within three months. The Secretary-General shall submit a list, in alphabetical order, of all persons thus nominated, indicating the States Parties that have nominated them.

7. člen

1. Člani pododbora za preprečevanje se izvolijo po naslednjem postopku:

- a) najprej se upošteva izpolnjevanje zahtev in meril iz 5. člena tega protokola;
- b) prve volitve potekajo najpozneje šest mesecev po začetku veljavnosti tega protokola;
- c) države pogodbenice izvolijo člane pododbora s tajnim glasovanjem;
- d) volitve članov pododbora potekajo vsaki dve leti na sestankih držav pogodbenic, ki jih skliče generalni sekretar Združenih narodov. Na sestankih, na katerih je za sklepčnost potrebna navzočnost dveh tretjin držav pogodbenic, so v pododbor izvoljene tiste osebe, ki dobijo največ glasov in absolutno večino glasov predstavnikov držav pogodbenic, ki so navzoči in glasujejo.

2. Če na volitvah dva državljana države pogodbenice dobita dovolj glasov za članstvo v pododboru za preprečevanje, postane član pododbora tisti kandidat, ki dobi več glasov. Če sta državljana dobila enako število glasov, velja naslednji postopek:

- a) če je le enega od obeh kandidatov predlagala država pogodbenica, katere državljan je, postane ta kandidat član pododbora za preprečevanje;
- b) če je oba kandidata predlagala država pogodbenica, katere državljan sta, poteka ločeno tajno glasovanje, s katerim se odloči, kateri državljan bo član pododbora,
- c) če nobenega kandidata ne predlaga država pogodbenica, katere državljan sta, poteka ločeno tajno glasovanje, s katerim se odloči, kateri kandidat bo član pododbora.

8. člen

Če član pododbora umre, odstopi ali zaradi kakršnega koli razloga ne more več opravljati svojih dolžnosti, država pogodbenica, ki je tega člana predlagala, predlaga drugo osebo, ki je ustrezno usposobljena in izpolnjuje zahteve iz 5. člena, ob upoštevanju potrebe po uravnoteženi zastopanosti različnih področij, in bo opravljala delo do naslednjega sestanka držav pogodbenic, če se s tem strinja večina držav pogodbenic. Šteje se, da se države pogodbenice strinjajo, razen če polovica ali več držav pogodbenic odgovori negativno v šestih tednih, potem ko jih je generalni sekretar Združenih narodov obvestil o predlaganem imenovanju.

9. člen

Člani pododbora za preprečevanje so izvoljeni za štiri leta. Enkrat so lahko ponovno izvoljeni, če so ponovno predlagani. Polovici članov, izvoljeni na prvih volitvah, se mandat izteče po dveh letih; imena teh članov neposredno po prvih volitvah z žrebom določi predsedujoči sestanka iz točke d prvega odstavka 7. člena.

Article 7

1. The members of the Subcommittee on Prevention shall be elected in the following manner:

(a) Primary consideration shall be given to the fulfilment of the requirements and criteria of article 5 of the present Protocol;

(b) The initial election shall be held no later than six months after the entry into force of the present Protocol;

(c) The States Parties shall elect the members of the Subcommittee on Prevention by secret ballot;

(d) Elections of the members of the Subcommittee on Prevention shall be held at biennial meetings of the States Parties convened by the Secretary-General of the United Nations. At those meetings, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Subcommittee on Prevention shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of the States Parties present and voting.

2. If during the election process two nationals of a State Party have become eligible to serve as members of the Subcommittee on Prevention, the candidate receiving the higher number of votes shall serve as the member of the Subcommittee on Prevention. Where nationals have received the same number of votes, the following procedure applies:

(a) Where only one has been nominated by the State Party of which he or she is a national, that national shall serve as the member of the Subcommittee on Prevention;

(b) Where both candidates have been nominated by the State Party of which they are nationals, a separate vote by secret ballot shall be held to determine which national shall become the member;

(c) Where neither candidate has been nominated by the State Party of which he or she is a national, a separate vote by secret ballot shall be held to determine which candidate shall be the member.

Article 8

If a member of the Subcommittee on Prevention dies or resigns, or for any cause can no longer perform his or her duties, the State Party that nominated the member shall nominate another eligible person possessing the qualifications and meeting the requirements set out in article 5, taking into account the need for a proper balance among the various fields of competence, to serve until the next meeting of the States Parties, subject to the approval of the majority of the States Parties. The approval shall be considered given unless half or more of the States Parties respond negatively within six weeks after having been informed by the Secretary-General of the United Nations of the proposed appointment.

Article 9

The members of the Subcommittee on Prevention shall be elected for a term of four years. They shall be eligible for re-election once if renominated. The term of half the members elected at the first election shall expire at the end of two years; immediately after the first election the names of those members shall be chosen by lot by the Chairman of the meeting referred to in article 7, paragraph 1 (d).

10. člen

1. Pododbor za preprečevanje izvoli svoje vodstvo za dve leti. Lahko je ponovno izvoljeno.
2. Pododbor za preprečevanje sprejme svoj poslovnik. Ta med drugim določa, da:
 - a) je za sklepčnost potrebna več kot polovica članov;
 - b) se odločitve pododborna za preprečevanje sprejmejo z večino navzočih članov;
 - c) se pododbor za preprečevanje sestaja brez navzočnosti javnosti.
3. Prvi sestanek pododborna za preprečevanje skliče generalni sekretar Združenih narodov. Po prvem sestanku se pododbor sestaja, kot to določa poslovnik. Pododbor za preprečevanje in odbor proti mučenju zasedata hkrati vsaj enkrat letno.

III. DEL

Naloge in pooblastila pododborna za preprečevanje

11. člen

Pododbor za preprečevanje:

- a) obiskuje kraje iz 4. člena in daje priporočila državam pogodbenicam glede varstva oseb, ki jim je bila odvzeta prostost, pred mučenjem in drugimi oblikami okrutnega, nečloveškega ali poniževalnega ravnanja ali kaznovanja;
- b) v zvezi z državnimi preventivnimi mehanizmi:
 - i) svetuje in pomaga državam pogodbenicam pri njihovi vzpostavitvi, če je potrebno;
 - ii) vzdržuje neposredne, in če je potrebno, zaupne stike z državnimi preventivnimi mehanizmi in jim omogoča usposabljanje in strokovno pomoč, da bi okrepili svoje zmogljivosti;
 - iii) jim svetuje in pomaga pri oceni potreb in sredstev, potrebnih za krepitev varstva oseb, ki jim je bila odvzeta prostost, pred mučenjem in drugimi oblikami okrutnega, nečloveškega ali poniževalnega ravnanja ali kaznovanja;
 - iv) daje priporočila in pripombe državam pogodbenicam, da bi okrepile zmogljivosti, naloge in pooblastila državnih preventivnih mehanizmov za preprečevanje mučenja in drugih oblik okrutnega, nečloveškega ali poniževalnega ravnanja ali kaznovanja;
- c) za preprečevanje mučenja na splošno sodeluje z ustreznimi organi in mehanizmi Združenih narodov in mednarodnimi, regionalnimi in državnimi institucijami ali organizacijami, ki si prizadevajo za okrepitev varstva oseb pred mučenjem in drugimi oblikami okrutnega, nečloveškega ali poniževalnega ravnanja ali kaznovanja.

Article 10

1. The Subcommittee on Prevention shall elect its officers for a term of two years. They may be re-elected.
2. The Subcommittee on Prevention shall establish its own rules of procedure. These rules shall provide, inter alia, that:
 - (a) Half the members plus one shall constitute a quorum;
 - (b) Decisions of the Subcommittee on Prevention shall be made by a majority vote of the members present;
 - (c) The Subcommittee on Prevention shall meet in camera.
3. The Secretary-General of the United Nations shall convene the initial meeting of the Subcommittee on Prevention. After its initial meeting, the Subcommittee on Prevention shall meet at such times as shall be provided by its rules of procedure. The Subcommittee on Prevention and the Committee against Torture shall hold their sessions simultaneously at least once a year.

PART III

Mandate of the Subcommittee on Prevention

Article 11

The Subcommittee on Prevention shall:

- (a) Visit the places referred to in article 4 and make recommendations to States Parties concerning the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;
- (b) In regard to the national preventive mechanisms:
 - (i) Advise and assist States Parties, when necessary, in their establishment;
 - (ii) Maintain direct, and if necessary confidential, contact with the national preventive mechanisms and offer them training and technical assistance with a view to strengthening their capacities;
 - (iii) Advise and assist them in the evaluation of the needs and the means necessary to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;
 - (iv) Make recommendations and observations to the States Parties with a view to strengthening the capacity and the mandate of the national preventive mechanisms for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;
- (c) Cooperate, for the prevention of torture in general, with the relevant United Nations organs and mechanisms as well as with the international, regional and national institutions or organizations working towards the strengthening of the protection of all persons against torture and other cruel, inhuman or degrading treatment or punishment.

12. člen

Da bi pododboru za preprečevanje omogočili uresničevanje njegovih nalog in pooblastil iz 11. člena, se države pogodbenice zavezujejo, da bodo:

- a) sprejele pododbor za preprečevanje na svojem ozemlju in mu dovolile dostop do krajev odvzema prostosti, kot je opredeljeno v 4. členu tega protokola;
- b) priskrbele pododboru za preprečevanje vse ustrezne informacije, ki bi jih od njih zahteval, da bi lahko ocenil potrebe in ukrepe, ki bi jih bilo treba sprejeti za okrepitev varstva oseb, ki jim je bila odvzeta prostost, pred mučenjem in drugimi oblikami okrutnega, nečloveškega ali poniževalnega ravnanja ali kaznovanja;
- c) spodbujale in omogočale stike med pododborom za preprečevanje in državnimi preventivnimi mehanizmi;
- d) obravnavale priporočila pododbora za preprečevanje in vzpostavile dialog z njim o mogočih ukrepih za izvajanje.

13. člen

1. Pododbor za preprečevanje najprej z žrebom sestavi program rednih obiskov v državah pogodbenicah, da izpolni naloge in pooblastila iz 11. člena.

2. Po posvetovanjih pododbor za preprečevanje uradno obvesti države pogodbenice o svojem programu, tako da se lahko nemudoma dogovorijo o potrebnih praktičnih podrobnostih glede obiskov, ki naj se opravijo.

3. Obiske opravita vsaj dva člana pododbora za preprečevanje. Če je potrebno, člane spremljajo strokovnjaki z dokazanimi strokovnimi izkušnjami in znanjem na področjih, ki jih vključuje ta protokol, in so izbrani s seznama strokovnjakov, pripravljenega na podlagi predlogov držav pogodbenic, Urada visokega komisarja Združenih narodov za človekove pravice in Centra Združenih narodov za mednarodno preprečevanje kriminala. Pri pripravi seznama države pogodbenice predlagajo največ pet nacionalnih strokovnjakov. Država pogodbenica lahko nasprotuje, da je posamezen strokovnjak navzoč pri obisku, nato pododbor za preprečevanje predlaga drugega strokovnjaka.

4. Če se pododboru za preprečevanje zdi primerno, lahko po rednem obisku predlaga še kratek dopolnilni obisk.

14. člen

1. Da bi pododboru za preprečevanje omogočili izpolnjevanje nalog in pooblastil, se države pogodbenice tega protokola zavezujejo, da mu bodo zagotovile:

- a) neomejen dostop do vseh informacij o številu oseb, ki jim je bila odvzeta prostost, na krajih odvzema prostosti, kot je opredeljeno v 4. členu, in o številu krajev in njihovih lokacijah;
- b) neomejen dostop do vseh informacij o ravnanju s temi osebami in njihovimi pogoji odvzema prostosti;
- c) neomejen dostop do vseh krajev odvzema prostosti ter njihovih objektov in opreme ob upoštevanju drugega odstavka;

Article 12

In order to enable the Subcommittee on Prevention to comply with its mandate as laid down in article 11, the States Parties undertake:

- (a) To receive the Subcommittee on Prevention in their territory and grant it access to the places of detention as defined in article 4 of the present Protocol;
- (b) To provide all relevant information the Subcommittee on Prevention may request to evaluate the needs and measures that should be adopted to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;
- (c) To encourage and facilitate contacts between the Subcommittee on Prevention and the national preventive mechanisms;
- (d) To examine the recommendations of the Subcommittee on Prevention and enter into dialogue with it on possible implementation measures.

Article 13

1. The Subcommittee on Prevention shall establish, at first by lot, a programme of regular visits to the States Parties in order to fulfil its mandate as established in article 11.
2. After consultations, the Subcommittee on Prevention shall notify the States Parties of its programme in order that they may, without delay, make the necessary practical arrangements for the visits to be conducted.
3. The visits shall be conducted by at least two members of the Subcommittee on Prevention. These members may be accompanied, if needed, by experts of demonstrated professional experience and knowledge in the fields covered by the present Protocol who shall be selected from a roster of experts prepared on the basis of proposals made by the States Parties, the Office of the United Nations High Commissioner for Human Rights and the United Nations Centre for International Crime Prevention. In preparing the roster, the States Parties concerned shall propose no more than five national experts. The State Party concerned may oppose the inclusion of a specific expert in the visit, whereupon the Subcommittee on Prevention shall propose another expert.
4. If the Subcommittee on Prevention considers it appropriate, it may propose a short follow-up visit after a regular visit.

Article 14

1. In order to enable the Subcommittee on Prevention to fulfil its mandate, the States Parties to the present Protocol undertake to grant it:
 - (a) Unrestricted access to all information concerning the number of persons deprived of their liberty in places of detention as defined in article 4, as well as the number of places and their location;
 - (b) Unrestricted access to all information referring to the treatment of those persons as well as their conditions of detention;
 - (c) Subject to paragraph 2 below, unrestricted access to all places of detention and their installations and facilities;

d) možnost zaupnih pogovorov z osebami, ki jim je bila odvzeta prostost, brez prič, osebno ali s prevajalcem, če je potrebno, in s katero koli osebo, za katero pododbor za preprečevanje meni, da lahko priskrbi ustrezne informacije;

e) svobodno izbiro krajev, ki jih želi obiskati, in oseb, s katerimi želi govoriti.

2. Obisku določenega kraja odvzema prostosti se lahko nasprotuje le iz nujnih in tehtnih razlogov zaradi državne obrambe, javne varnosti, naravne nesreče ali hudega nereda na kraju, ki naj bi ga obiskali, in ki trenutno preprečujejo izvedbo takega obiska. Država pogodbenica se ne sme sklicevati na obstoj razglašenega izrednega stanja kot na razlog za nasprotovanje obisku.

15. člen

Nobena oblast ali uradna oseba ne sme odrediti, uporabiti, dovoliti ali dopustiti kakršne koli sankcije proti nobeni osebi ali organizaciji, ker je pododboru ali njegovim delegatom dala resnične ali neresnične informacije, in nobene osebe ali organizacije se zaradi tega ne sme kako drugače oškodovati.

16. člen

1. Pododbor za preprečevanje svoja priporočila in pripombe zaupno sporoči državi pogodbenici, in če je potrebno, državnemu preventivnemu mehanizmu.

2. Pododbor za preprečevanje objavi svoje poročilo z morebitnimi pripombami prizadete države pogodbenice, kadar to zahteva. Če država pogodbenica objavi del poročila, lahko pododbor za preprečevanje objavi poročilo v celoti ali delno. Osebni podatki pa se ne smejo objaviti brez izrecne privolitve prizadete osebe.

