

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

ADVANCED UNEDITED VERSION

**Visit to Croatia undertaken from 2 to 8 July 2023:
recommendations and observations addressed
to the State party**

Report of the Subcommittee*, **

* On 20 January 2025, the state party requested the Subcommittee to publish its replies, in accordance with article 16 (2) of the Optional.

** The annexes to the present document are being circulated in the language of submission only.

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I. Introduction

1. In accordance with its mandate under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Optional Protocol), the Subcommittee on Prevention of Torture (Subcommittee) carried out its first visit to Croatia from 2 to 8 July 2023.
2. The Subcommittee members conducting the visit were: Marie Brasholt (head of delegation), Uju Agomoh, Satyabhooshun Gupt Domah, Daniel Fink, and Zdenka Perović. The Subcommittee was assisted by two human rights officers and two security officers from the Office of the United Nations High Commissioner for Human Rights.
3. The principal objectives of the visit were (a) to visit a range of places of deprivation of liberty in order to assist the State party in fully implementing its obligations under the Optional Protocol, to strengthen the protection of persons deprived of their liberty from the risk of torture and ill-treatment and (b) to provide advice and technical assistance to the national preventive mechanism of Croatia and to consider the extent to which the Croatian national authorities are supporting its work and responding to its recommendations, taking account of the Subcommittee's guidelines on national preventive mechanisms (CAT/OP/12/5). The Subcommittee visited places of deprivation of liberty where it met and interviewed persons deprived of their liberty, law enforcement and detention officers, and health and social care personnel. The Subcommittee also held discussions with relevant government authorities and the National Preventive Mechanism (see annex II).
4. At the end of the visit, the delegation presented its confidential preliminary observations orally to government authorities.
5. In the present report, the Subcommittee sets out its observations, findings and recommendations relevant to the prevention of torture and ill-treatment of persons deprived of their liberty under the jurisdiction or control of Croatia.
6. The Subcommittee reserves the right to comment further on any place visited, whether it is mentioned in the present report or in its discussions with Croatia arising from the report. The absence of any comment in the present report relating to a specific facility or place of detention visited by the Subcommittee does not imply that it has a positive or negative opinion of it.
7. **The Subcommittee recommends that the present report be distributed to all relevant authorities, departments and institutions, including but not limited to those to which it specifically refers, including the National Preventive Mechanism.**
8. The present report will remain confidential until such time as Croatia requests the publication of this report in accordance with article 16 (2) of the Optional Protocol. The Subcommittee firmly believes that the publication of the present report would contribute positively to the prevention of torture and ill-treatment in Croatia.
9. The Subcommittee will send a separate report to the National Preventive Mechanism, which will include parts of the present report that concern the National Preventive Mechanism.
10. **The Subcommittee encourages the State party to request the publication of the present report in accordance with article 16 (2) of the Optional Protocol.**
11. The Subcommittee draws the State party's attention to the Special Fund established pursuant to article 26 of the Optional Protocol. Recommendations contained in Subcommittee visit reports that have been made public can form the basis of applications to the Fund, in accordance with its published criteria. In addition, the National Preventive Mechanism may seek financial support from the Special Fund for its educational programmes, whether the State visit report has been published or not.
12. The Subcommittee wishes to express its gratitude to the authorities and the liaison officer for their assistance relating to the planning and undertaking of the visit.

I. National preventive mechanism

A. Legislative basis

13. Croatia ratified the Optional Protocol on 25 April 2005. On 8 February 2012, the Permanent Mission of Croatia to the United Nations Office in Geneva notified the Subcommittee that as of 17 February 2011 an Act designating the Ombudsperson of the Republic of Croatia as the national preventive mechanism had entered into force¹.

14. The Act on the National Preventive Mechanism for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment² gives the Office of the Ombudsperson the power to carry out its mandate as a national preventive mechanism, as provided for in the articles 19 and 20 of the Optional Protocol. Specifically, it enables the National Preventive Mechanism to carry out unannounced visits to premises where persons are or may be deprived of liberty, freely access information about such premises, put recommendations to relevant governmental entities, and formulate proposals relating to laws and other regulations. In addition, the Act stipulates that the NPM shall offer recommendations to competent authorities and institutions in order to ensure improvement of treatment of persons deprived of liberty as well as the conditions of their accommodation, for the purpose of preventing torture and other cruel, inhuman or degrading treatment or punishment. Where instances of torture or other inhuman or degrading treatment or punishment have been established, the ombudsperson must make recommendations to the concerned entity. If these recommendations are not addressed within a specified deadline, the ombudsperson must inform the Croatian Parliament. The Act also provides that the National Preventive Mechanism shall collaborate with civil society organizations active in the field of human rights, specialized ombudspersons, and other independent experts. In addition, the National Preventive Mechanism of Croatia is also involved in commenting on relevant Croatian legislation and regulations.

B. Functional independence and resources

15. The Subcommittee notes that the Office of the Ombudsperson holds several mandates concurrently, namely that of national preventive mechanism, national human rights institution, national equality body as well as a mandate related to the protection of whistle-blowers. The National Preventive Mechanism of Croatia is managed by a Deputy Ombudsperson and functions under the overall leadership of the Ombudsperson. Tasks of the Mechanism's staff include the handling of complaints pertaining to deprivation of liberty sent to the Office of the Ombudsperson.

16. During the visit the Subcommittee was informed that the National Preventive Mechanism team was composed of 8 full time employees, and they also cooperate with 15 independent experts, mostly of medical background, and 5 associations. The delegation notes with appreciation that the National Preventive Mechanism team was composed of professional, experienced, knowledgeable, and multidisciplinary staff, with specialists in law, social work, and psychology.