3. Pododbor za preprečevanje mora Odboru za mučenje predložiti javno letno poročilo o svojih dejavnostih.

4. Če država pogodbenica v skladu z 12. in 14. členom zavrne svoje sodelovanje s pododborom za preprečevanje ali ukrepanje, ki bi glede na priporočila pododbora izboljšalo stanje, lahko Odbor proti mučenju na prošnjo pododbora za preprečevanje z večino svojih članov odloči, da bo dal javno izjavo o zadevi ali objavil poročilo pododbora, potem ko je imela država pogodbenica možnost predstaviti svoja stališča.

IV. DEL

Državni preventivni mehanizmi

17. člen

Vsaka država pogodbenica najpozneje leto po začetku veljavnosti tega protokola, njegovi ratifikaciji ali pristopu k njemu vzpostavi, določi ali ustanovi enega ali več neodvisnih državnih preventivnih mehanizmov za preprečevanje mučenja. Mehanizmi, ki so jih vzpostavile decentralizirane enote, se lahko za namene tega protokola določijo za državne preventivne mehanizme, če so v skladu z njegovimi določbami.

(d) The opportunity to have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator if deemed necessary, as well as with any other person who the Subcommittee on Prevention believes may supply relevant information;

(e) The liberty to choose the places it wants to visit and the persons it wants to interview.

2. Objection to a visit to a particular place of detention may be made only on urgent and compelling grounds of national defence, public safety, natural disaster or serious disorder in the place to be visited that temporarily prevent the carrying out of such a visit. The existence of a declared state of emergency as such shall not be invoked by a State Party as a reason to object to a visit.

Article 15

No authority or official shall order, apply, permit or tolerate any sanction against any person or organization for having communicated to the Subcommittee on Prevention or to its delegates any information, whether true or false, and no such person or organization shall be otherwise prejudiced in any way.

Article 16

1. The Subcommittee on Prevention shall communicate its recommendations and observations confidentially to the State Party and, if relevant, to the national preventive mechanism.

2. The Subcommittee on Prevention shall publish its report, together with any comments of the State Party concerned, whenever requested to do so by that State Party. If the State Party makes part of the report public, the Subcommittee on Prevention may publish the report in whole or in part. However, no personal data shall be published without the express consent of the person concerned.

3. The Subcommittee on Prevention shall present a public annual report on its activities to the Committee against Torture.

4. If the State Party refuses to cooperate with the Subcommittee on Prevention according to articles 12 and 14, or to take steps to improve the situation in the light of the recommendations of the Subcommittee on Prevention, the Committee against Torture may, at the request of the Subcommittee on Prevention, decide, by a majority of its members, after the State Party has had an opportunity to make its views known, to make a public statement on the matter or to publish the report of the Subcommittee on Prevention.

PART IV

National preventive mechanisms

Article 17

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 decentralized units may be designated as national preventive mechanisms for the purposes of the present Protocol if they are in conformity with its provisions.

18. člen

1. Države pogodbenice zagotavljajo neodvisnost delovanja državnih preventivnih mehanizmov in neodvisnost njihovega osebja.
2. Države pogodbenice ukrenejo vse potrebno, da zagotovijo, da so strokovnjaki državnega preventivnega mehanizma ustrezno usposobljeni in imajo strokovno znanje. Prizadevajo si za uravnoteženo zastopanost spolov in ustrezno zastopanost etničnih skupin in manjšin v državi.
3. Države pogodbenice se zavezujejo, da bodo dale na voljo potrebna sredstva za delovanje državnih preventivnih mehanizmov.
4. Pri vzpostavitvi državnih preventivnih mehanizmov države pogodbenice ustrezno upoštevajo načela glede statusa in delovanja nacionalnih institucij za spodbujanje in varstvo človekovih pravic.

19. člen

Državni preventivni mehanizmi imajo vsaj naslednja pooblastila, da:

- a) na krajih odvzema prostosti, kot so opredeljeni v 4. členu, redno preverjajo ravnanje z osebami, ki jim je bila odvzeta prostost, da bi okrepili njihovo varstvo pred mučenjem in drugimi oblikami okrutnega, nečloveškega ali poniževalnega ravnanja ali kaznovanja, če je potrebno;
- b) ob upoštevanju ustreznih norm Združenih narodov dajejo priporočila ustreznim organom, da bi izboljšali razmere in ravnanje z osebami, ki jim je bila odvzeta prostost, in preprečili mučenje in druge oblike okrutnega, nečloveškega, poniževalnega ravnanja ali kaznovanja;
- c) predložijo predloge in pripombe k veljavnim ali predlaganim zakonom.

20. člen

Da bi državni preventivni mehanizmi lahko izpolnili svoje naloge in pooblastila, se države pogodbenice tega protokola zavezujejo, da jim bodo zagotovile:

- a) dostop do vseh informacij o številu oseb, ki jim je bila odvzeta prostost, na krajih odvzema prostosti, kot so opredeljeni v 4. členu, in o številu krajev in njihovi lokaciji;
- b) dostop do vseh informacij o ravnanju s temi osebami in njihovih pogojih odvzema prostosti;
- c) dostop do vseh krajev odvzema prostosti ter njihovih objektov in opreme;
- d) možnost zaupnih pogovorov z osebami, ki jim je bila odvzeta prostost, brez prič, osebno ali s prevajalcem, če se zdi potrebno, in s katero koli osebo, za katero državni preventivni mehanizem meni, da lahko priskrbi ustrezne informacije;
- e) svobodno izbiro krajev, ki jih želijo obiskati, in oseb, s katerimi želijo govoriti;
- f) pravico do stikov s pododborom za preprečevanje, pošiljanja informacij pododboru in do srečanj z njim.

Article 18

1. The States Parties shall guarantee the functional independence of the national preventive mechanisms as well as the independence of their personnel.
2. The States Parties shall take the necessary measures to ensure that the experts of the national preventive mechanism have the required capabilities and professional knowledge. They shall strive for a gender balance and the adequate representation of ethnic and minority groups in the country.
3. The States Parties undertake to make available the necessary resources for the functioning of the national preventive mechanisms.
4. When establishing national preventive mechanisms, States Parties shall give due consideration to the Principles relating to the status of national institutions for the promotion and protection of human rights.

Article 19

The national preventive mechanisms shall be granted at a minimum the power:

- (a) To regularly examine the treatment of the persons deprived of their liberty in places of detention as defined in article 4, with a view to strengthening, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment;
- (b) To make recommendations to the relevant authorities with the aim of improving the treatment and the conditions of the persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment, taking into consideration the relevant norms of the United Nations;
- (c) To submit proposals and observations concerning existing or draft legislation.

Article 20

In order to enable the national preventive mechanisms to fulfil their mandate, the States Parties to the present Protocol undertake to grant them:

- (a) Access to all information concerning the number of persons deprived of their liberty in places of detention as defined in article 4, as well as the number of places and their location;
- (b) Access to all information referring to the treatment of those persons as well as their conditions of detention;
- (c) Access to all places of detention and their installations and facilities;
- (d) The opportunity to have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator if deemed necessary, as well as with any other person who the national preventive mechanism believes may supply relevant information;
- (e) The liberty to choose the places they want to visit and the persons they want to interview;
- (f) The right to have contacts with the Subcommittee on Prevention, to send it information and to meet with it.

21. člen

1. Nobena oblast ali uradna oseba ne sme odrediti, uporabiti, dovoliti ali dopustiti kakršne koli sankcije proti nobeni osebi ali organizaciji, ker je državnemu preventivnemu mehanizmu dala resnične ali neresnične informacije, in nobene osebe ali organizacije se zaradi tega ne sme kako drugače oškodovati.

2. Zaupne informacije, ki jih zbere državni preventivni mehanizem, so zavarovane kot take. Osebni podatki pa se ne smejo objaviti brez izrecne privolitve prizadete osebe.

22. člen

Pristojni organi prizadete države pogodbenice obravnavajo priporočila državnega preventivnega mehanizma in z njim vzpostavijo dialog o mogočih ukrepih za izvajanje.

23. člen

Države pogodbenice tega protokola se zavezujejo, da bodo objavile in razširjale letna poročila državnih preventivnih organov.

V. DEL

Izjava

24. člen

1. Ob ratifikaciji lahko države pogodbenice izjavijo, da bodo odložile izpolnjevanje svojih obveznosti iz III. ali IV. dela tega protokola.

2. Odložitev obveznosti velja največ tri leta. Odbor proti mučenju lahko podaljša to obdobje za dodatni dve leti ob utemeljenih navedbah države pogodbenice in po posvetovanjih s pododborom za preprečevanje.

VI. DEL

Finančne določbe

25. člen

1. Stroške pododborov za preprečevanje, ki nastanejo pri izvajanju tega protokola, krijejo Združeni narodi.

2. Generalni sekretar Združenih narodov zagotovi ustrezno osebje in prostore za učinkovito opravljanje nalog pododborov za preprečevanje po tem protokolu.

Article 21

1. No authority or official shall order, apply, permit or tolerate any sanction against any person or organization for having communicated to the national preventive mechanism any information, whether true or false, and no such person or organization shall be otherwise prejudiced in any way.

2. Confidential information collected by the national preventive mechanism shall be privileged. No personal data shall be published without the express consent of the person concerned.

Article 22

The competent authorities of the State Party concerned shall examine the recommendations of the national preventive mechanism and enter into a dialogue with it on possible implementation measures.

Article 23

The States Parties to the present Protocol undertake to publish and disseminate the annual reports of the national preventive mechanisms.

PART V**Declaration****Article 24**

1. Upon ratification, States Parties may make a declaration postponing the implementation of their obligations under either part III or part IV of the present Protocol.

2. This postponement shall be valid for a maximum of three years. After due representations made by the State Party and after consultation with the Subcommittee on Prevention, the Committee against Torture may extend that period for an additional two years.

PART VI**Financial provisions****Article 25**

1. The expenditure incurred by the Subcommittee on Prevention in the implementation of the present Protocol shall be borne by the United Nations.

2. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Subcommittee on Prevention under the present Protocol.

26. člen

1. V skladu z ustreznimi postopki Generalne skupščine se ustanovi poseben sklad, za pomoč pri financiranju izvajanja priporočil, ki jih je pododbor za preprečevanje dal po obisku v državi pogodbenici, in za izobraževalne programe državnih preventivnih mehanizmov, ki ga je treba upravljati v skladu s finančnimi predpisi in pravili Združenih narodov.

2. Poseben sklad se lahko financira s prostovoljnimi prispevki vlad, medvladnih in nevladnih organizacij in drugih zasebnih ali javnih subjektov.

VII. DEL

Končne določbe

27. člen

1. Protokol je na voljo za podpis vsem državam, ki so podpisale konvencijo.

2. Protokol lahko ratificira vsaka država, ki je ratificirala konvencijo ali k njej pristopila. Listine o ratifikaciji se deponirajo pri generalnem sekretarju Združenih narodov.

3. Protokol je na voljo za pristop vsem državam, ki so ratificirale konvencijo ali k njej pristopile.

4. Pristop se opravi z deponiranjem listine o pristopu pri generalnem sekretarju Združenih narodov.

5. Generalni sekretar Združenih narodov o deponiranju vsake listine o ratifikaciji ali pristopu obvesti vse države, ki so podpisale ta protokol ali k njemu pristopile.

28. člen

1. Protokol začne veljati trideseti dan po dnevu, ko se pri generalnem sekretarju Združenih narodov deponira dvajseta listina o ratifikaciji ali pristopu.

2. Za vsako državo, ki ratificira protokol ali k njemu pristopi po deponiranju dvajsete listine o ratifikaciji ali pristopu pri generalnem sekretarju Združenih narodov, začne protokol veljati trideseti dan po dnevu deponiranja njene listine o ratifikaciji ali pristopu.

29. člen

Določbe tega protokola veljajo za vse dele zveznih držav brez omejitev ali izjem.

30. člen

K temu protokolu niso dopustni pridržki.

Article 26

1. A Special Fund shall be set up in accordance with the relevant procedures of the General Assembly, to be administered in accordance with the financial regulations and rules of the United Nations, to help finance the implementation of the recommendations made by the Subcommittee on Prevention after a visit to a State Party, as well as education programmes of the national preventive mechanisms.

2. The Special Fund may be financed through voluntary contributions made by Governments, intergovernmental and non-governmental organizations and other private or public entities.

PART VII**Final provisions****Article 27**

1. The present Protocol is open for signature by any State that has signed the Convention.
2. The present Protocol is subject to ratification by any State that has ratified or acceded to the Convention. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Protocol shall be open to accession by any State that has ratified or acceded to the Convention.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.
5. The Secretary-General of the United Nations shall inform all States that have signed the present Protocol or acceded to it of the deposit of each instrument of ratification or accession.

Article 28

1. The present Protocol shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying the present Protocol or acceding to it after the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession, the present Protocol shall enter into force on the thirtieth day after the date of deposit of its own instrument of ratification or accession.

Article 29

The provisions of the present Protocol shall extend to all parts of federal States without any limitations or exceptions.

Article 30

No reservations shall be made to the present Protocol.

31. člen

Določbe tega protokola ne vplivajo na obveznosti držav pogodbenic po regionalnih konvencijah, ki uvajajo sistem obiskov na krajih odvzema prostosti. Pododbor za preprečevanje in organi, ustanovljeni na podlagi takih regionalnih konvencij, pa se spodbujajo k posvetovanju in sodelovanju, da bi se izognili podvajanju in učinkovito podpirali cilje tega protokola.

32. člen

Določbe tega protokola ne vplivajo na obveznosti držav pogodbenic štirih Ženevskih konvencij z dne 12. avgusta 1949 in dopolnilnih protokolov k Ženevskim konvencijam z dne 8. junija 1977, niti na možnost katere koli države pogodbenice, da pooblasti Mednarodni odbor Rdečega križa, da obišče kraje odvzema prostosti v razmerah, ki jih ne zajema mednarodno humanitarno pravo.

33. člen

1. Vsaka država pogodbenica lahko kadar koli odpove ta protokol s pisnim uradnim obvestilom, naslovljenim na generalnega sekretarja Združenih narodov, ki obvesti druge države pogodbenice tega protokola in konvencije. Odpoved začne veljati eno leto po dnevu, ko generalni sekretar prejme uradno obvestilo.

2. Odpoved države pogodbenice ne odvezuje obveznosti po tem protokolu glede katerega koli dejanja ali razmer, ki lahko nastanejo pred dnevom, ko začne odpoved veljati, ali ukrepov, za katere se je pododbor za preprečevanje odločil ali se lahko odloči, da jih sprejme glede te države pogodbenice; odpoved prav tako na noben način ne vpliva na nadaljnje obravnavanje katere koli zadeve, ki je pri pododboru za preprečevanje že v obravnavi pred dnevom, ko začne veljati odpoved.

3. Po datumu, ko začne veljati odpoved države pogodbenice, pododbor za preprečevanje ne začne obravnavati nobene nove zadeve, povezane s to državo.

34. člen

1. Vsaka država pogodbenica tega protokola lahko predlaga spremembo in jo predloži generalnemu sekretarju Združenih narodov. Generalni sekretar sporoči predlagano spremembo državam pogodbenicam tega protokola in jih zaprosi, da ga obvestijo, ali se strinjajo s konferenco držav pogodbenic zaradi obravnavanja in glasovanja o predlogu. Če se v štirih mesecih od dneva tega sporočila vsaj tretjina držav pogodbenic strinja s to konferenco, generalni sekretar skliče konferenco pod pokroviteljstvom Združenih narodov. Generalni sekretar Združenih narodov pošlje vsem državam pogodbenicam v sprejetje vsako spremembo, ki jo z dvetretjinsko večino sprejmejo države pogodbenice, ki so navzoče in glasujejo na konferenci.