17. The Subcommittee notes that, as regards budgetary allocations, the finances of the national preventive mechanism are not clearly separated from those of the Office of the Ombudsperson. The National Preventive Mechanism does not have a dedicated ring-fenced budget for its work even though legislation that established it requires that funds allocated to the mechanism be recorded in a separate line within the budget of the Office of the Ombudsperson³. In this context, the Ombudsperson allocates unearmarked resources for the performance of the National Preventive Mechanism's tasks. While approximately 2,300,000

¹ [NVPM Croatia08.02.2012.pdf \(ohchr.org\)](#)

² <https://www.ombudsman.hr/wp-content/uploads/2020/06/Act-on-the-National-Preventive-Mechanism-1.pdf>

³ <https://www.ombudsman.hr/wp-content/uploads/2020/06/Act-on-the-National-Preventive-Mechanism-1.pdf>

Euros were allocated to the Office of the Ombudsperson in 2023, only 34,500 Euros were earmarked for costs specific to the National Preventive Mechanism, namely the hiring of external experts and translation of its annual report whereas other costs including salaries are covered by the general budget.

18. Article 18 (1) of the OPCAT requires that the National Preventive Mechanisms established, maintained, or designated by the State party are independent. This requirement applies to all National Preventive Mechanisms, irrespective of the type/model of the National Preventive Mechanism. Article 18 (3) of the OPCAT further requires that States parties ensure the functional independence of the National Preventive Mechanism. Therefore, the personnel appointed to the National Preventive Mechanism must be such so as not to give rise to questions of conflict of interest and must discharge the mandate of the National Preventive Mechanism effectively and independently. It also requires that the National Preventive Mechanism is provided with the financial resources to enable it to deliver on its mandate. Thus, the National Preventive Mechanism should have the decision-making power in terms of what resources are required (budget preparation) and how to discharge that budget (expenditure of the budget). Consequently, when the National Preventive Mechanism mandate is placed within the Ombudsperson's Institution, the National Preventive Mechanism budget should be ring-fenced and it is only the National Preventive Mechanism that should be in charge of the way this budget is formed and discharged. In other words, the organizational chart of the National Preventive Mechanism should reflect the requirements of the OPCAT, which specify that the national preventive mechanism should have operational autonomy with regard to its resources, as well as to its workplan, findings, recommendations and direct, and, if needed, confidential contact with the SPT.

19. The Subcommittee recommends that the State party initiate discussions with the Office of the Ombudsperson with the aim of separating their tasks and budgets so that either has sufficient resources to carry out their respective mandates effectively and independently.

20. The Subcommittee further recommends that the State party allocate to the National Preventive Mechanism the financial resources it needs, as required by article 18 (3) of the Optional Protocol and the guidelines of the Subcommittee,⁴ ensuring that it enjoys complete financial and operational autonomy in the performance of its functions. The funding for the mechanism should be provided through the State Party's budget in a separate line within the Ombudsman's budget that refers specifically to the National Preventive Mechanism and covers all the resources it needs to discharge its mandate.⁵ The Subcommittee recommends that this funding be at such a level as to allow the National Preventive Mechanism to carry out its visiting programme, to hire its own staff including external experts, and to regularly engage in training programmes.

C. Activities and visibility

21. The Subcommittee notes that in recent years, the national preventive mechanism was able to exercise its mandate by visiting various places of deprivation of liberty as provided for in article 4 of the Optional Protocol. The places visited included police stations, pre-trial detention facilities, remand prisons, border police facilities, immigration detention centres, psychiatric institutions and social care homes. However, the total number of institutions visited remains quite limited. The National Preventive Mechanism has produced annual reports for the years 2012-2021 based on, inter alia, data collected through unannounced visits. These annual reports include recommendations addressed to competent bodies.

22. The delegation carried out two joint visits with the National Preventive Mechanism of Croatia. The Subcommittee notes that the visits were well structured, the visiting programme was clear, and the National Preventive Mechanism team had well established working procedures.

⁴ Ibid., para. 11.

⁵ [CAT/C/57/4](#), annex, para. 12.

23. The meetings held by the Subcommittee with some of the State authorities revealed, however, that there is little public awareness of the existence of the national preventive mechanism. This also holds true for other stakeholders, including persons deprived of liberty. The mechanism's visibility is, therefore, clearly insufficient. There seems to be lack of understanding among external stakeholders, including State authorities, of its role vis-à-vis that of the Office of the Ombudsperson. There also needs to be greater awareness of the reports of the mechanism and measures taken by authorities to implement them.

24. **The Subcommittee is of the view that the National Preventive Mechanism of Croatia, even if being part of the Ombudsperson, should operate and be seen to operate in its own right, and it should complement rather than merge with existing systems of oversight in the country. The national preventive mechanism should have an operational autonomy to carry out its OPCAT mandate. The relationship between the mechanism and the national human rights institution should be clear.**

25. **The Subcommittee recommends that the State party takes immediate initiatives to increase the visibility of the national preventive mechanism, including through activities that raise awareness of the Optional Protocol and the Mechanism's mandate, with a focus on preventive activities. The Subcommittee recommends that the State party undertake the following: (a) ensure that the Mechanism is recognized as a key component of the country's system for preventing torture and ill-treatment; (b) contribute to making the work of the Mechanism more visible, for example by organizing awareness-raising campaigns and other promotional activities, including the production and distribution of materials on its mandate and activities to persons deprived of their liberty, public authorities, civil society organizations, lawyers, members of the judiciary and the general public; (c) include information about the National Preventive Mechanism and its mandate in training programmes for law enforcement staff and custodial staff; (d) ensure that the Mechanism's recommendations are thoroughly discussed and addressed by relevant stakeholders in accordance with article 19 of the Optional Protocol.**