2. Sprememba, sprejeta v skladu s prvim odstavkom tega člena, začne veljati, ko jo sprejmejo države pogodbenice tega protokola z dvetretjinsko večino v skladu z njihovimi ustavnimi postopki.

3. Ko začnejo spremembe veljati, so zavezujoče za vse tiste države pogodbenice, ki so jih sprejele, za druge države pogodbenice pa še naprej veljajo določbe tega protokola in katera koli prejšnja sprememba, ki so jo sprejele.

Article 31

The provisions of the present Protocol shall not affect the obligations of States Parties under any regional convention instituting a system of visits to places of detention. The Subcommittee on Prevention and the bodies established under such regional conventions are encouraged to consult and cooperate with a view to avoiding duplication and promoting effectively the objectives of the present Protocol.

Article 32

The provisions of the present Protocol shall not affect the obligations of States Parties to the four Geneva Conventions of 12 August 1949 and the Additional Protocols thereto of 8 June 1977, nor the opportunity available to any State Party to authorize the International Committee of the Red Cross to visit places of detention in situations not covered by international humanitarian law.

Article 33

1. Any State Party may denounce the present Protocol at any time by written notification addressed to the Secretary-General of the United Nations, who shall thereafter inform the other States Parties to the present Protocol and the Convention. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Protocol in regard to any act or situation that may occur prior to the date on which the denunciation becomes effective, or to the actions that the Subcommittee on Prevention has decided or may decide to take with respect to the State Party concerned, nor shall denunciation prejudice in any way the continued consideration of any matter already under consideration by the Subcommittee on Prevention prior to the date on which the denunciation becomes effective.

3. Following the date on which the denunciation of the State Party becomes effective, the Subcommittee on Prevention shall not commence consideration of any new matter regarding that State.

Article 34

1. Any State Party to the present Protocol may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties to the present Protocol with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that within four months from the date of such communication at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of two thirds of the States Parties present and voting at the conference shall be submitted by the Secretary-General of the United Nations to all States Parties for acceptance.

2. An amendment adopted in accordance with paragraph 1 of the present article shall come into force when it has been accepted by a two-thirds majority of the States Parties to the present Protocol in accordance with their respective constitutional processes.

3. When amendments come into force, they shall be binding on those States Parties that have accepted them, other States Parties still being bound by the provisions of the present Protocol and any earlier amendment that they have accepted.

35. člen

Člani pododбора za preprečevanje in državnih preventivnih mehanizmov uživajo take privilegije in imunitete, ki so potrebni za neodvisno izvajanje njihovih nalog. Člani pododбора za preprečevanje uživajo privilegije in imunitete iz 22. člena Konvencije Združenih narodov o privilegijih in imunitetah z dne 13. februarja 1946 ob upoštevanju določb 23. člena te konvencije.

36. člen

Člani pododбора za preprečevanje ob obisku v državi pogodbenici uživajo privilegije in imunitete, ne da bi posegali v določbe in namene tega protokola, in sicer:

(a) spoštujejo zakone in predpise države, ki jo obiščejo;

(b) se vzdržijo katerega koli ukrepa ali dejavnosti, ki ni v skladu z nepristransko in mednarodno naravo njihovih nalog.

37. člen

1. Ta protokol, katerega besedilo v angleškem, arabskem, francoskem, kitajskem, ruskem in španskem besedilu je enako verodostojno, se deponira pri generalnem sekretarju Združenih narodov.

2. Generalni sekretar Združenih narodov pošlje overjene kopije tega protokola vsem državam.

3. člen

Za izvajanje protokola skrbi Ministrstvo za pravosodje.

4. člen

Republika Slovenija daje v zvezi s 17. členom Opcijskega protokola h Konvenciji proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju naslednjo izjavo: »Pristojnosti in naloge državnega preventivnega mehanizma po opcijskem protokolu, skladno s 17. členom, izvršuje Varuh človekovih pravic, v dogovoru z njim pa tudi nevladne organizacije, registrirane v Republiki Sloveniji ter organizacije, ki so pridobile status humanitarne organizacije v Republiki Sloveniji.«

5. člen

(1) Naloge in pooblastila državnega preventivnega mehanizma po tem protokolu izvršuje Varuh človekovih pravic. Pri opravljanju nadzora na krajih odvzema prostosti ter preverjanja ravnanja z osebami, ki jim je bila odvzeta prostost, lahko z Varuhom pri izvrševanju nalog in pooblastil Varuha po tem protokolu sodelujejo nevladne organizacije, registrirane v Republiki Sloveniji ter organizacije, ki so pridobile status humanitarne organizacije v Republiki Sloveniji, ki se ukvarjajo z varstvom človekovih pravic ali temeljnih svoboščin, zlasti s področja preprečevanja mučenja in drugih krutih, nečloveških ali poniževalnih kazni ali ravnanj.

Article 35

Members of the Subcommittee on Prevention and of the national preventive mechanisms shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions. Members of the Subcommittee on Prevention shall be accorded the privileges and immunities specified in section 22 of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946, subject to the provisions of section 23 of that Convention.

Article 36

When visiting a State Party, the members of the Subcommittee on Prevention shall, without prejudice to the provisions and purposes of the present Protocol and such privileges and immunities as they may enjoy:

- (a) Respect the laws and regulations of the visited State;
- (b) Refrain from any action or activity incompatible with the impartial and international nature of their duties.

Article 37

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States.

Article 3

The Ministry of Justice shall be responsible for the implementation of the Protocol.

Article 4

In connection with Article 17 of the Optional Protocol to the Convention against Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment the Republic of Slovenia hereby makes the following statement: "The competences and tasks of national preventive mechanism under the Optional Protocol, in compliance with Article 17 shall be carried out by the Human Rights Ombudsman, and with his agreement also non-governmental organisations registered in the Republic of Slovenia and organisations that have obtained the status of humanitarian organisations in the Republic of Slovenia."

Article 5

(1) The tasks and authorities of national preventive mechanism under this protocol shall be performed by the Human Rights Ombudsman. In carrying out monitoring at places of detention and checking the treatment of persons who have been deprived of their liberty, non-governmental organisations registered in the Republic of Slovenia and organisations that have obtained the status of humanitarian organisations in the Republic of Slovenia, which deal with the protection of human rights or fundamental freedoms, especially in the field of preventing torture and other cruel, inhuman or degrading treatment or punishment, may cooperate with the Ombudsman in carrying out the tasks and authorities of the Ombudsman under this protocol.

(2) Organizacije, ki bodo sodelovale pri izvajanju nalog in pooblastil po določbah prejšnjega odstavka, se izberejo na podlagi javnega razpisa, katerega izvede Varuh, ki tudi odloči o izbiri organizacije. Vsebina javnega razpisa mora biti v skladu s 4. členom tega zakona ter podzakonskih aktov, izdanih na podlagi četrtega odstavka.

(3) Osebe iz izbranih organizacij, ki bodo sodelovale pri izvajanju nalog in pooblastil državnega preventivnega mehanizma po tem protokolu, podajo predhodno pisno izjavo, da bodo pri opravljanju teh nalog in pooblastil delovale po navodilih Varuha človekovih pravic in delovale po predpisih o varovanju tajnosti osebnih in tajnih podatkov, tako kot to velja za Varuha, njegove namestnike in uslužbence.

(4) Potrebne stroške in nagrade osebam iz organizacij, ki opravljajo naloge oziroma izvršujejo pooblastila po prvem odstavku, izplača Varuh človekovih pravic iz proračunskih postavk Varuha, po pravilniku, ki ga izda Varuh po predhodnem soglasju ministra, pristojnega za finance. Pravilnik se objavi v Uradnem listu Republike Slovenije.

6. člen

Ta zakon začne veljati 1. januarja 2007.

Št. 713-03/91-4/4

Ljubljana, dne 29. septembra 2006

EPA 1008-IV

Predsednik
Državnega zbora
Republike Slovenije
France Cukjati, dr. med., l.r.

(2) Organisations that will cooperate in the implementation of tasks and authorities under the provisions of the previous paragraph shall be chosen on the basis of public tender, which will be held by the Ombudsman, who will also decide on the choice of organisations. The content of the public tender must be in compliance with Article 4 of this Act and statutory regulations issued on the basis of the fourth paragraph.

(3) Persons from the selected organisations who will cooperate in implementing the tasks and authorities of national preventive mechanism under this Protocol shall provide a prior written declaration that in performing these tasks and authorities they will work according to the instructions of the Human Rights Ombudsman and work according to regulations on the protection of the confidentiality of personal and confidential information, as these apply for the Ombudsman and his deputies and staff.

(4) Necessary costs and rewards of persons from organisations that perform tasks or implement authorities under the first paragraph shall be paid by the Human Rights Ombudsman from budget headings of the Ombudsman, according to rules which the Ombudsman shall issue after the prior approval of the minister responsible for finance. The rules shall be published in the Official Gazette of the Republic of Slovenia.

Article 6

This Act shall take effect on 1 January 2007.

No. 713-03/91-4/4

Ljubljana, 29 September 2006

EPA 1008-IV

President
National Assembly
of the Republic of Slovenia
France Cukjati, M.D., I.r.

DOKUMENTI
VARUHA ČLOVEKOVIH PRAVIC RS

OMBUDSMAN DOCUMENTS

Na podlagi četrtega, v zvezi z drugim odstavkom 5. člena Zakona o ratifikaciji Opcijskega protokola h Konvenciji proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju (Uradni list RS, št. 114/06 – Mednarodne pogodbe, št. 20/06) ter po predhodnem soglasju ministra, pristojnega za finance, varuhinja človekovih pravic izdaja

1. PRAVILNIK O POVRAČILU STROŠKOV IN O NAGRADAH osebam iz organizacij, ki opravljajo naloge oziroma izvršujejo pooblastila po določbah Opcijskega protokola h Konvenciji proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju

(Uradni list RS, št. 17/2008 z dne 19. februarja 2008)

I. SPLOŠNA DOLOČBA

1. člen

(1) Ta pravilnik ureja povračilo stroškov in nagradi osebam iz izbranih nevladnih in humanitarnih organizacij, za sodelovanje pri izvajanju nadzora po določenih Opcijskega protokola h Konvenciji proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju, katerega le te izvajajo po navodilih Varuha človekovih pravic (v nadaljnjem besedilu: Varuh).

(2) Povračilo stroškov po tem pravilniku obsega povračilo potnih stroškov in stroškov za prehrano in prenočišče ter pravico do nadomestila plače ali nadomestila za izgubljeni zaslužek v času nadzora. Nagradi po tem pravilniku sta plačilo za izdelavo poročila o opravljenem nadzoru in simbolični prejemek.

II. POVRAČILO STROŠKOV

2. člen

(1) Potni stroški obsegajo stroške prihoda in vrnitve osebe iz izbranih nevladnih in humanitarnih organizacij (v nadaljevanju: izvajalec nadzora) od kraja njenega prebivališča do kraja, kjer opravlja nadzor. Potni stroški se priznajo v višini dejanskih izdatkov za prevoz z javnim prevoznim sredstvom.

(2) Če ni možnosti prevoza z javnim prevoznim sredstvom, se izvajalcu nadzora priznajo stroški kilometrine.

3. člen

(1) Stroški za prehrano se izvajalcem nadzora priznajo v obliki dnevnice.

(2) Pravico do dnevnice ima udeleženec, ki ima stalno ali začasno prebivališče zunaj kraja, kjer se opravlja nadzor.

(3) Stroški za prenočišče se priznajo izvajalcem nadzora s povračilom dejansko plačanih stroškov prenočevanja.

(4) Pravico do povračila stroškov prenočišča ima izvajalec nadzora, ki ima stalno ali začasno prebivališče zunaj kraja, kjer se opravlja nadzor in je zaradi sodelovanja pri opravljanju nadzora moral prenočevati v tem kraju.

On the basis of the fourth in connection with the second paragraph of Article 5 of the Act of Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Official Gazette RS no. 114/06 – International Treaties no. 20/06) and with the prior approval of the minister responsible for finance, the Human Rights Ombudsman hereby issues

1. RULES ON THE REIMBURSEMENT OF COSTS AND OTHER REWARDS to persons from organisations that perform tasks or exercise authorities under the provisions of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

(Official Gazette RS, no. 17/2008 of 19.02.2008)

I. GENERAL PROVISIONS

Article 1

(1) These rules regulate the reimbursement of costs and rewards to persons from selected non-governmental and humanitarian organisations for cooperation in implementing monitoring under the provisions of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which these (organisations) implement under the instructions of the Human Rights Ombudsman (hereinafter: Ombudsman).

(2) Reimbursement of costs under these rules covers reimbursement of travelling expenses and costs of food and accommodation and the right to compensation of pay or compensation of lost earnings during the time of monitoring. Rewards under these rules shall be payment for producing a report on monitoring and a symbolic payment.

II. REIMBURSEMENT OF COSTS

Article 2

(1) Travelling expenses shall include the costs of return travel of persons from chosen non-governmental and humanitarian organisations (hereinafter: monitors) from their place of residence to the place where monitoring is performed. Travelling expenses shall be recognised at the level of actual expenditures for transport by public means of transport.

(2) If travel by public transport is not possible, costs in the form of a kilometer rate will be awarded to monitors.

Article 3

(1) Costs for food shall be recognised for monitors in the form of a daily rate.

(2) A participant who has permanent or temporary residence outside the place where monitoring is performed shall have the right to the daily rate.

(3) Overnight costs shall be awarded to monitors by the reimbursement of actually paid costs of overnight accommodation.

(4) The right to the reimbursement of accommodation costs accrues to a monitor who has permanent or temporary residence outside the place where monitoring is taking place and because of cooperating in the performance of monitoring he or she must spend the night in that place.

4. člen

Dnevnica, stroški prenočišča in kilometrina se odmerijo na način in v višini, kot je določena za javne uslužbenke.

III. NADOMESTILO PLAČE OZIROMA IZGUBLJENI ZASLUŽEK

5. člen

(1) Izvajalec nadzora, ki je zaposlen in je zaradi opravljanja nadzora odsoten z dela, ima na podlagi potrdila Varuha pravico do nadomestila plače. Izvajalcu nadzora, ki ima pravico do nadomestila plače, Varuh izda potrdilo o sodelovanju pri opravljanju nadzora naslednji dan po opravljenem nadzoru.

(2) Delodajalec izvajalcu nadzora izplača nadomestilo plače, Varuh pa nato delodajalcu povrne znesek, ki ustreza višini nadomestila plače na podlagi pisnega obračuna s priloženimi dokazili o višini plače izvajalca nadzora in o izplačanem nadomestilu.

6. člen

Izvajalcu nadzora, ki je samostojni podjetnik posameznik oziroma oseba, ki samostojno opravlja dejavnost kot redni poklic, pripada nadomestilo za izgubljeni zaslužek v višini, ki se določa po sodni odmeri glede na povprečni dnevni zaslužek v ustreznem poklicu v odvisnosti od časa opravljanja nadzora.

7. člen

(1) Izvajalci nadzora, ki niso zajeti v določbah 5. in 6. člena tega pravilnika in tisti, ki so zaposleni, vendar v času opravljanja nadzora niso bili odsotni z dela, imajo pravico do nadomestila v pavšalnem znesku.

(2) Višina nadomestila se v primeru iz prejšnjega odstavka odmeri v odvisnosti od časa opravljanja nadzora, pri čemer višina nadomestila na dan ne sme presegati 75 odstotka zneska dnevnice za službeno potovanje, ki traja od šest do osem ur, kot je določen za javne uslužbenke.

IV. NAGRADA ZA IZDELAVO POROČILA O OPRAVLJENEM NADZORU

8. člen

Izvajalec nadzora dobi za izdelavo poročila o opravljenem nadzoru nagrado v višini 100 evrov.

V. SIMBOLIČNI PREJEMEK

9. člen

Izvajalcem nadzora pripada simbolični prejemek v višini 5 evrov za vsako začetno uro sodelovanja pri nadzoru.

Article 4

Daily rates, accommodation costs and the kilometer rate shall be calculated in the way and at the level that is specified for public servants.

III. COMPENSATION OF PAY OR OF LOST EARNINGS**Article 5**

(1) A monitor who is employed and because of performing monitoring is absent from work has the right to compensation of pay on the basis of confirmation of the Ombudsman. The Ombudsman shall issue to the monitor confirmation of cooperation in the performance of monitoring the day after monitoring has been performed.

(2) The employer of the monitor shall pay compensation of pay and the Ombudsman shall then refund to the employer the amount corresponding to the level of compensation of pay on the basis of a written invoice with evidence enclosed of the amount of pay of the monitor and on the payment of compensation.

Article 6

A monitor who is a self-employed business person or person who independently performs an activity as a regular profession is entitled to compensation for lost earnings to a level which is determined by the court calculation in relation to average daily earnings in the relevant profession depending on the time of performing monitoring.

Article 7

(1) Monitors who are not covered by the provisions of Articles 5 and 6 of these Rules and those who are employed but at the time of performing the monitoring were not absent from work have the right to compensation in a lump sum.

(2) The level of compensation referred to in the previous paragraph shall be calculated on the basis of the time of performing monitoring, whereby the level of compensation per day may not exceed 75 percent of the amount of the daily rate for a business trip that lasts from six to eight hours, as determined for public servants.

IV. REMUNERATION FOR PRODUCING A REPORT ON MONITORING PERFORMED**Article 8**

A monitor shall receive remuneration of 100 EUR for producing a report on monitoring performed.

V. SYMBOLIC PAYMENT**Article 9**

A symbolic payment will be made to monitors of 5 euros for each hour or part of an hour of cooperation in monitoring.

VI. SKUPNE DOLOČBE

10. člen

Izvajalec nadzora predloži zahtevek za povračilo stroškov in nagradi na obrazcu št. 1, ki je sestavni del tega pravilnika, ob predaji poročila o opravljenem nadzoru, ki mora biti izdelano in posredovano Varuhu najpozneje v osmih dneh po opravljenem nadzoru.

11. člen

(1) Predstavniki Varuha, odgovorni za opravo posameznega nadzora, izda v roku treh dni po prejemu zahtevka za povračilo stroškov in nagradi, izvajalcu nadzora sklep o povračilu stroškov na obrazcu št. 2, ki je sestavni del tega pravilnika.

(2) Izplačilo stroškov in nagrad se izvrši na podlagi sklepa iz prejšnjega odstavka.

12. člen

(1) Nagrade in povračilo stroškov se izplačujejo iz proračunskih sredstev Varuha človekovih pravic – podprogram Opcijski protokol, sredstva namenjena za delo nevladnih in humanitarnih organizacij, na transakcijski račun izvajalca nadzora, obračunani davki in druge dajatve pa na ustrezne račune javnih sredstev.

(2) Nadomestila plače oziroma izgubljenega zaslužka se izplačujejo iz proračunskih sredstev Varuha človekovih pravic – podprogram Opcijski protokol, sredstva namenjena za delo nevladnih in humanitarnih organizacij, na transakcijski račun prejemnika.

VII. KONČNI DOLOČBI

13. člen

V tem pravilniku uporabljeni izrazi, zapisani v moški spolni slovnični obliki, se uporabljajo kot nevtralni za moški in ženski spol.

14. člen

Ta pravilnik začne veljati petnajsti dan po objavi v Uradnem listu Republike Slovenije.

Št. 2.0-4/2007-3-SE
Ljubljana, dne 27. decembra 2007

dr. Zdenka Čebašek – Travnik l.r.
Varuhinja človekovih pravic

Št. 007-771/2007/5

Ljubljana, dne 5. februarja 2008

Soglašam!
dr. Andrej Bajuk l.r.
Minister za finance

VI. COMMON PROVISIONS

Article 10

A monitor shall submit a claim for reimbursement of costs and remuneration on Form no. 1, which is an integral part of these rules, at the time of submitting the report on performed monitoring, which must be produced and sent to the Ombudsman not later than eight days after the monitoring was performed.

Article 11

(1) The Ombudsman's representative responsible for performing an individual monitoring, within three day of receipt of the claim for reimbursement of costs and remunerations, shall issue to the monitor a decision on the reimbursement of costs on Form no. 2, which is an integral part of these rules.

(2) Payment of costs and rewards shall be done on the basis of the decision referred to in the previous paragraph.

Article 12

(1) Rewards and reimbursement of costs shall be paid from budget funds of the Human Rights Ombudsman – sub-program Optional Protocol, funds earmarked for the work of non-governmental and humanitarian organisations, to the monitor's transaction action, and calculated tax and other levies to the relevant account of public funds.

(2) Compensation of pay or lost earnings shall be paid from budget funds of the Human Rights Ombudsman – sub-program Optional Protocol, funds earmarked for the work of non-governmental and humanitarian organisations, to the transaction account of the recipient.

VII. FINAL PROVISIONS

Article 13

Expressions used in these rules written in the masculine grammatical form shall be considered neutral for both masculine and feminine gender.

Article 14

These rules shall enter into force on the day following publication in the Official Gazette of the Republic of Slovenia

No. 2.0-4/2007-3-SE
Ljubljana, 27 December 2007

dr. Zdenka Čebašek – Travnik l.r.
Human Rights Ombudsman

No. 007-771/2007/5

Ljubljana, 5 February 2008

Approved!
dr. Andrej Bajuk l.r.
Minister of Finance

2. Obrazec 1: Zahtevek za povračilo stroškov in nagrad

(ime in priimek) _____ po poklicu _____
 stanujoč / a _____
 davčna številka _____
 številka transakcijskega računa _____ - _____
 odprtega pri _____
 sem sodeloval/a pri opravljanju nadzora

dne _____ od _____ do _____ ure.

Prosim, da se mi prizna in izplača:

1. SIMBOLIČNI PREJEMEK

število ur	višina nagrade za vsako začeto uro	skupaj EUR

2. PLAČILO ZA IZDELAVO POROČILA O OPRAVLJENEM NADZORU

3. POVRAČILO STROŠKOV

a) potni stroški javni prevoz

za relacijo od / do	skupaj EUR

b) Kilometrina

za relacijo od / do	Skupaj km	Cena za 1 km	skupaj EUR

c) stroški za prehrano in prenočišče (dnevnice)

višina dnevnice	višina stroškov prenočišča	skupaj EUR

d) nadomestilo plače, izgubljenega zaslužka

skupaj EUR

V _____, dne _____

podpis

Priloge:

- izjava o opravljenem nadzoru in izdelavi poročila
- računi

2. Form 1: Claim for the reimbursement of costs and rewards

I, _____ by profession _____
 residing at _____ tax number _____
 transaction account number _____ - _____
 at (bank) _____
 cooperated in monitoring

on _____ from _____ to _____ hours.

Please acknowledge and pay:

1. SYMBOLIC PAYMENT

number of hours	level of reward for each hour or part	total EUR

2. PAYMENT FOR PRODUCING REPORT ON MONITORING PERFORMED

3. REIMBURSEMENT OF COSTS

a) travelling expenses by public transport

for journey from / to	total EUR

b) Kilometer rate

for the journey from/ to	total km price	per 1 km	total EUR

c) costs for food and accommodation (daily rate)

level of daily rate	level of costs of accommodation	total EUR

d) compensation of pay, lost earnings

total EUR

In _____, date _____

signature

Enclosures:

- confirmation of monitoring carried out and report produced
- invoices

3. Obrazec 2: Sklep o povračilu stroškov in nagrad (formular)

Za sodelovanje _____ pri
opravljanju nadzora, v _____, dne _____ po

določilu 11. člena Pravilnika o povračilu stroškov in o nagradah osebam iz organizacij, ki opravljajo naloge oziroma izvršujejo pooblastila po določbah Opcijskega protokola h Konvenciji proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju (MOPPM)

odmerim

simbolični prejemek	EUR
potni stroški	EUR
kilometrina	EUR
stroški za prehrano in prenočišče	EUR
nadomestilo plače	EUR
nadomestilo izgubljenega zaslužka	EUR
plačilo za izdelavo poročila o opravljenem nadzoru	EUR
skupaj	EUR

in odredim plačilo davkov in drugih javnih dajatev.

Hkrati odredim izplačilo na ustrezne transakcijske račune in transakcijski račun prejemnika, vse v breme proračunskega uporabnika 1214 Varuh človekovih pravic RS – podprogram Opcijski protokol, podkonto sredstva namenjena za delo nevladnih in humanitarnih organizacij _____,

V _____, dne _____

podpis _____

Zneski, od katerih se plačujejo davki in druge javne dajatve, se odmerjajo »brutto«

3. Form 2: Decision on reimbursement of costs and rewards (form)

For the cooperation of _____ in carrying out monitoring at _____, on _____ under the

provisions of Article 11 of the Rules on the reimbursement of costs and rewards to persons from organisations that perform tasks or exercise authorities under the provisions of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (MOPPM)

I hereby calculate:

symbolic payment	EUR
travelling expenses	EUR
kilometer rate	EUR
costs for food and accommodation	EUR
compensation of pay	EUR
compensation for lost earnings	EUR
payment for producing report on monitoring performed	EUR
total	EUR

and order payment of taxes and other public levies.

At the same time, I order payment to the relevant transaction account and the transaction account of the recipient, all to be paid from the budget of user 1214 Human Rights Ombudsman RS – sub-program Optional Protocol, sub-account of funds earmarked for the work of non-governmental and humanitarian organisations _____

in _____, date _____

Signature _____

Amounts on which taxes and other public levies are paid shall be calculated “gross”

4. JAVNI RAZPIS ZA SODELOVANJE NEVLADNIH ORGANIZACIJ

Objavljen na spletnih straneh Varuha človekovih pravic Republike Slovenije in v Uradnem listu Republike Slovenije št. 107, dne 14. novembra 2008.

Na podlagi drugega odstavka 5. člena Zakona o ratifikaciji Opcijskega protokola h Konvenciji proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju (Uradni list RS, št. 114/06 – Mednarodne pogodbe, št. 20/06) objavlja Varuh človekovih pravic Republike Slovenije

JAVNI RAZPIS ZA SODELOVANJE NEVLADNIH ORGANIZACIJ

registriranih v Republiki Sloveniji in organizacij, ki so pridobile status humanitarnih organizacij v Republiki Sloveniji z Varuhom pri izvajanju pristojnosti in nalog državnega preventivnega mehanizma po Opcijskem protokolu h Konvenciji proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju

1. Naziv in sedež naročnika:

Varuh človekovih pravic Republike Slovenije,
Dunajska cesta 56, 1000 Ljubljana, tel.: 01/475-00-50, faks: 01/475-00-40,
elektronski naslov: (info@varuh-rs.si)

2. Predmet javnega razpisa:

sodelovanje nevladnih organizacij, registriranih v Republiki Sloveniji in organizacij, ki so pridobile status humanitarnih organizacij v Republiki Sloveniji (v nadaljevanju: organizacije) z Varuhom pri izvajanju pristojnosti in nalog državnega preventivnega mehanizma po Opcijskem protokolu h Konvenciji proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju. Naloge in pooblastila državnega preventivnega mehanizma po opcijskem protokolu, skladno s 17. členom protokola v zvezi s 4. členom Zakona o ratifikaciji Opcijskega protokola h Konvenciji proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju izvršuje Varuh, v dogovoru z njim pa tudi nevladne organizacije, registrirane v Republiki Sloveniji, ter organizacije, ki so pridobile status humanitarne organizacije v Republiki Sloveniji, ki se ukvarjajo z varstvom človekovih pravic ali temeljnih svoboščin, zlasti s področja preprečevanja mučenja ali drugih krutih, nečloveških ali poniževalnih kazni ali ravnanj.

3. Namen razpisa:

izbor organizacij, ki bodo sodelovale z Varuhom pri izvajanju pristojnosti in nalog državnega preventivnega mehanizma po Opcijskem protokolu h Konvenciji proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju. Organizacije bodo izbrane na javnem razpisu, katerega izvede Varuh, ki bo tudi odločil o izbiri organizacije. Izbrane organizacije bodo naloge in pooblastila pri opravljanju nadzora opravljale s svojimi pripadniki ali pripadnicami, usposobljenimi za posamezna področja nadzora, kot člani skupine, ki jo bo določil Varuh za opravljanje nadzora na krajih odvzema prostosti ter preverjanja ravnanja z osebami, ki jim je bila odvzeta prostost. Po izvedenem nadzoru po določbah Opcijskega protokola, katerega bodo po navodilih Varuha izvajali pripadniki in pripadnice izbranih nevladnih ali humanitarnih organizacij, bodo predstavniki oziroma predstavnice izdelali tudi poročilo o opravljenem nadzoru.

4. PUBLIC TENDER FOR THE COOPERATION OF NON-GOVERNMENTAL ORGANISATIONS

Published on the website of the Human Rights Ombudsman of the Republic of Slovenia and in the Official Gazette of the Republic of Slovenia no. 107, 14 November 2008.

On the basis of the second paragraph of Article 5 of the Act of Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Official Gazette RS, no. 114/06 – International Treaties, no. 20/06) the Human Rights Ombudsman of the Republic of Slovenia hereby publishes a

PUBLIC TENDER FOR THE COOPERATION OF NON-GOVERNMENTAL ORGANISATIONS

registered in the Republic of Slovenia and organisations that have obtained the status of humanitarian organisations in the Republic of Slovenia with the Ombudsman, in implementing the competences and tasks of national preventive mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

1. Title and address of the tenderer:

Human Rights Ombudsman of the Republic of Slovenia,
Dunajska cesta 56, 1000 Ljubljana, phone: 01/475-00-50, fax: 01/475-00-40,
e-mail: (info@varuh-rs.si)

2. Subject of the public tender:

cooperation of non-governmental organisation registered in the Republic of Slovenia and organisations that have obtained the status of humanitarian organisations in the Republic of Slovenia (hereinafter organisations) with the Ombudsman in implementing the competences and tasks of national preventive mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The tasks and authorities of national preventive mechanism under the Optional Protocol, in accordance with Article 17 in connection with Article 4 of the Act of Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, are performed by the Ombudsman, and with his agreement also non-governmental organisations in the Republic of Slovenia and organisations that have obtained the status of humanitarian organisations in the Republic of Slovenia which deal with the protection of human rights or fundamental freedoms, especially in the field of the prevention of torture or other cruel, inhuman or degrading punishment or treatment.

3. Purpose of the tender:

selection of organisations that will cooperate with the Ombudsman in implementing the competences and tasks of national preventive mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The organisations will be selected at public tender held by the Ombudsman, who will also decide on the choice of organisations. The selected organisations will perform the tasks and exercise the authorities in performing monitoring with members of their organisations qualified in individual fields of monitoring and checking the treatment of persons who have been deprived of liberty. After monitoring under the provisions of the Optional Protocol, which will be performed by members of the chosen non-governmental or humanitarian organisations, representatives will also produce a report on the monitoring carried out.