26. **The State party must notably foster greater visibility of the National Preventive Mechanism in Parliament, including by providing for the separate presentation of its report to Parliament.**

III. Normative framework for the Prevention of Torture

A. Legal framework

27. The Subcommittee notes that the State Party's legislation, including article 104 of the Criminal Code, criminalizes torture in accordance with the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Subcommittee is however concerned that the Code leaves the possibility to enforcement authorities to prosecute acts amounting to torture under lesser offences, such as "physical injury," "serious physical injury," or "extortion of testimony," under article 117, 118 and 297 of the Criminal Code, respectively. The Subcommittee wishes to stress the importance of choice in prosecutions in order that ensuing sanctions deter future violations in terms of general prevention and recalls that sanctions should be commensurate with the gravity of the offence, in line with article 4 of the Convention.

28. The Subcommittee welcomes the fact that the State party has adopted the *Law on Execution of Prison Sentences* on 5 February 2021 and related policy guidelines to enable the conditional release and electronic monitoring of persons who would otherwise be deprived of liberty. However, despite these and other recent legislative and policy changes implemented by the State Party to adopt alternatives to detention, such as removal of custodial sentences for some misdemeanors and the de-institutionalization of sentenced individuals, the Subcommittee observed that they remain under-utilized. This seems to be in part due to the various procedural hurdles that detainees must clear before they are allowed to submit a conditional release request. Furthermore, the Subcommittee received information from detainees about a lack of joint consideration of criminal sentences and concurrent

sentencing. These are some of the factors contributing to prison overcrowding, which in turn may be conducive to inhumane or degrading detention conditions. The Subcommittee notes that the State Party has been remodelling and upgrading places of deprivation of liberty and intends to build new ones, but this will not necessarily provide a lasting solution, as these may quickly fill up, if the system remains the same.

29. The current *Law on Execution of Prison Sentences*, unlike the previous version, does not establish a specific minimum standard of personal space in multi-occupancy cell, stating only that they need to be “sufficiently spacious”. The Subcommittee is concerned by such lack of specific standards.

30. The Subcommittee welcomes de-institutionalization efforts related to social care homes, including the implementation of legislative and policy reforms such as the elaboration of individual care plans, the provision of in-community support, the monitoring of service providers by government authorities, and measures limiting coercive measures to last-resort use.

31. The Subcommittee recommends that Croatia provide capacity-building training to judges and prosecutors on the provisions of the Convention against Torture, including on the absolute prohibition of torture and on the obligation to prosecute and sanction perpetrators of acts of torture in accordance with the gravity of the acts, in line with article 4 of the Convention.

32. The State Party should encourage practices addressing the root causes of overcrowding. Such practices could include refraining from imposing prison sentences for minor offences; handing down a single sentence for multiple concurrent or consecutive minor offences; and allowing that such sentences be subject to conditional release.

33. The Subcommittee recommends that the judicial authorities organize seminars, counselling and other form of consultations and prepare guidelines aiming to promote greater implementation of alternative sanctions in accordance with the conditions established by law, as well as other measures to reduce and prevent prison overcrowding.

34. The State Party should amend its legislation to ensure that assessment of capacity in places of deprivation of liberty is based on specific norms aligned with applicable international standards.

B. Institutional framework (administrative/structural)

35. The Subcommittee notes that, in principle, complaint mechanisms for torture or other forms of cruel, inhuman or degrading treatment or punishment allow for complaints to be filed at different times and with different levels of authority. For instance, there is a space reserved for complaints on intake interview forms filled by individuals arrested, and options for lodging complaints through lawyers, or with the Office of the Ombudsperson. However, it is unclear how complaints are lodged by lawyers, how they are processed and, more broadly, who oversees investigations and what is their outcome.

36. The Subcommittee received information indicating that, in practice, complaint mechanisms have no power and are not effective, except when they deal with inter-prisoner violence. The Subcommittee is concerned that all allegations of violations are not fully investigated and, therefore, sanctions are not applied where they are required. While noting that there were four on-going criminal procedures relating to torture in 2022, the Subcommittee notes that, in 2022, out of 39 complaints for torture and ill-treatment filed with authorities, only three led to disciplinary proceedings, all of which resulted in a “warning and training” sanction.

37. The Subcommittee is further concerned that when sanctions are handed down, they are applied conditionally, that is activated only in cases of new breaches. Such practice fails to hold perpetrators to account, which is inadequate in terms of deterrence value of the violations.

38. The Subcommittee recommends that Croatia ensure that the investigation of complaints against law-enforcement authorities be conducted by an oversight body that

is genuinely independent and adequately resourced to carry out effective investigations of these.

39. The Subcommittee further recommends that all persons deprived of liberty be informed in a language they understand (for instance, through leaflets and posters) of their right to submit direct and confidential complaints to administrators in places of detention and to higher-level authorities, such as the independent authority mentioned above. Persons deprived of liberty should also be informed on how to lodge complaints in a secure and confidential fashion.