4. Orientacijska vrednost razpisa:

osebe iz organizacij, ki bodo izbrane in bodo opravljale nadzor po določbah Opcijskega protokola, bodo dobile povrnjene potne stroške, stroške za prehrano in prenočišče, nagrado za izdelavo poročila o opravljenem nadzoru, nadomestila plače ali nadomestilo za izgubljeni zaslužek in simbolično nagrado po Pravilniku o povračilu stroškov in o nagradah osebam iz organizacij, ki opravljajo naloge oziroma izvršujejo pooblastila po določbah Opcijskega protokola h Konvenciji proti mučenju in drugim krutim, nečloveškim in poniževalnim kaznim ali ravnanju (Uradni list RS, št. 17/08).

5. Pogoji, ki jih morajo izpolnjevati prijavitelji:

na javni razpis se lahko prijavijo nevladne organizacije, registrirane v Republiki Sloveniji in organizacije, ki so pridobile status humanitarne organizacije v Republiki Sloveniji po Zakonu o humanitarnih organizacijah (Uradni list RS, št. 98/03), ki se ukvarjajo z varstvom človekovih pravic ali temeljnih svoboščin, zlasti s področja preprečevanja mučenja ali drugih krutih, nečloveških ali poniževalnih kazni ali ravnanj. K svoji prijavi priložijo kratko predstavitev dela na področju varstva človekovih pravic ali temeljnih svoboščin, zlasti s področja preprečevanja mučenja ali drugih krutih, nečloveških ali poniževalnih kazni ali ravnanj, nevladne organizacije izjavo o registraciji, humanitarne organizacije pa izjavo o podelitvi statusa humanitarne organizacije in o vpisu v razvid humanitarnih organizacij. Organizacija, ki želi sodelovati pri opravljanju nadzora, mora predložiti izjavo, da pri opravljanju nadzora ne bodo sodelovale pripadnice ali pripadniki, ki so bili pravnomočno obsojeni za kaznivo dejanje, ki se preganja po uradni dolžnosti, oziroma pravnomočno obsojeni na nepogojno kazen zapora v trajanju več kot 3 mesece oziroma oseba, zoper katero je vložena pravnomočna obtožba zaradi kaznivega dejanja, ki se preganja po uradni dolžnosti (dokazilo – potrdilo).

6. Merila za izbor:

prednost pri izbiri za sodelovanje bodo imele organizacije z več izkušnjami na področju varstva človekovih pravic ali temeljnih svoboščin, zlasti s področja preprečevanja mučenja ali drugih krutih, nečloveških ali poniževalnih kazni ali ravnanj (dokazilo: opis najpomembnejšega delovanja, zlasti na področju preprečevanja mučenja ali drugih krutih, nečloveških ali poniževalnih kazni ali ravnanj).

7. Ostali pogoji:

pripadniki oziroma pripadnice izbrane organizacije, ki bodo sodelovale pri izvajanju nalog in pooblastil po določbah prvega odstavka 5. člena Zakona o ratifikaciji Opcijskega protokola h Konvenciji proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju bodo morale v skladu s tretjim odstavkom 5. člena tega zakona podati predhodno pisno izjavo, da bodo pri opravljanju nalog in pooblastil sodelovale po navodilih Varuha in delovale po predpisih o varovanju tajnosti osebnih in tajnih podatkov, tako kot to velja za varuha, njegove namestnike in uslužbenice. Pripadnik izbrane organizacije, ki ne bo podal predhodne pisne izjave ne more sodelovati pri opravljanju nadzora.

8. Z izbranimi organizacijami bo Varuh

sklenil pogodbo o sodelovanju za obdobje do 31. 12. 2010, z možnostjo podaljšanja sodelovanja še za eno leto.

9. Rok

za oddajo pisne prijave je 15 dni od dneva objave razpisa v Uradnem listu RS.

4. Orientation value of the tender:

persons from organisations chosen and who will perform monitoring under the provisions of the Optional Protocol, will receive reimbursement of expenses, costs of food and accommodation, remuneration for producing a report on monitoring performed, compensation of pay or compensation for lost earnings and a symbolic payment under Rules on the reimbursement of expenses and on rewards to persons from organisations who perform tasks or exercise authorities under the provisions of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Official Gazette RS, no. 17/08).

5. Conditions that applicants must fulfil:

non-governmental organisations in the Republic of Slovenia and organisations that have obtained the status of humanitarian organisations in the Republic of Slovenia under the Humanitarian Organisations Act (Official Gazette RS, no. 98/03) which deal with the protection of human rights or fundamental freedoms, especially in the field of the prevention of torture or other cruel, inhuman or degrading punishment or treatment may apply at the public tender. They shall attach to their application a brief presentation of their work in the field of human rights and fundamental freedoms, especially in the field of preventing torture or other cruel, inhuman or degrading treatment of punishment. Non-governmental organisations shall attach a declaration on registration and humanitarian organisations a declaration on the granting of the status of humanitarian organisation and on entry in the record of humanitarian organisations. An organisation that wishes to cooperate in carrying out monitoring must submit a declaration that members will not cooperate in performing monitoring who have been finally convicted to an unconditional prison sentence lasting more than 3 months or persons against whom a final charge has been filed because of a criminal offence that is prosecuted ex officio (proof: certificate).

6. Criteria for selection:

criteria in the choice for cooperation will be given to organisations with more experience in the field of protection of human rights and fundamental freedoms, especially in the field of prevention of torture or other cruel, inhuman or degrading punishment or treatment (proof: description of the most important activities, especially in the field of prevention of torture or other cruel, inhuman or degrading punishment or treatment).

7. Other conditions:

members of selected organisations who will cooperate in implementing the tasks and exercising the authorities under the provisions of the first paragraph of Article 5 of the Act of Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in accordance with the third paragraph of Article 5 of this Act, will have to provide a prior written declaration that in performing the tasks and exercising the authorities they will cooperate according to the instructions the Ombudsman and work according to regulations on the protection of personal data and confidential data such as apply for the Ombudsman, his deputies and staff. A member of a selected organisation who does not give a prior written declaration may not cooperate in performing monitoring.

8. The Ombudsman will sign

a contract of cooperation with selected organisations for the period up till 31 December 2010, with the possibility of extending cooperation for a further year.

9. The deadline

for the delivery of written applications is 15 days from the day of publication of the tender in the Official Gazette RS.

10. Prijave

morajo biti oddane v zaprtih kuvertah z navedbo »Za javni razpis« na naslov: Varuh človekovih pravic, Dunajska cesta 56, 1000 Ljubljana.

11. Ponudniki bodo o izbiri obveščeni

v 15 dneh po opravljeni izbiri.

12. Dodatne informacije posreduje

Ivan Šelih, tel.: 01/475-00-19

elektronski naslov: (Ivan.Selih@varuh-rs.si)

13. Razpis

se objavi v Uradnem listu RS in na spletnih straneh Varuha. Vprašanja in odgovori se objavijo na spletnih straneh Varuha.

Varuh človekovih pravic

10. Applications

must be delivered in a sealed envelope with the statement "Za javni razpis" (For public tender), to the address: Varuh človekovih pravic, Dunajska cesta 56, 1000 Ljubljana.

11. Applicants will be informed of the selection

within 15 days after the selection has been made.

12. Additional information is available from:

Ivan Šelih, phone: 01/475-00-19

e-mail: (Ivan.Selih@varuh-rs.si)

13. The public tender

shall be published in the Official Gazette RS and on the website of the Ombudsman. Questions and answers shall be published on the website of the Ombudsman.

Human Rights Ombudsman

5. VZOREC POGODBE O SODELOVANJU z NVO

Pogodba o sodelovanju pri izvajanju nalog in pooblastil državnega preventivnega mehanizma po določbi 5. člena Zakona o ratifikaciji Opcijskega protokola h Konvenciji proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju (Uradni list RS, št. 114/06 – Mednarodne pogodbe, št. 20/06)

ki jo sklenejo

Varuh človekovih pravic Republike Slovenije

Dunajska cesta 56, 1000 Ljubljana,

ki ga zastopa dr. Zdenka Čebašek – Travnik, varuhinja človekovih pravic

(v nadaljevanju: Varuh)

in

Rdeči Križ Slovenije

Mirje 5, 1000 Ljubljana,

ki ga zastopa mag. Janez Pezelj, generalni sekretar

(v nadaljevanju: RKS)

1. člen

Pogodbeni stranki ugotavljata:

- da naloge in pooblastila državnega preventivnega mehanizma po Opcijskem protokolu h Konvenciji proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju (v nadaljevanju: opcijski protokol), skladno s 17. členom protokola v zvezi s 4. členom Zakona o ratifikaciji opcijskega protokola, izvršuje Varuh, v dogovoru z njim pa tudi nevladne organizacije, registrirane v Republiki Sloveniji, ter organizacije, ki so pridobile status humanitarne organizacije v Republiki Sloveniji in se ukvarjajo z varstvom človekovih pravic ali temeljnih svoboščin, zlasti s področja preprečevanja mučenja ali drugih krutih, nečloveških ali poniževalnih kazni ali ravnanj (v nadaljevanju: izbrane organizacije);

- da so bile za sodelovanje nevladnih organizacij, registriranih v Republiki Sloveniji in organizacij, ki so pridobile status humanitarnih organizacij v Republiki Sloveniji, z Varuhom pri izvajanju pristojnosti in nalog državnega preventivnega mehanizma po opcijskem protokolu, na podlagi javnega razpisa, objavljenega v Uradnem listu RS, št. 107/2008 z dne 14. 11. 2008, izbrane organizacije: PIC, Rdeči Križ Slovenije in Inštitut Primus.

2. člen

Izbrane organizacije bodo naloge in pooblastila pri opravljanju nadzora opravljale s svojimi osebami, ki so usposobljene za posamezna področja nadzora, kot člani skupine, ki jo za vsak primer obiska določi Varuh za opravljanje nadzora na kraju odvzema prostosti ter preverjanja ravnanja z osebami, ki jim je bila odvzeta prostost.

3. člen

RKS bo naloge in pooblastila pri opravljanju nadzora opravljal z naslednjimi osebami:

5. SAMPLE CONTRACT OF COOPERATION with an NGO

Contract of cooperation in implementing the tasks and exercising the authorities of the national preventive mechanism under the provisions of Article 5 of the Act of Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Official Gazette RS, no. 114/06 – International Treaties, no. 20/06)

which is concluded between

Human Rights Ombudsman of the Republic of Slovenia

Dunajska cesta 56, 1000 Ljubljana,
represented by dr. Zdenka Čebašek – Travnik, Human Rights Ombudsman
(hereinafter: Ombudsman)
and

Slovenian Red Cross

Mirje 5, 1000 Ljubljana,
represented by, Janez Pezelj, MSc, Secretary-General
(hereinafter: RKS)

Article 1

The contract parties find:

- that the tasks and authorities of national preventive mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter: Optional Protocol), in accordance with Article 17 of the Protocol in connection with Article 4 of the Act of Ratification of the Optional Protocol, are performed by the Ombudsman, and with his agreement also by non-governmental organisations registered in the Republic of Slovenia and organisations that have obtained the status of humanitarian organisation in the Republic of Slovenia which deal with the protection of human rights or fundamental freedoms, especially in the field of preventing torture or other cruel, inhuman or degrading treatment or punishment (hereinafter: selected organisations);

- that non-governmental organisations registered in the Republic of Slovenia and organisations that have obtained the status of humanitarian organisation in the Republic of Slovenia have been selected for cooperation with the Human Rights Ombudsman in implementing the competences and tasks of national preventive mechanism under the Optional Protocol on the basis of a public tender published in the Official Gazette RS, no. 107/2008 of 14. 11. 2008, the selected organisations: PIC, Slovenian Red Cross and Inštitut Primus.

Article 2

The selected organisations will perform the tasks and exercise the authorities in performing monitoring with their own staff who are qualified for individual fields of monitoring, as members of groups which for each case of a visit the Ombudsman will designate for performing monitoring at a place of detention and checking the treatment of persons who have been deprived of liberty.

Article 3

RKS will perform tasks and exercise authorities in performing monitoring with the following personnel:

4. člen

Pri opravljanju nadzora ne more sodelovati oseba iz izbranih organizacij, ki je pravnomočno obsojena za kaznivo dejanje, ki se preganja po uradni dolžnosti, oziroma pravnomočno obsojena na nepogojno kazen zapora v trajanju več kot 3 mesece oziroma oseba, zoper katero je vložena pravnomočna obtožba zaradi kaznivega dejanja, ki se preganja po uradni dolžnosti.

Pri opravljanju nadzora prav tako ne more sodelovati oseba iz izbranih organizacij, ki je kakorkoli povezana z ustanovo na posameznem kraju nadzora.

5. člen

Osebe iz izbranih organizacij, ki bodo sodelovale z Varuhom pri izvajanju nalog in pooblastil državnega preventivnega mehanizma, morajo podati predhodno pisno izjavo, da bodo pri opravljanju nalog in pooblastil sodelovale po navodilih Varuha človekovih pravic in delovale po predpisih o varovanju tajnosti osebnih in tajnih podatkov, tako kot to velja za varuha, njegove namestnike in uslužbenke.

Osebe iz izbranih organizacij, ki ne bodo podale predhodne pisne izjave, ne morejo sodelovati pri opravljanju nadzora.

6. člen

Kraj nadzora, čas nadzora in število članov skupine za opravljanje nadzora na posameznem kraju nadzora določi Varuh za vsak primer posebej, upoštevajoč pri tem tudi program obiskov, ki ga v ta namen sprejeme Varuh s sodelovanjem z izbranimi organizacijami, po potrebi pa pri tem upošteva tudi druge okoliščine, ki bi terjale opravo takojšnjega nadzora. V primeru, da nobena od oseb iz izbrane organizacije zaradi odsotnosti ali drugih neodložljivih obveznosti na navedeni dan ni na voljo, se obisk izvede brez nje.

7. člen

Po izvedenem nadzoru po določbah Opcijskega protokola, katerega bodo po navodilih Varuha izvajale osebe iz izbranih organizacij, vsaka oseba, ki sodeluje pri nadzoru, izdelava kratko pisno poročilo o svojih ugotovitvah in morebitnih priporočilih v smeri krepitev varstva oseb, ki jim je bila odvzeta prostost, pred mučenjem in drugimi oblikami okrutnega, nečloveškega ali ponižujočega ravnanja ali kaznovanja in ga posreduje Varuhu v roku 8 dni po opravljenem nadzoru.

Če bo za posamezen primer nadzora Varuh tako določil, bo oseba iz izbranih organizacij pripravila po navodilih Varuha tudi celovito poročilo o opravljenem nadzoru.

8. člen

Osebe iz izbranih organizacij, ki bodo opravljale nadzor, so upravičene do povračila stroškov po Pravilniku o povračilu stroškov in o nagradah osebam iz organizacij, ki opravljajo naloge oziroma izvršujejo pooblastila po določbah Opcijskega protokola h Konvenciji proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju (Uradni list RS, št. 17/2008).

Article 4

Persons from the selected organisations may not cooperate in performing monitoring who have been finally convicted to an unconditional prison sentence lasting more than 3 months or persons against whom a final charge has been filed because of a criminal offence which is prosecuted ex officio.

Similarly, persons from the selected organisations who are in any way connected with an institution at an individual place of detention may not take part.

Article 5

Persons from the selected organisations who will cooperate with the Ombudsman in implementing the tasks and exercising the authorities of national preventive mechanism must provide a prior written declaration that in performing tasks and exercising authorities they will cooperate according to the instructions of the Human Rights Ombudsman and work according to regulations on the protection of the confidentiality of personal data and confidential data such as apply for the Ombudsman, his deputies and staff.