IV. Overarching issues

Judicial delays

40. The Subcommittee is concerned that judicial procedures are subject to significant delays, causing detainees to remain in pre-trial detention for excessively long periods of time. During the Subcommittee's visit, this issue was compounded by strikes in the judiciary, leaving many detainees uninformed about upcoming court dates.

41. The Subcommittee recalls that remanding in custody of persons awaiting trial should be the exception rather than the rule, in conformity with Article 9 of the International Covenant on Civil and Political Rights (ICCPR). The Subcommittee further recalls the need to uphold the presumption of innocence, with due regard to the need for the investigation of the alleged offence and for the protection of society and the victim, as required by the United Nations Standard Minimum Rules for Non-Custodial Measures (the Tokyo Rules)⁶. The Subcommittee recommends further efforts to ensure the maximum period of pre-trial detention provided for by law be strictly respected and that this be rigorously monitored by the relevant authorities, including through effective periodic judicial review of the detention.

Istanbul Protocol

42. The Subcommittee is concerned that not all medical personnel interviewed displayed even basic knowledge of purpose and content of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).

43. The Subcommittee is also concerned that the recording of injuries in prisons is not performed in a systematic and thorough manner. In some prisons, the Subcommittee observed that doctors were unaware of, or misunderstood, their role in that regard. Some of them told the Subcommittee, for instance, that their role was limited to treating injuries and that data-protection rules precluded any form of reporting on their part.

44. The State party should ensure that judges, prosecutors, health workers and others working in spheres relating to the documentation and investigation of torture and ill-treatment receive adequate training on the Istanbul Protocol and international standards relating to torture and ill-treatment.⁷

45. While noting that the State Party has taken steps to improve the recording of injuries, such as the preparation of a compendium to be distributed to health professionals working in places of deprivation of liberty, the Subcommittee recommends that it ensure protocols and procedures are in place to guarantee that health professionals immediately report suspicions of torture and ill-treatment to the appropriate authorities so that an independent examination may be conducted in accordance with the Istanbul Protocol. The Subcommittee further recommends that the

⁶ , par. 6-6.2.

⁷ Committee against Torture, general comment No.3 on implementation of article 14 by States parties, para. 35.

State Party provide training to medical personnel working in places of detention on the duty to detect and report torture and ill-treatment.

V. Situation of persons deprived of liberty

A. Police

Allegations of torture and ill-treatment

46. In interviews several prisoners complained about excessive use of force at the time of arrest. However, and while noting that there were four on-going criminal procedures relating to torture in 2022, the Subcommittee is concerned that investigations into allegations of ill-treatment and related punishment may be too few and too lenient.

47. The Subcommittee recommends that the State party ensure that all allegations of ill-treatment are investigated in a prompt, independent, impartial and effective manner, and that those responsible for ill-treatment receive sanctions that are commensurate with the gravity of the crime.

Fundamental legal safeguards

48. The Subcommittee did not receive any allegations of breaches to the prescribed length of custody.

49. The Subcommittee observed that information on most fundamental rights was available in various languages at police stations. A notable exception to this was information about the right to request and receive a medical examination. Persons deprived of liberty were required to sign a document attesting that they had been informed of their rights. However, the Subcommittee received complaints from detainees that they were unaware of what they signed. Some even said they had been compelled to sign documents outlining their rights, but were not given any time to read them. Access to interpretation was inconsistent across police stations visited by the Subcommittee, with some police stations failing to provide interpretation services to detainees who did not speak Croatian, English or other languages spoken by law enforcement authorities, even though they were located near the border and frequently housed migrants.

50. Although access to a lawyer is guaranteed in law, the Subcommittee received complaints that this right was not upheld in practice during the first hours of custody for persons who were invited to participate in “informative talks”. Thus, allegedly, persons are formally only considered deprived of their liberty after such “informative talks” have taken place. This practice not only de facto circumvents the legally prescribed limits for initial detention but may also lead to the violation of the right to legal assistance and the right not to testify against oneself as set out in Articles 14 (d) and (g) of the ICCPR.

51. Laws provide that those requiring legal aid must have access to legal counsel. However, interviews conducted by the Subcommittee revealed that these laws are diversely applied. Where legal aid is provided, communication with the State-provided lawyer is often problematic, leading him or her to be present in court but without meaningful prior consultation with the detainee they are representing. This appears to be more common for foreigners.

52. The Subcommittee notes that, in principle, all detainees undergo a standardized medical assessment, which is also mandatory following any recourse to coercive measures. The Subcommittee is concerned that police officers are systematically stationed in the corridor adjacent to detention cells where medical examinations are conducted, allegedly for security reasons. The Subcommittee is further concerned that the right to see a doctor is not upheld consistently in police stations and that detained persons are not systematically informed about the right to see a doctor.

53. The Subcommittee received allegations during interviews that the detainees’ right to inform their family or third party of their detention is not guaranteed in practice.

54. The Subcommittee observed that closed-circuit television (CCTV) monitoring was not used systematically in places of deprivation of liberty.

55. While noting that most fundamental legal safeguards are guaranteed in law, the Subcommittee is concerned about tick-the-box exercises and the inconsistent application of policies. Such practices may cause rights to be negated in practice. The State Party should sensitize law enforcement authorities about the obligation to give effect to fundamental legal safeguards in a manner that ensures detainees are able to enjoy their rights fully and effectively.

56. While guaranteed in law, the right to interpretation and translation is not always respected in practice, hindering access to legal aid. All detained persons should be fully informed of the reasons for their arrest or placement in pretrial detention, as well as of their other rights as detainees, from the first moment of deprivation of liberty. Information on rights should be communicated in a manner that allows detainees to fully understand it, through interpretation where required. Detainees should be provided with sufficient time to read documents outlining their rights before signing them.

57. All detained persons should have access to independent and competent legal counsel of their choice and, if needed, legal aid from the outset of detention as required by Article 14 of the ICCPR and in line with United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems⁸

58. All detained persons in police custody should be able to request and receive a thorough medical examination by a competent independent medical doctor upon their admission, in order to, inter alia, register any possible signs of injuries, in line with the Istanbul Protocol. Confidential medical reports should be made available to the detainee and their counsel. Medical examinations should be conducted out of hearing and out of sight of police officers and guards, unless the medical doctor concerned explicitly requests otherwise. In such cases, the doctor should record in writing the reasons for this decision and the identity of the police officer present.

59. The Subcommittee recommends that CCTV monitoring be systematically used in places of deprivation of liberty, notably in rooms where individuals are detained, questioned and/or interviewed. The State party should ensure that records are adequately kept for future reference and used solely for purposes that align with legal standards and human rights principles. Restrooms should not be monitored through CCTV to protect privacy.

Registries

60. The Subcommittee observed that there is a national electronic register collating all police detention-related information, except information on rights and medical information, which are still recorded in writing on paper. While noting efforts to regularly assess the quality of entries into this national registry, the Subcommittee observed a lack of systematicity in the recording of information. In some cases, comprehensive files were kept in writing. The Subcommittee is concerned that the national electronic register may be used mainly for statistical purposes and not also to monitor detention conditions. In most cases observed by the Subcommittee, data was entered from the physical records and not real time.

61. The Subcommittee observed that registry documents concerning injuries only included tick boxes about whether bodily injury was suffered during arrest or from restraints, and whether the person had been seen by a doctor.

62. The Subcommittee recommends that the State party ensure that key information about each individual who is deprived of liberty is entered in its entirety without delay in national electronic files, with due respect for the confidentiality of medical information. There should be no discrepancy between paper files kept at police stations and the national electronic registry.

63. The Subcommittee recommends that forms used to record medical issues be revised to foster a complete and detailed assessment of detainees' medical condition,

⁸ A/RES/67/187

including injuries, the latter in line with Istanbul Protocol, and notes that tick boxes only are unfit for that purpose.

Conditions of detention

64. The Subcommittee notes that the State party has recently taken steps to retrofit cells in police stations, and most detention cells it visited were in line with international standards. The Subcommittee observed that some detainees had been transferred to larger and better equipped police stations, which is a good practice. However, the Subcommittee is concerned that, in some police stations, the infrastructure was dilapidated, and cells were devoid of any natural light. In some cells, the beds had no sheets; in others, there was no running water, no chairs and/or no bells, depriving detainees of any means of calling or otherwise drawing the attention of police officers.

65. The Subcommittee recommends that, in all police stations, the State party:

- (a) Ensure that all detention cells are equipped with windows that let in natural light, running water, and bedding;**
- (b) Ensure that all detention cells are equipped with infrastructure or otherwise designed in a way that allows detainees to easily initiate communication with, or draw the attention of police officers;**
- (c) Ensure that all institutions with dilapidated infrastructure undergo renovations, including by retrofitting any cells that fails to meet the above requirements to meet international standards.**

66. The Subcommittee observed that some detainees were provided food procured from the police station staff's kitchen; others told the Subcommittee during interviews that they had not been offered breakfast after refusing dinner the night before. The Subcommittee is concerned about a lack of clear policies and procedures regarding detainees' access to food. The Subcommittee believes that vague policies on access to food, or a lack thereof, may be conducive to discrimination and/or arbitrary practices that violate international standards and may lead to ill-treatment.

67. The Subcommittee recommends that, in all police stations, the State party:

- (a) Establish and provide adequate funding to develop and implement clear policies and procedures ensuring all detainees are regularly provided sufficient food of adequate quality, including at least one warm meal every day, and that such access is guaranteed for all detainees on an equal basis and not subject to arbitrary decision by police officers;**
- (b) Ensure that such policies and related procedures are regularly communicated to all persons deprived of their liberty as well as staff members, including police officers,**

68. The Subcommittee is concerned that some vehicles used by police officers for the transportation of detainees are ill-equipped to ensure their safety. It observed that the area at the back of these vehicles, where detainees are seated, lacks daylight and proper ventilation, potentially exposing them to overheating during transportation. Furthermore, there were no seatbelts, and some of vehicles were fitted with chains. This creates serious risks of injury not only in cases of accidents but also where there are brusque turns or stops while the vehicle is in motion. Chains are not an alternative to seatbelts; if used without them, they can aggravate the risks of injuries.

69. The Subcommittee recommends that the State party:

- (a) Ensure that areas at the back of police stations' vehicles, where prisoners are seated during transportation, be adequately ventilated and lit;**
- (b) Ensure that all vehicles used in police stations are equipped with seatbelts, and that they are effectively used to ensure prisoners' safety during transportation;**
- (c) Ensure that no prisoners are chained to the floor,**

Training in human rights

70. The Subcommittee notes that the State party collaborates with various international organizations and Croatian civil society organization to train police officers on human rights. It also notes, according to the State party's policies, all police officers must receive such training. However, through interviews, the Subcommittee observed that several police officers had little knowledge on how to identify torture and did not understand their role in preventing it.

71. The Subcommittee encourages the State party to ensure that the educational programmes for police officers include international standards relating to prevention and prohibition of torture and ill-treatment and that all professionals involved in documentation and investigation of torture and ill-treatment receive adequate training on the Istanbul Protocol.