Persons who do not provide a prior written declaration may not cooperate in performing monitoring.

Article 6

The place of monitoring, time of monitoring and number of members of the group for performing monitoring at an individual place of monitoring shall be specified by the Ombudsman for each case individually, taking into account the program of visits which the Ombudsman adopts for this purpose in cooperation with the selected organisations and, as necessary, also taking into account other circumstances which could require that more immediate monitoring take place. In the event that none of the personnel of the selected organisations is available on the day stated, because of absence or other obligations that cannot be deferred, the visit shall be carried out without them.

Article 7

After carrying out monitoring under the provisions of the Optional Protocol, which will be carried out according to the instructions of the Ombudsman by personnel from the selected organisations, each person who cooperates in the monitoring will produce a short written report on their findings and possible recommendations for strengthening the protection of persons who have been deprived of liberty from torture and other forms of cruel, inhuman or degrading treatment or punishment and communicate it to the Ombudsman within 8 days after the monitoring has been performed.

If the Ombudsman so decides in an individual case, a person from the selected organisations will also prepare the entire report on the performed monitoring, on the instructions of the Ombudsman.

Article 8

Persons from the selected organisations who perform monitoring are entitled to reimbursement of expenses under the Rules on reimbursement of costs and other rewards to persons from organisations that perform tasks or exercise authorities under the provisions of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Official Gazette RS, no. 17/2008).

Pravilnik obsega povračilo potnih stroškov in stroškov za prehrano in prenočišče ter pravico do nadomestila plače ali nadomestila za izgubljeni zaslužek v času nadzora. Nagradi po tem pravilniku pa sta plačilo za izdelavo celovitega poročila o opravljenem nadzoru in simbolični prejemek.

9. člen

Osebe iz izbranih organizacij, ki so sodelovale pri nadzoru, predložijo zahtevek za povračilo stroškov in nagradi na obrazcu št. 1, ki je sestavni del pravilnika iz 8. člena ob predaji kratkega poročila o opravljenem nadzoru oziroma ob predaji celovitega poročila o opravljenem nadzoru, ki mora biti izdelano in posredovano Varuhu najpozneje v osmih dneh po opravljenem nadzoru.

10. člen

Predstavnik Varuha, odgovoren za opravo posameznega nadzora, izda v roku treh dni po prejemu zahtevka za povračilo stroškov in nagradi, izvajalcu nadzora sklep o povračilu stroškov na obrazcu št. 2, ki je sestavni del pravilnika iz 8. člena.

11. člen

Pogodbene stranke se sporazumejo, da bodo morebitne spore v zvezi s to pogodbo reševale sporazumno, če pa to ne bi bilo mogoče, je za reševanje sporov pristojno sodišče v Ljubljani.

12. člen

Pogodba je sestavljena in podpisana v štirih enakih izvodih, od katerih prejme vsaka pogodbeni stranka po dva izvoda.

13. člen

Skrbnik te pogodbe s strani RKS je, strokovni sodelavec, s strani Varuha pa Ivan Šelih, svetnik Varuha.

14. člen

Pogodba prične veljati z dnem podpisa pogodbenih strank in velja za obdobje do 31. decembra 2010, z možnostjo podaljšanja sodelovanja še za eno leto.

Morebitne spremembe in dopolnitve pogodbe se sklepajo v obliki aneksa.

1.
Varuh človekovih pravic RS
Dunajska cesta 56
1000 Ljubljana,
dr. Zdenka Čebašek – Travnik

varuhinja človekovih pravic

2.
Rdeči križ Slovenije
Mirje 5
1000 Ljubljana,
mag. Janez Pezelj

generalni sekretar

The Rules cover the reimbursement of travelling expenses and costs of food and accommodation and the right to compensation of pay or compensation for lost earnings during the time of monitoring. Rewards under these are also paid for producing a complete report on monitoring carried out and a symbolic payment.

Article 9

Persons from selected organisations who cooperate in monitoring shall submit a claim for the reimbursement of expenses and rewards on Form no. 1, which is an integral part of the Rules referred to in Article 8, at the time of delivery of the short report on monitoring performed or on delivery of the complete report on monitoring performed, which must be produced and sent to the Ombudsman no later than 8 days after the monitoring has been performed.

Article 10

The representative of the Ombudsman responsible for performing an individual monitoring shall issue to the monitor, within three days after receiving the claim for reimbursement of costs and rewards, a decision on the reimbursement of expenses on Form no. 2, which is an integral part of the Rules referred to in Article 8.

Article 11

The contract parties agree that they will resolve possible disputes in connection with this contract by agreement, and if this is not possible the court in Ljubljana has jurisdiction for resolving disputes.

Article 12

The contract is composed and signed in four equal copies, of which each contract party shall receive two copies.

Article 13

The keeper of this contract on the part of RKS is, professional associate, and on the part of the Ombudsman, Ivan Šelih, adviser to the Ombudsman.

Article 14

The contract shall enter into force on the day it is signed by the contract parties and shall apply for the period up till 31 December 2010, with the possibility of extending the cooperation for one year.

Possible amendments or supplements to the contract shall be concluded in the form of an annexe.

1.
Human Rights Ombudsman RS
Dunajska cesta 56
1000 Ljubljana,
dr. Zdenka Čebašek – Travnik

Human Rights Ombudsman

2.
Slovenian Red Cross
Mirje 5
1000 Ljubljana,
Janez Pezelj, MSc

Secretary-General

DOKUMENTI ZDRUŽENIH NARODOV

UN DOCUMENTS

Združeni narodi



Opcijski protokol h Konvenciji proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju

*Pododbor za preprečevanje mučenja
in drugega okrutnega, nečloveškega ali
poniževalnega ravnanja ali kaznovanja*

Dvanajsto zasedanje

Ženeva, 15.–19. novembra 2010

PRISTOP PODODBORA ZA PREPREČEVANJE MUČENJA

h konceptu preprečevanja mučenja in drugega krutega, nečloveškega ali poniževalnega ravnanja ali kaznovanja v skladu z Opcijskim protokolom h Konvenciji proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju

I. Uvod

1. Nobenega dvoma ni, da so države pogodbenice Opcijskega protokola h Konvenciji proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju (»Opcijski protokol«) pravno zavezane, da »preprečujejo« mučenje in drugo kruto, nečloveško ali poniževalno ravnanje ali kaznovanje. Člen 2(1) Konvencije, katere pogodbenice morajo biti vse pogodbenice Opcijskega protokola, določa, da »[v]saka država članica izvaja zakonske, upravne, sodne ali druge učinkovite ukrepe, da bi na ozemlju pod svojo jurisdikcijo preprečila mučenje«. Člen 16(1) Konvencije razširja to obveznost in določa, da »[v]saka država članica prevzema obveznost, da bo na ozemlju pod svojo jurisdikcijo preprečila druga dejanja krutih, nečloveških ali poniževalnih kazni ali ravnanja, ki niso dejanja mučenja ...«. Kot je pojasnil Odbor proti mučenju v svoji splošni pripombi št. 2, »člen 2(1) zavezuje vse države pogodbenice, da sprejmejo ukrepe za zaostritev prepovedi mučenja«¹. Čeprav ima obveznost preprečevanja mučenja in slabega ravnanja isti cilj kot prepoved mučenja, je to še vedno obveznost sama po sebi, pri čemer bi morale države, ki ne bi sprejele ustreznih preventivnih ukrepov v njihovi pristojnosti, prevzeti mednarodno odgovornost, če bi se mučenje pojavilo v okoliščinah, v katerih sicer ne bi bile odgovorne.

¹ CAT/C/GC/2, odst. 2.

United Nations



Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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

Twelfth session

Geneva, 15-19 November 2010

THE APPROACH OF THE SUBCOMMITTEE ON PREVENTION OF TORTURE

to the concept of prevention of torture and other cruel, inhuman or degrading treatment or punishment under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

I. Introduction

1. It is beyond doubt that States Parties to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“the Optional Protocol”) are under a legal obligation to “prevent” torture and other cruel, inhuman or degrading treatment or punishment. Article 2, paragraph 1, of the Convention, to which all States Parties to the Optional Protocol must also be parties, provides that “Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction”. Article 16, paragraph 1, of the Convention extends this obligation, providing that “each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture...”. As explained by the Committee against Torture in its general comment No. 2, “article 2, paragraph 1, obliges each State party to take actions that will reinforce the prohibition against torture”¹. Whilst the obligation to prevent torture and ill-treatment buttresses the prohibition of torture, it also remains an obligation in its own right and a failure to take appropriate preventive measures which were within its power could engage the international responsibility of the State, should torture occur in circumstances where the State would not otherwise have been responsible.

¹ CAT/C/GC/2, para. 2.

2. Meddržavno sodišče je ob sklicevanju na člen 2 Konvencije opozorilo, da »se vsebina dolžnosti preprečevanja pri posameznih instrumentih razlikuje glede na besedilo zadevnih določb in vrste dejanj, ki jih je treba preprečiti«². Odbor je navedel, da je dolžnost preprečevanja »splošna«³ in da se vsebina te dolžnosti spreminja, ker »se razumevanje Odbora v zvezi z učinkovitimi ukrepi in priporočila o teh ukrepih stalno razvijajo«⁴, kar pomeni, da »niso omejena na ukrepe iz členov 3 do 16«⁵.
3. Pododbor za preprečevanje mučenja meni, da glede na te pripombe ni mogoče oblikovati celovitega stališča o tem, kaj obveznost preprečevanja mučenja in slabega ravnanja pomeni v teoriji. Seveda je mogoče in pomembno določiti, v kakšnem obsegu je država izpolnila svoje uradne pravne obveznosti, ki so določene v mednarodnih pogodbah in imajo preventivni učinek, vendar čeprav je to potrebno, le redko zadostuje za izpolnitev obveznosti preprečevanja: to je tako praksa kot tudi vsebina zakonodajnih, upravnih, sodnih ali drugih ukrepov države, kar je temelj prizadevanja za preprečevanje. Poleg tega je pomembnejše preprečevanje mučenja in slabega ravnanja, kot pa izpolnjevanje pravnih obveznosti. V tem smislu preprečevanje mučenja in slabega ravnanja vključuje ali bi moralo vključevati čim več ukrepov, ki bi v določenih okoliščinah lahko prispevali k zmanjšanju verjetnosti ali nevarnosti pojava mučenja ali slabega ravnanja. Pri takem pristopu ni potrebno le upoštevanje oblike in vsebine ustreznih mednarodnih obveznosti in standardov, temveč je treba pozornost nameniti tudi številnim drugim dejavnikom, pomembnim za izkušnje oseb, ki jim je bila odvzeta prostost, in ravnanje z njimi, pri čemer so ti dejavniki po svoji naravi odvisni od okoliščin.
4. Zato je cilj Opcijskega protokola okrepiti varstvo oseb, ki jim je bila odvzeta prostost, kar naj se ne bi doseglo z določanjem dodatnih vsebinskih preventivnih obveznosti, ampak s prispevanjem k preprečevanju mučenja z vzpostavitvijo preventivnega sistema rednih obiskov na mednarodni in nacionalni ravni ter pripravo poročil in priporočil na podlagi teh obiskov. Cilj takšnih poročil in priporočil ni le zagotavljanje izpolnjevanja mednarodnih obveznosti in standardov, ampak tudi ponujanje praktičnih nasvetov in predlogov, kako zmanjšati verjetnost ali nevarnost mučenja ali slabega ravnanja, pri čemer bodo ta poročila in priporočila trdno temeljila na dejstvih in okoliščinah, ugotovljenih med obiskom. Zato Pododbor meni, da bo lahko največ prispeval k preprečevanju, če bo bolje razumel, kako bi najbolje izpolnil svoje naloge in pooblastila v skladu z Opcijskim protokolom, namesto da opredeli svoja stališča o tem, kaj preprečevanje vključuje ali česa ne vključuje kot abstrakten koncept ali pravna obveznost. Kljub temu obstaja več ključnih načel, ki usmerjajo pristop Pododbora k nalogi preprečevanja in ki bi jih bilo po njegovem mnenju koristno opredeliti.

2 Uporaba Konvencije o preprečevanju in kaznovanju kaznivih dejanj genocida (Bosna in Hercegovina proti Srbiji in Črni gori), temelj zadeve, sodba z dne 26. februarja 2007, točka 429.

3 CAT/C/GC/2, odst. 3.

4 Prav tam, odst. 4.

5 Prav tam, odst. 1.

2. Drawing attention to article 2 of the Convention, the International Court of Justice has observed that “the content of the duty to prevent varies from one instrument to another, according to the wording of the relevant provisions, and depending on the nature of the acts to be prevented”.² The Committee has said that the duty to prevent is “wide-ranging³” and has indicated that the content of that duty is not static since “the Committee’s understanding of and recommendations in respect of effective measures are in a process of continual evolution⁴” and so are “not limited to those measures contained in the subsequent articles 3 to 16⁵.”
3. The Subcommittee on Prevention of Torture is of the view that, as these comments suggest, it is not possible to devise a comprehensive statement of what the obligation to prevent torture and ill-treatment entails in abstracto. It is of course both possible and important to determine the extent to which a State has complied with its formal legal commitments as set out in international instruments and which have a preventive impact but whilst this is necessary it will rarely be sufficient to fulfil the preventive obligation: it is as much the practice as it is the content of a State’s legislative, administrative, judicial or other measures which lies at the heart of the preventive endeavour. Moreover, there is more to the prevention of torture and ill-treatment than compliance with legal commitments. In this sense, the prevention of torture and ill-treatment embraces – or should embrace – as many as possible of those things which in a given situation can contribute towards the lessening of the likelihood or risk of torture or ill-treatment occurring. Such an approach requires not only that there be compliance with relevant international obligations and standards in both form and substance but that attention also be paid to the whole range of other factors relevant to the experience and treatment of persons deprived of their liberty and which by their very nature will be context specific.
4. It is for this reason that the Optional Protocol seeks to strengthen the protection of persons deprived of their liberty, not by setting out additional substantive preventive obligations but in contributing to the prevention of torture by establishing, at both the international and national levels, a preventive system of regular visits and the drawing up of reports and recommendations based thereon. The purpose of such reports and recommendations is not only to bring about compliance with international obligations and standards but to offer practical advice and suggestions as to how to reduce the likelihood or risk of torture or ill-treatment occurring and will be firmly based on, and informed by, the facts found and circumstances encountered during the visits undertaken. As a result, the Subcommittee is of the view that it is best able to contribute to prevention by expanding on its understanding of how best to fulfil its mandate under the Optional Protocol rather than by setting out its views on what prevention may or may not require either as an abstract concept or as a matter of legal obligation. Nevertheless, there are a number of key principles which guide the Subcommittee’s approach to its preventive mandate and which it believes it would be useful to articulate.

² Application of the Convention on the Prevention and Punishment of the Crime of Genocide (*Bosnia and Herzegovina v. Serbia and Montenegro*), Merits, Judgment of 26 February 2007, para. 429.

³ CAT/C/GC/2, para. 3.

⁴ *Ibid.*, para. 4.

⁵ *Ibid.*, para. 1.

II. Vodilna načela

5. Vodilna načela so naslednja:

- (a) Na razširjenost mučenja in slabega ravnanja vpliva več različnih dejavnikov, vključno s splošno ravno uživanja človekovih pravic in pravne države, ravno revščine, socialne izključenosti, korupcije, diskriminacije itd. Čeprav na splošno visoka raven spoštovanja človekovih pravic in pravne države v družbi ali skupnosti ne zagotavlja zaščite pred mučenjem in slabim ravnanjem, zagotavlja najboljše možnosti za učinkovito preprečevanje. V zvezi s tem Pododbor zelo zanima, kakšno je splošno stanje v državi v zvezi z uživanjem človekovih pravic in kako to stanje vpliva na položaj oseb, ki jim je bila odvzeta prostost.
- (b) Pododbor mora pri svojem delu upoštevati širše regulativne in politične okvire v zvezi z ravnanjem z osebami, ki jim je bila odvzeta prostost, in sodelovati z osebami, ki so pristojne za te okvire. Poleg tega se mora zanimati za način prenosa teh okvirov v prakso na podlagi različnih institucionalnih ureditev, ki so vzpostavljene za ta namen, njihovo upravljanje ter način njihovega delovanja v praksi. Zato je treba sprejeti celosten pristop k temu problemu, ki med drugim temelji na izkušnjah, pridobljenih z obiski posameznih prostorov za pridržanje.
- (c) Preprečevanje bo vključevalo zagotavljanje priznavanja zelo različnih postopkovnih zaščitnih ukrepov za osebe, ki jim je bila odvzeta prostost, in njihovega izvajanja v praksi. Ti ukrepi bodo povezani z vsemi fazami pridržanja, od začetnega prijettja, do končnega izpusta iz pripora. Ker je namen takšnih zaščitnih ukrepov zmanjšati verjetnost oziroma pojav mučenja ali slabega ravnanja, je sprejetje ukrepov primerno ne glede na to, ali obstajajo kakršni koli dejanski dokazi o mučenju oziroma slabem ravnanju.
- (d) Poleg tega, da so pogoji pridržanja povezani z vprašanji o krutem, nečloveškem ali poniževalnem ravnanju ali kaznovanju, so lahko ti pogoji v istih okoliščinah tudi način mučenja, če se uporabljajo na način, ki je skladen z določbami iz člena 1 Konvencije. Zato imajo priporočila v zvezi z pogoji pridržanja ključno vlogo pri učinkovitem preprečevanju in bodo povezana z zelo različnimi vprašanji, vključno z zadevami, povezanimi s fizičnimi pogoji, razlogi za zasedenost in ravnmi zasedenosti, zagotavljanjem različnih objektov in storitev ter dostopa do njih.
- (e) Obiski v državah pogodbenicah in posebnih prostorih pridržanja morajo biti natančno načrtovani vnaprej, pri čemer je treba upoštevati vse ustrezne dejavnike, vključno s splošnimi pravnimi in upravnimi okviri, materialnimi pravicami, postopkovnimi jamstvi in jamstvi dolžnega pravnega postopanja v zvezi s pridržanjem ter praktične okvire, v katerih se to izvaja. Način izvajanja obiskov, njihova vsebina in priporočila, ki nastanejo na podlagi teh obiskov, se lahko razlikujejo glede na te dejavnike in glede na okoliščine, da se čim bolj doseže temeljni namen obiska, in sicer čim bolj povečati možnosti za preprečevanje in učinek preprečevanja.
- (f) Poročila in priporočila bodo najučinkovitejša, če bodo temeljila na temeljiti analizi in bodo dejansko dobro utemeljena. V poročilih o obiskih morajo biti priporočila Pododbora prilagojena okoliščinam, na katere se nanašajo, da se bodo zagotovili čim boljše praktični napotki. Pododbor se pri pripravi priporočil zaveda, da ni logične omejitve glede vrste vprašanj, katerih morebitna preučitev bi lahko imela preventivni vpliv. Kljub temu meni, da se je primerno osredotočiti na vprašanja, v zvezi s katerimi se med obiskom v zadevni državi pogodbenici in na podlagi njenih splošnejših izkušenj ugotovi, da so najbolj problematična, pomembna in uresničljiva.

II. Guiding principles

5. The guiding principles are the following:
- (a) The prevalence of torture and ill-treatment is influenced by a broad range of factors, including the general level of enjoyment of human rights and the rule of law, levels of poverty, social exclusion, corruption, discrimination, etc. Whilst a generally high level of respect for human rights and the rule of law within a society or community does not provide a guarantee against torture and ill-treatment occurring, it offers the best prospects for effective prevention. To that end, the Subcommittee is deeply interested in the general situation within a country concerning the enjoyment of human rights and how this affects the situation of persons deprived of their liberty.
 - (b) In its work the Subcommittee must engage with the broader regulatory and policy frameworks relevant to the treatment of persons deprived of their liberty and with those responsible for them. It must also be concerned with how these are translated into practice, through the various institutional arrangements which are established in order to do so, their governance and administration and how they function in practice. Thus a holistic approach to the situation must be taken, informed by, but not limited to, its experience gained through its visits to particular places of detention.
 - (c) Prevention will include ensuring that a wide variety of procedural safeguards for those deprived of their liberty are recognized and realized in practice. These will relate to all phases of detention, from initial apprehension to final release from custody. Since the purpose of such safeguards is to reduce the likelihood or rise of torture or ill-treatment occurring, they are of relevance irrespective of whether there is any evidence of torture or ill-treatment actually taking place.
 - (d) Detention conditions not only raise issues of cruel, inhuman or degrading treatment or punishment but in some circumstances can also be a means of torture, if used in a manner which accords with the provisions of article 1 of the Convention. Therefore, recommendations regarding conditions of detention play a critical role in effective prevention and will touch on a wide variety of issues, including matters relating to physical conditions, the reasons for, and levels of, occupancy and the provision of, and access to, a wide range of facilities and services.
 - (e) Visits to States Parties and to particular places of detention should be carefully prepared in advance taking into account all relevant factors, including the general legal and administrative frameworks, substantive rights, procedural and due process guarantees pertaining to detention as well as the practical contexts in which they operate. The manner in which visits are conducted, their substantive focus and the recommendations which flow from them may vary according to such factors and in the light of the situations encountered in order to best achieve the overriding purpose of the visit, this being to maximize its preventive potential and impact.
 - (f) Reports and recommendations will be most effective if they are based on rigorous analysis and are factually well grounded. In its visit reports, the Subcommittee's recommendations should be tailored to the situations which they address in order to offer the greatest practical guidance possible. In formulating its recommendations, the Subcommittee is conscious that there is no logical limit to the range of issues that, if explored, might have a preventive impact. Nevertheless, it believes that it is appropriate to focus on those issues which, in the light both of its visit to the State party in question and its more general experience, appear to it to be most pressing, relevant and realizable.

- (g) Učinkoviti domači mehanizmi nadzora, vključno s pritožbenimi mehanizmi, so bistveni del sistema preprečevanja. Oblike teh mehanizmov bodo različne, hkrati pa se bodo mehanizmi izvajali na več ravneh. Nekateri mehanizmi se bodo izvajali znotraj vključenih agencij, z drugimi se bo zagotovil zunanji nadzor na ravni države, s tretjimi pa se bo zagotovil popolnoma neodvisen nadzor, pri čemer bodo ti vključevali državni preventivni mehanizem, ki ga je treba uvesti v skladu z določbami Opcijskega protokola.
- (h) Mučenje in slabo ravnanje je lažje preprečiti, če je sistem pridržanja mogoče nadzorovati. Državni preventivni mehanizmi skupaj z nacionalnimi institucijami za človekove pravice in uradi varuhov človekovih pravic imajo pomembno vlogo pri zagotavljanju izvajanja takšnega nadzora. To prizadevanje podpira in dopolnjuje civilna družba, ki ima prav tako pomembno vlogo pri zagotavljanju preglednosti in odgovornosti z nadziranjem prostorov za pridržanje, preverjanjem, kako se ravna s priporniki, in zagotavljanjem storitev, da bi se izpolnile njihove potrebe. Dodaten nadzor se zagotavlja s sodnim nadzorom. Državni preventivni mehanizmi, civilna družba in mehanizem sodnega nadzora skupaj zagotavljajo bistven in medsebojno dopolnjujoč način preprečevanja.
- (i) Prizadevanje za preprečevanje ne sme temeljiti na izključnosti. Gre za večplastno in interdisciplinarno prizadevanje. Temeljiti mora na znanju in izkušnjah strokovnjakov na zelo različnih področjih, npr. pravo, medicina, izobraževanje, vera, politika, policija in sistem pridržanja.
- (j) Čeprav vse pridržane osebe sodijo v ranljivo skupino, so nekatere skupine, kot so ženske, mladoletniki, pripadniki manjšin, tuji državljani, invalidi in osebe, ki potrebujejo nujno zdravniško ali psihološko pomoč, še posebej ranljive. Za zmanjšanje verjetnosti slabega ravnanja je potrebno strokovno znanje na področju vseh teh ranljivih skupin.

- (g) Effective domestic mechanisms of oversight, including complaints mechanisms, form an essential part of the apparatus of prevention. These mechanisms will take a variety of forms and operate at many levels. Some will be internal to the agencies involved, others will provide external scrutiny from within the apparatus of government, whilst others will provide wholly independent scrutiny, the latter to include the National Preventive Mechanism (NPM) to be established in accordance with the provisions of the Optional Protocol.
- (h) Torture and ill-treatment are more easily prevented if the system of detention is open to scrutiny. NPMS, together with national human rights institutions and ombudsman's offices, play a key role in ensuring that such scrutiny takes place. This is supported and complemented by civil society, which also plays an important role in ensuring transparency and accountability by monitoring places of detention, examining the treatment of detainees and by providing services to meet their needs. Further complementary scrutiny is provided by judicial oversight. In combination, the NPM, civil society and the apparatus of judicial oversight provide essential and mutually reinforcing means of prevention.
- (i) There should be no exclusivity in the preventive endeavour. Prevention is a multifaceted and interdisciplinary endeavour. It must be informed by the knowledge and experience of those from a wide range of backgrounds – e.g. legal, medical, educational, religious, political, policing and the detention system.
- (j) Although all those in detention form a vulnerable group, some groups suffer particular vulnerability, such as women, juveniles, members of minority groups, foreign nationals, persons with disabilities, and persons with acute medical or psychological dependencies or conditions. Expertise in relation to all such vulnerabilities is needed in order to lessen the likelihood of ill-treatment.

Združeni narodi



Opcijski protokol h Konvenciji proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju

***Pododbor za preprečevanje mučenja
in drugega okrutnega, nečloveškega ali
poniževalnega ravnanja ali kaznovanja***

Dvanajsto zasedanje

Ženeva, 15.–19. novembra 2010

Smernice o državnih preventivnih mehanizmih

Uvod

1. Opcijski protokol h Konvenciji proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju (»Opcijski protokol«) določa pomembne in podrobne smernice v zvezi z ustanovitvijo državnega preventivnega mehanizma, vključno z njegovimi nalogami in pooblastili. Najpomembnejše določbe vsebujejo člani 3, 4, 17 – 23, 29 in 35, čeprav so druge določbe Opcijskega protokola prav tako pomembne za državne preventivne mehanizme. Samoumevno je, da morajo biti državni preventivni mehanizmi v celoti oblikovani v skladu s temi določbami.
2. Država mora poskrbeti za vzpostavitev državnega preventivnega mehanizma, ki je skladen z zahtevami iz Opcijskega protokola. Pododbor za preprečevanje mučenja sodeluje z organi, v zvezi s katerimi je bil obveščen, da so jih državni organi določili za državni preventivni mehanizem. Čeprav Pododbor za preprečevanje mučenja uradno ne oceni in niti ne namerava oceniti, v kolikšni meri državni preventivni mehanizmi izpolnjujejo zahteve Opcijskega protokola, meni, da je ključni del njegove naloge svetovati in pomagati državam in državnim preventivnim mehanizmom pri izpolnjevanju njihovih obveznosti v skladu z Opcijskim protokolom. V zvezi s tem je Pododbor za preprečevanje mučenja v svojem prvem letnem poročilu že določil »predhodne smernice« v zvezi s trenutnim razvojem državnih preventivnih mehanizmov. Svoje mnenje je lahko dodatno pojasnil v naslednjih letnih poročilih in tudi številnih priporočilih iz poročil o obiskih. Pododbor za preprečevanje mučenja na podlagi pridobljenih izkušenj meni, da bi bilo koristno izdati revidiran sklop smernic o državnih preventivnih mehanizmih, ki bi izražale in se odzvale na nekatera vprašanja, ki so se pojavila v praksi.

United Nations



Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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

Twelfth session

Geneva, 15-19 November 2010

Guidelines on National Preventive Mechanisms

Introduction

1. The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the "Optional Protocol") provides considerable, detailed guidance concerning the establishment of a National Preventive Mechanism ("NPM"), including its mandate and powers. The most relevant of these provisions are Article 3, 4, 17-23, 29 and 35, though other provisions of the Optional Protocol are also of importance for NPMs. It is axiomatic that all NPMs must be structured in a manner which fully reflects these provisions.
2. It is the responsibility of the State to ensure that it has in place an NPM which complies with the requirements of the Optional Protocol. For its part, the SPT works with those bodies which it has been informed have been designated by the State as its NPM. Whilst the SPT does not, nor does it intend to formally assess the extent to which NPMs conform to OPCAT requirements, it does consider it a vital part of its role to advise and assist States and NPMs fulfil their obligations under the Optional Protocol. To this end, the SPT has previously set out 'Preliminary Guidelines' concerning the on-going development of NPMs in its First Annual Report. It has had the occasion to further amplify its thinking in subsequent Annual Reports and also in a number recommendations set out in its visit Reports. In the light of the experience it has gained, the SPT believes it would be useful to issue a revised set of Guidelines on National Preventive Mechanisms which reflect and respond to some of the questions and issues which have arisen in practice.

3. Cilj teh smernic ni ponavljanje besedila iz Opcijskega protokola, ampak dodatna pojasnitev v zvezi s pričakovanji Pododbora za preprečevanje mučenja v zvezi z ustanovitvijo in delovanjem državnih preventivnih mehanizmov. V oddelku I je opredeljenih več »osnovnih načel«, na katerih morajo temeljiti vse dejavnosti državnega preventivnega mehanizma. Temu sledita oddelek II s smernicami, ki so namenjene zlasti državam in obravnavajo več vprašanj v zvezi z ustanovitvijo državnih preventivnih mehanizmov, in oddelek III s smernicami, namenjenimi državam in državnim preventivnim mehanizmom, v zvezi s praktičnim delovanjem državnega preventivnega mehanizma.
4. Ko bo Pododbor za preprečevanje mučenja pridobil dodatne izkušnje, bo poskušal pripraviti dodatne oddelke k tem smernicam, v katerih bodo obravnavani zlasti podrobnejši vidiki dela državnih preventivnih mehanizmov.