B. Prison

Overcrowding

72. The Subcommittee observed severe overcrowding in various prisons, parts of prisons and cells across the country, with the occupancy rate reaching 150 per cent in some cases.

73. The Subcommittee notes that overcrowding is in part due to the fact that remand prisoners, who represent about 40 per cent of the persons deprived of liberty, are sometimes held in prisons and pretrial detention departments of closed penitentiaries.

74. The Subcommittee observed that open facilities, such as the Voltura Penitentiary, are functioning under capacity despite the overcrowding affecting other prison establishments.

75. Overcrowding has a detrimental effect on material conditions, inevitably creating inhuman or degrading living conditions. As an example, in various prisons, some inmates had to sleep on mattresses on the floor, and some prisons only allowed detainees to take two showers per week due to the high number of persons present. In one establishment, there were only two toilets for 24 prisoners.

76. The Subcommittee observed several instances of multiple-occupancy cells holding an excessively high number of prisoners, causing the living space per prisoner to be inferior to 2.5 m², well below European standards, which stand at 4 m² for multi-occupancy cells⁹. Such overcrowding raises the temperature, compounding the effects of poor ventilation, in a context where the State party has suffered heatwaves and several prisoners are confined to their cells for up to 22 hours per day.

77. The Subcommittee is concerned that overcrowding also affects the detention regime, security, discipline and other aspects of prison functioning, including by worsening other issues related to prison understaffing. The Subcommittee received allegations of ill-treatment resulting from tensions stemming from overcrowding, for instance when prisoners attempt to circumvent the rule limiting showers to two per week. In some prisons, overcrowding causes different categories of prisoners to be mixed, and/or prevents prisoners from effectively enjoying two hours of outdoors exercise to which they are entitled as per the *Law on Execution of Prison Sentences*.

78. The Subcommittee takes note of the State Party's plans to build a new facility that will have a capacity of 400 prisoners and is foreseen to be a high-security establishment, as well as to build a prison for women. It takes notes of efforts to repair damages caused to prison facilities by the earthquake in 2020.

79. The Subcommittee reiterates that additional efforts are required to improve the application of the legal framework pertaining to alternatives to detention, reduced sentencing, compassionate and conditional releases, and the joint treatment of criminal accusations, while promoting their use among the judiciary.

⁹ <https://rm.coe.int/cpt-standard-combating-prison-overcrowding/1680a64461>

80. **The Subcommittee recommends that the State party increase the use of open facilities, to mitigate overcrowding in closed establishments, and ensure higher levels of rehabilitative efforts within the prison system.**

Allegations of torture and ill-treatment

81. The Subcommittee received allegations of ill-treatment meted out to the victims in the form of physical violence, such as slaps, kicks, punches, and other blows by prison staff. Several prisoners said such treatment was inflicted as a punishment, for instance when they refused to take medication. Some detainees had filed complaints, which according to their statements, were left unaddressed by prison authorities. The Subcommittee notes with concern that according to information received, individuals suffering from mental health issues and/or psychosocial disabilities are at particular risk of ill-treatment.

82. In several interviews, the Subcommittee was also told about guards routinely resorting to violent threats to compel detainees to comply with rules, unduly exerting psychological pressure on detainees by inducing stress and fear. Detainees at various prison establishments also complained about insults, threats, and harassment with ethnical and racial connotations.

83. The Subcommittee is concerned about allegations that attempts to file complaints or seek redress through legal means for ill-treatment suffered led to threats of retaliation.

84. The Subcommittee is concerned about allegations of ill-treatment and the lack of investigations into these claims. The Subcommittee wishes to bring to the attention of the State party that it has obligations under article 12 of the Convention against Torture that are not conditional on detainees' behaviour and recalls that the fight against impunity is an important means of preventing torture and ill-treatment. While noting the State party's policy requiring that reports on complaints of ill-treatment must be drafted within 48 hours, the Subcommittee stresses that pro forma measures are not sufficient to meet obligations under the Convention against Torture; the preparation of such reports must be part of an effective and impartial investigation procedure.

85. The Subcommittee recommends that:

(a) The State party ensure that all allegations or complaints of torture or ill-treatment are investigated promptly, impartially, and effectively, in accordance with article 12 and 13 of the Convention against Torture;

(b) Prison staff is made aware that those responsible for the infliction of any acts of ill-treatment or torture, including psychological torture in the form of threats, and complicity or participation in acts of torture, will be punished, with penalties that are commensurate with the gravity of such acts. Adequate measures should also be implemented to prevent, and shield detainees from any form of retaliation for filing complaints related to ill-treatment;

(c) Training programmes for police, investigators and prison staff emphasize the prohibition of torture and ill-treatment, including verbal abuse,

(d) The State party ensure that complaints and allegations put forward by persons with mental health issues and/or psychosocial disabilities be treated in a sensitive manner and always given due consideration, and therefore never dismissed or ignored on the sole basis of their mental health condition or psychosocial disabilities.

Safeguards

86. The Subcommittee is concerned about the inconsistent application of policies leading to negation of rights in practice.

87. The Subcommittee received information from detainees who are unable to speak privately with their lawyer, because a prison staff member is always stationed within hearing distance during such communications.

88. The Subcommittee is concerned about prisoners being left in a state of limbo, with little to no information about detention length, upcoming court dates, next meetings with

lawyers or possibility to contact their families. This is incompatible with Mandela Rule 119 and with the State Party's obligations to ensure fundamental legal safeguards.