I. Osnovna načela

5. Državni preventivni mehanizmi ne smejo nadomestiti obstoječih sistemov nadzora, ampak jih morajo dopolnjevati, pri čemer njihova ustanovitev ne sme izključevati ustanovitve ali delovanja drugih takšnih dopolnilnih sistemov.
6. Naloge in pooblastila državnih preventivnih mehanizmov morajo biti skladni z določbami Opcijskega protokola.
7. Naloge in pooblastila državnih preventivnih mehanizmov morajo biti jasno določeni v ustavnem ali zakonodajnem besedilu.
8. Zagotoviti je treba operativno neodvisnost državnih preventivnih mehanizmov.
9. Zadevna zakonodaja mora določati mandat članov državnih preventivnih mehanizmov in morebitne razloge za njihovo razrešitev. Mandati, ki se lahko podaljšajo, morajo biti dovolj dolgi, da se spodbuja neodvisno delovanje državnih preventivnih mehanizmov.
10. Naloga izvajanja obiskov v okviru državnih preventivnih mehanizmov mora zajemati vse kraje odvzema prostosti, kot je določeno v členu 4 Opcijskega protokola.
11. Zagotoviti je treba potrebne vire, da se omogoči učinkovito delovanje državnih preventivnih mehanizmov v skladu z zahtevami Opcijskega protokola.
12. Državni preventivni mehanizmi morajo biti pri izvajanju nalog v skladu z Opcijskim protokolom v celoti finančno in operativno neodvisni.
13. Državni organi morajo skupaj z državnimi preventivnimi mehanizmi izvajati postopek spremljanja, da se izvajajo vsa morebitna priporočila, ki jih oblikujejo državni preventivni mehanizmi.
14. Zoper subjekte, ki se obrnejo na državne preventivne mehanizme ali s katerimi državni preventivni mehanizmi sodelujejo pri izpolnjevanju svojih nalog v skladu z Opcijskim protokolom, ne smejo biti sprejeti nobena sankcija, povračilni ukrep ali druga kazen zaradi njihovega ravnanja.
15. Učinkovito delovanje državnih preventivnih mehanizmov je trajna obveznost. Učinkovitost državnih preventivnih mehanizmov morajo redno ocenjevati država in sami državni preventivni mehanizmi, pri čemer je treba upoštevati mnenja Pododbora za preprečevanje mučenja, da se po potrebi te ocene podprejo in utemeljijo.

3. These Guidelines do not seek to repeat what is set out in the text of the Optional Protocol but to add further clarity regarding the expectations of the SPT regarding the establishment and operation of NPMs. Section I sets out a number of 'Basic principles' which should inform all aspects of the work of an NPM. This is followed in Section II by guidelines addressed primarily to States and concerning a number of issues relating to the establishment of NPMs, and in Section III by guidelines to both the State and to the NPM itself concerning the practical functioning of an NPM.
4. As it gains further experience, the SPT will seek to add additional sections to these Guidelines, addressing particular aspects of the work of NPMs in greater detail.

I. Basic principles

5. The NPM should complement rather than replace existing systems of oversight and its establishment should not preclude the creation or operation of other such complementary systems.
6. The mandate and powers of the NPM should be in accordance with the provisions of the Optional Protocol.
7. The mandate and powers of the NPM should be clearly set out in a constitutional or legislative text.
8. The operational independence of the NPM should be guaranteed.
9. The relevant legislation should specify the period of office of the member/s of the NPM and any grounds for their dismissal. Periods of office, which may be renewable, should be sufficient to foster the independent functioning of the NPM.
10. The visiting mandate of the NPM should extend to all places of deprivation of liberty, as set out in Article 4 of the Optional Protocol.
11. The necessary resources should be provided to permit the effective operation of the NPM in accordance with the requirements of the Optional Protocol.
12. The NPM should enjoy complete financial and operational autonomy when carrying out its functions under the Optional Protocol.
13. The State authorities and the NPM should enter into a follow-up process with the NPM with a view to the implementation of any recommendations which the NPM may make.
14. Those who engage or with whom the NPM engages in the fulfilment of its functions under the Optional Protocol should not be subject to any form of sanction, reprisal or other disability as result of having done so
15. The effective operation of the NPM is a continuing obligation. The effectiveness of the NPM should be subject to regular appraisal by both the State and the NPM itself, taking into account the views of the SPT, with a view to its being reinforced and strengthened as and when necessary.

II. Osnovna vprašanja v zvezi z ustanovitvijo državnega preventivnega mehanizma

A Opredelitev ali ustanovitev državnega preventivnega mehanizma

16. Državni preventivni mehanizem je treba opredeliti na podlagi odprtega, preglednega in vključujočega postopka, pri katerem sodelujejo različne zainteresirane strani, vključno s civilno družbo. To mora veljati tudi za postopek izbire in imenovanja članov državnega preventivnega mehanizma, ki se mora izvajati v skladu z objavljenimi merili.
17. Ob upoštevanju zahtev iz člena 18 (1) in (2) Opcijskega protokola morajo imeti člani državnega preventivnega mehanizma kot celota potrebno strokovno znanje in izkušnje za njegovo učinkovito delovanje.
18. Država mora zagotoviti neodvisnost državnega preventivnega mehanizma tako, da za njegove člane ne imenuje oseb na položajih, ki bi lahko pomenili nasprotje interesov.
19. Člani državnih preventivnih mehanizmov morajo prav tako zagotoviti, da niso na položajih oziroma da ne prevzamejo položajev, ki bi lahko pomenili nasprotje interesov.
20. V skladu z zahtevami členov 18 (1) in (2) Opcijskega protokola mora državni preventivni mehanizem zagotoviti, da prihaja njegovo osebje z različnih področij, da je ustrezno usposobljeno in ima potrebno strokovno znanje, da lahko ustrezno izpolni naloge v okviru državnega preventivnega mehanizma. To mora med drugim vključevati ustrezno strokovno znanje na področju prava in zdravstvenega varstva.

B Določitev in obveščanje

21. Državni preventivni mehanizem je treba ustanoviti v enem letu od začetka veljavnosti Opcijskega protokola za zadevno državo, razen če je bila ob ratifikaciji sprejeta izjava v skladu s členom 24 Opcijskega protokola.
22. Na nacionalni ravni je treba javno razglasiti, kateri organ je bil določen za državni preventivni mehanizem.
23. Država mora Pododbor za preprečevanje mučenja takoj obvestiti, kateri organ je bil določen za državni preventivni mehanizem.

III. Osnovna vprašanja v zvezi z delovanjem državnega preventivnega mehanizma

A Točke, namenjene državam

24. Država mora dovoliti državnim preventivnim mehanizmom, da obiščejo vse kraje odvzema prostosti in morebitne domnevne kraje odvzema prostosti, ki so v njeni pristojnosti, kot je določeno v členih 4 in 29 Opcijskega protokola. Zato pristojnost države zajema vse kraje, v katerih država izvaja dejanski nadzor.
25. Država mora omogočiti, da se lahko državni preventivni mehanizem sam odloča o načinu in pogostosti izvajanja obiskov. To vključuje zmožnost izvajanja osebnih pogovorov z osebami, ki jim je bila odvzeta prostost, in pravico do izvajanja nenapovedanih obiskov ob katerem koli času na vseh krajih odvzema prostosti v skladu z določbami Opcijskega protokola.

II. Basic issues regarding the establishment of an NPM

A. The identification or creation of the NPM

16. The NPM should be identified by an open, transparent and inclusive process which involves a wide range of stakeholders, including civil society. This should also apply to the process for the selection and appointment of members of the NPM, which should be in accordance with published criteria.
17. Bearing in mind the requirements of Article 18 (1) and (2) of the Optional Protocol, members of the NPM should collectively have the expertise and experience necessary for its effective functioning.
18. The State should ensure the independence of the NPM by not appointing to it members who hold positions which could raise questions of conflicts of interest.
19. Members of NPMs should likewise ensure that they do not hold or acquire positions which raise questions of conflicts of interest.
20. Recalling the requirements of Articles 18 (1) and (2) of the Optional Protocol, the NPM should ensure that its staff have between them the diversity of background, capabilities and professional knowledge necessary to enable it to properly fulfil its NPM mandate. This should include, inter alia, relevant legal and health-care expertise.

B. Designation and notification

21. The NPM should be established within one year of the entry into force of the Optional Protocol for the State concerned, unless at the time of ratification a declaration has been made in accordance with Article 24 of the Optional Protocol.
22. The body designated as the NPM should be publicly promulgated as such at the national level.
23. The State should notify the SPT promptly of the body which has been designated as the NPM.

III. Basic issues regarding the operation of an NPM

A. Points for States

24. The State should allow the NPM to visit all, and any suspected, places of deprivation of liberty, as set out in Articles 4 and 29 of the Optional Protocol, which are within its jurisdiction. For these purposes, the jurisdiction of the State extends to all those places over which it exercises effective control.
25. The State should ensure that the NPM is able to carry out visits in the manner and with the frequency that the NPM itself decides. This includes the ability to conduct private interviews with those deprived of liberty and the right to carry out unannounced visits at all times to all places of deprivation of liberty, in accordance with the provisions of the Optional Protocol.

26. Država mora zagotoviti, da člani in osebje državnega preventivnega mehanizma uživajo privilegije in imunitete, ki so potrebni za neodvisno opravljanje njihovih funkcij.
27. Država ne sme odrediti, uporabiti, dovoliti ali dopustiti kakršne koli sankcije, povračilnega ukrepa ali druge kazni zoper nobeno osebo ali organizacijo, ker je komunicirala z državnim preventivnim organom ali mu zagotovila kakršno koli informacijo, ne glede na njeno točnost, pri čemer se nobena takšna oseba ali organizacija zaradi tega ne sme kako drugače oškodovati.
28. Država mora obvestiti državni preventivni mehanizem o morebitni obravnavi predlogov zakonov, ki so pomembni za njihove naloge in pooblastila, poleg tega pa mu morajo omogočiti, da oblikuje predloge ali pripombe o kateri koli veljavni politiki ali zakonodaji oziroma predlogu politik ali zakonodaje. Država mora upoštevati vse predloge ali pripombe o takšni zakonodaji, ki jih prejme od državnega preventivnega mehanizma.
29. Država mora objaviti in splošno razširjati letna poročila državnega preventivnega mehanizma. Poleg tega mora zagotoviti, da so ta poročila predstavljena nacionalni zakonodajni skupščini ali parlamentu in da se obravnavajo v okviru teh dveh organov. Letna poročila državnega preventivnega mehanizma je treba predložiti Pododboru za preprečevanje mučenja, ki poskrbi za njihovo objavo na svoji spletni strani.

B Točke, namenjene državnim preventivnim mehanizmom

30. Državni preventivni mehanizem mora izvajati vse vidike svojih nalog in pooblastil tako, da se preprečijo dejanska ali domnevna nasprotja interesov.
31. Državni preventivni mehanizem ter njegovi člani in osebje morajo redno pregledovati svoje metode dela in se udeleževati usposabljanj, da se izboljša njihova sposobnost izvajanja pristojnosti v skladu z Opcijskim protokolom.
32. Kadar organ, določen za državni preventivni mehanizem, poleg nalog v skladu z Opcijskim protokolom izvaja tudi druge naloge, se morajo naloge državnega preventivnega mehanizma izvajati v okviru ločene enote ali oddelka, ki ima svoje osebje in ločen proračun.
33. Državni preventivni mehanizem mora pripraviti načrt/program dela, ki zajema obiske vseh dejanskih ali morebitnih domnevnih krajev odvzema prostosti, ki so v njeni pristojnosti, kot je določeno v členih 4 in 29 Opcijskega protokola. Zato pristojnost države zajema vse kraje, v katerih država izvaja dejanski nadzor.
34. Državni preventivni mehanizem mora načrtovati svoje delo in uporabo virov tako, da zagotovi primeren način izvajanja obiskov na krajih odvzema prostosti in ustrezno pogostost izvajanja teh obiskov, da učinkovito prispeva k preprečevanju mučenja in drugega okrutnega, nečloveškega ali poniževalnega ravnanja ali kaznovanja.
35. Državni preventivni mehanizem mora predložiti predloge in pripombe ustreznim državnim organom v zvezi z veljavno politiko ali zakonodajo oziroma predlogi politik ali zakonodaje, za katere meni, da so pomembni pri izvajanju njegove naloge.

26. The State should ensure that both the members of the NPM and its staff enjoy such privileges and immunities as are necessary for the independent exercise of their functions.
27. The State should not order, apply, permit or tolerate any sanction, reprisal or other disability to be suffered by any person or organisation for having communicated with the NPM or for having provided the NPM with any information, irrespective of its accuracy, and no such person or organisation should be prejudiced in any way.
28. The State should inform the NPM of any draft legislation that may be under consideration which is relevant to its mandate and allow the NPM to make proposals or observations on any existing or draft policy or legislation. The State should take into consideration any proposals or observations on such legislation received from the NPM.
29. The State should publish and widely disseminate the Annual Reports of the NPM. It should also ensure that it is presented to, and discussed in, by the national legislative assembly, or Parliament. The Annual Reports of the NPM should also be transmitted to the SPT which will arrange for their publication on its website.

B. Points for NPMs

30. The NPM should carry out all aspects of its mandate in a manner which avoids actual or perceived conflicts of interest.
31. The NPM, its members and its staff should be required to regularly review their working methods and undertake training in order to enhance their ability to exercise their responsibilities under the Optional Protocol.
32. 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.
33. The NPM should establish a work plan/programme which, over time, encompasses visits to all, or any, suspected, places of deprivation of liberty, as set out in Articles 4 and 29 of the Optional Protocol, which are within the jurisdiction of the State. For these purposes, the jurisdiction of the State extends to all those places over which it exercises effective control.
34. The NPM should plan its work and its use of resources in such a way as to ensure that places of deprivation of liberty are visited in a manner and with sufficient frequency to make an effective contribution to the prevention torture and other cruel, inhuman or degrading treatment or punishment.
35. The NPM should make proposals and observations to the relevant State authorities regarding existing and draft policy or legislation which it considers to be relevant to its mandate.

36. Državni preventivni mehanizem mora pripraviti poročila o svojih obiskih, letno poročilo ter druga poročila, za katera meni, da so potrebna. Poročila morajo po potrebi vsebovati priporočila, namenjena ustreznim organom. Priporočila državnega preventivnega mehanizma morajo biti pripravljena v skladu z ustreznimi normami Združenih narodov na področju preprečevanja mučenja in drugega slabega ravnanja, vključno s pripombami in priporočili Pododbora za preprečevanje mučenja.
37. Državni preventivni mehanizem mora zagotoviti, da so vse zaupne informacije, ki jih pridobi med izvajanjem svojih nalog, v celoti zaščitene.
38. Državni preventivni mehanizem mora poskrbeti, da je zmožen sodelovati v smiselnem dialogu z državo v zvezi z izvajanjem njenih priporočil in da tak dialog tudi izvaja. Poleg tega si mora dejavno prizadevati za spremljanje izvajanja morebitnih priporočil Pododbora za preprečevanje mučenja v zvezi z zadevno državo, pri čemer mora pri tem sodelovati s Pododborom za preprečevanje mučenja.
39. Državni preventivni mehanizem si mora prizadevati za vzpostavitev in ohranjanje stikov z drugimi državnimi preventivnimi mehanizmi, da z njimi izmenja izkušnje in da se poveča njegova učinkovitost.
40. Državni preventivni mehanizem si mora prizadevati za vzpostavitev in ohranjanje stika s Pododborom za preprečevanje mučenja, kot je določeno v Opcijskem protokolu in za namene tega protokola.

36. The NPM should produce Reports following their visits as well as produce an Annual Report and any other forms of Report which it deems necessary. When appropriate, Reports should contain recommendations addressed to the relevant authorities. The Recommendations of the NPM should take account of the relevant norms of the United Nations in the field of the prevention of torture and other ill-treatment, including the comments and recommendations of the SPT.
37. The NPM should ensure that any confidential information acquired in the course of its work is fully protected.
38. The NPM should ensure that it has the capacity to and does engage in a meaningful process of dialogue with the State concerning the implementation of its recommendations. It should also actively seek to follow-up on the implementation of any recommendations which the SPT has made in relation to the country in question, liaising with the SPT when doing so.
39. The NPM should seek to establish and maintain contacts with other NPMs with a view to sharing experience and reinforcing its effectiveness.
40. The NPM should seek to establish and maintain contact with the SPT, as provided for and for the purposes set out in the Optional Protocol.

**Državni preventivni mehanizem v Republiki Sloveniji po Opcijskem protokolu h Konvenciji OZN
proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju
Poročilo 2010**

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