89. The State Party should sensitize prison staff about the obligation to uphold fundamental legal safeguards in practice, that is in a manner that ensures detainees are able to enjoy their rights effectively and fully.

Material conditions

90. The Subcommittee is concerned about the lack of hygiene in some cells, made acute by overcrowding, a lack of ventilation, and detainees' limited access to showers. The Subcommittee observed that the temperature goes, in summer, well over 30 degrees, with little ventilation, in some cells with severe overcrowding. Some prison establishments did not have non-smoking rooms, exposing non-smoking detainees including some with asthma to secondhand smoke.

91. While noting that detainees were overall satisfied with the quality of food provided in prisons, the Subcommittee received information about a lack of accommodation for those who have religious dietary restrictions.

92. The Subcommittee observed that courtyards used by detainees for outdoors walks and other physical activities offered little to no protection from the sun and precipitations.

93. While noting that these issues must be addressed jointly with the overcrowding, the Subcommittee recommends that, in all prisons, the State party:

(a) Ensure that there is an adequate level of cleanliness which foster personal hygiene in all detention cells, including frequency of showers, considering weather conditions;

(b) Ensure that the temperature in cells is adequate, and that they are properly ventilated;

(c) Ensure that food provided includes options that meet cultural, religious and dietary needs;

(d) Ensure that detainees can be accommodated in non-smoking rooms when they so wish;

(e) Improve prisons' outdoor infrastructure to ensure prisoners are adequately shielded from the sun and precipitation when using them.

Regime

94. The Subcommittee welcomes efforts to give all detainees two hours of outdoors exercise daily but remains concerned that several detainees are confined to their cells with no access to purposeful activities for the remaining 22 hours.

95. While noting that 30 per cent of sentenced detainees can work according to authorities, the Subcommittee received information and is concerned about the overall lack of work and training opportunities offered in prisons. As regards remand prisoners in particular, the Subcommittee is concerned that detainees have little to no access to these activities, despite the length of their pre-trial detention.

96. The Subcommittee received complaints about detainees' limited access to phone calls and conjugal visits, for which some establishments had no dedicated space. Some detainees alleged they were prevented from accessing intimate and family rooms because they were not married.

97. The Subcommittee recommends that the State party ensure prisoners be permitted to go out of their cells into common areas and courtyards, in line with established outdoors activities schedules, with the possibility of engaging in purposeful and communal activities, should they wish to do so. The Subcommittee stresses the importance that such access to areas located outside their cells be granted to detainees on a fair and equitable basis, irrespective of the detention regime applicable to them.

98. The Subcommittee recommends the State party broaden the work, education, vocational and recreational opportunities for all prisoners, as these activities facilitate the rehabilitation of prisoners and their future reintegration in society. The Subcommittee also recommends that work opportunities that are fairly remunerated be made available to all detainees. Considering their lengthy detention, particular efforts must be made to ensure remand prisoners also have access to these opportunities.

99. The Subcommittee recommend that the State Party allow detainees to make phone calls to family members and others. The Subcommittee further recommends the State Party provide dedicated space for family and conjugal visits, and ensure intimate and family rooms accessible to all detainees and their families on request, where relevant, regardless of their sexual orientation, gender identity or marital status. Restrictions on such contacts may be imposed only in exceptional circumstances.

Healthcare

100. The Subcommittee observed that the institutions it visited had health staff employed or otherwise available, as well as procedures in place for assessing the health of newly arriving prisoners. However, it was also informed that more than 40 % of healthcare staff positions were vacant.

101. Some detainees have their own health insurance and remain under the care of their general practitioner. For those who do not have their own, the State provides a minimum level of insurance. This distribution of tasks between prison healthcare services and general practitioners seemed to result in a very high administrative workload for the prison healthcare services which may take away resources from clinical tasks. In addition, some procedures related to contact with outside doctors involved relatives or lawyers.

102. In interviews, prisoners complained about delayed or inadequate healthcare services, both medical and dental. Several of them alleged that, despite repeated requests for medical assistance, care is only provided after their situation deteriorates and becomes critical or after long delays lasting months. Women, in particular, complained that they only have access to healthcare services after having pressured prison guards.

103. The prison healthcare services did not count with a uniformed system of electronic medical files which could ease communication within the sector.

104. The Subcommittee recommends that procedures be put in place, and sufficient human and financial resources allocated to health in penitentiary institutions to ensure well-functioning healthcare services and that prisoners can enjoy the same standards of health care that are available in the community without undue delays, and that they have access to necessary healthcare services free of charge as stipulated in Mandela Rule 24.1. This includes preventive healthcare services, including mental healthcare and suicide prevention services, and services that consider the needs of particularly vulnerable prison populations.

Disciplinary measures/regimes

105. The delegation saw “rubber rooms,” but was told they are not used. The Subcommittee further observed the absence of registries for SS isolation cells, observation cells and “rubber rooms,” and other disciplinary sanctions measures. The decrepit state of some of the isolation cells, and the fact that some of them are fitted with window coverings that can be used as ligature points, is concerning. One of the prisoners interviewed reported that there is no light inside the isolation cell.

106. The Subcommittee wishes to stress that solitary confinement, isolation and administrative segregation should only be used as a last resort, under exceptional circumstances, for the shortest possible time and with adequate procedural safeguards in line with the Mandela Rules, especially Rules 36-46.

107. To facilitate oversight, the Subcommittee also recommends that record-keeping be improved to ensure that an independent third party be able to review all cases of solitary confinement from a single file or registry. Information entered in records should include the

nature of sanctions, the name of the person who decided it, the official who enforced it, as well as the start and end dates and times.

108. The Subcommittee further recommends that, in the meanwhile, registers of disciplinary measures should be harmonized, and information about detainees be collected and made available centrally, in a comprehensive and systematic manner.

Prison personnel and their training

109. The Subcommittee takes note of the existence of a training center in the prison in Zagreb, where basic training, including international regulations, is offered to prison personnel. The Subcommittee welcomes the fact that senior staff is trained on collaboration with the National Preventive Mechanism and the Office of the Ombudsperson.

110. The Subcommittee encourages the State party to ensure that the educational programmes for prison personnel include international standards relating to prevention and prohibition of torture and ill-treatment and that all professionals involved in documentation and investigation of torture and ill-treatment receive adequate training on the Istanbul Protocol.

C. Situation of vulnerable groups/Groups in particular situations of vulnerability

Women

111. The Subcommittee is concerned that, in comparison to men, women have access to fewer work opportunities and face longer wait period when seeking to see a doctor or a dentist.

112. The Subcommittee recommends that the State party broaden the work, education, vocational and recreational opportunities for women. Efforts must be made to ensure women have access to equal opportunities in comparison to men, in line with the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders with their Commentary (Bangkok Rules).

Roma

113. The Subcommittee interviewed prisoners who alleged experiencing verbal abuse, physical violence, and discrimination in accessing services at the hand of prison personnel, as well as inter-prisoner violence, because of their Roma origin.

114. The Subcommittee recommends that the State party:

- (a) take the necessary measures to protect the physical and psychological integrity of detainees of Roma and other minority ethnicity origin;
- (b) law enforcement officials and custodial staff be trained on international rules and principles regarding equality and non-discrimination in relation to ethnicity.

Foreigners

115. The Subcommittee is concerned that foreigners' access to information in a language they can understand is lacking. It is further concerned that in some establishments prisoners are asked to provide interpretation for other prisoners.

116. The Subcommittee recommends that the State party ensure access of detained foreigners to all information related to their detention in a language they can understand and with professional interpretation when needed.

Persons with disabilities

117. The Subcommittee observed that prisoners with disabilities, including some with psychosocial disabilities, have insufficient access to rehabilitation and specialized care. The Subcommittee draws attention to Mandela Rule 109, which states that persons who are diagnosed with severe mental disabilities and/or health conditions, for whom staying in

prison would mean an exacerbation of their condition, shall not be detained in prisons, and arrangements shall be made to transfer them to mental health or other appropriate health facilities as soon as possible.

118. The Subcommittee recommends that guidelines be developed in line with these principles, notably Mandela Rule 109, and to ensure all rights of such prisoners are upheld.

Older persons

119. The Subcommittee observed that older prisoners requiring care because of their age do not receive it from the institution. Other prisoners are therefore put in a situation where they were de facto entrusted with the care of other prisoners in need.

120. The Subcommittee recommends that the State party develop measures to monitor the wellbeing of older prisoners more closely and ensure they have access to adequate care.

D. Migration Center

121. The Subcommittee was only able to visit one place of deprivation of liberty for migrants, the Transit Reception Center for Foreigners Tovarnik.

122. The Subcommittee is, however, concerned that measures relating to fundamental legal safeguards, while stated to be formally in place, were defective in practice. For instance, some detained individuals complained that they had not effectively been provided legal assistance or information about their detention. One center did not have a room dedicated to detainees' meetings with lawyers.

123. The Subcommittee is particularly concerned about access to information that is understood by persons held in migration centers. While some information was made available in several languages, it was generic, and no interpretation services were available, forcing detainees to use translation services available online free of charge. Several migrants complained about their inability to obtain key information from custodial staff, for instance about their status and the length of detention.

124. The Subcommittee was told that a police officer was present during medical examinations.

125. The Subcommittee recommends that the State party detain migrants only as a measure of last resort. The Subcommittee further reminds the State party that the detention of migrant children is prohibited under any circumstances.

126. The Subcommittee recommends that the State party establish procedures to ensure that migrants are provided with information concerning their personal situation, including their personal legal situation, promptly, in an accessible manner and in a language they understand. Migrants should also be effectively informed about support and other services available to them, ways of accessing them, their rights and obligations during the relevant legal processes and procedures, the possible consequences of non-compliance or non-cooperation and any remedies available to them. Information provided should cover both general applicable norms, as well as the specific situation of individuals concerned. In particular, the Subcommittee recommends that the State party allocate the necessary financial and human resources to ensure that qualified interpreters are hired to work with the authorities and migrants in the facility.

127. Medical examinations should be conducted out of hearing and out of sight of police officers and guards, unless the doctor concerned explicitly requests otherwise. In such cases, the doctor should record in writing the reasons for this decision and the identity of the police officer present.

E. Social care homes

128. The Subcommittee was only able to visit two social care homes, whence it received no allegations of ill-treatment.

129. The Subcommittee observed practices and policies aiming at fostering de-institutionalization. They sought to limit confinement in custodial settings to cases that strictly require it.

130. The Subcommittee welcomes various good practices, such as laws banning the use of force to address personal hygiene issues, as well as protocols for emergency situations, the requirement of users' consent to placement in social care homes, to place of living and to the level of service to be provided. The fact that social care homes are open institutions (i.e. users can leave them at will) and that some of them have residents on their boards are also good practices, which the Subcommittee welcomes.

131. The Subcommittee is concerned that, in some institutions, no record is kept of complaints made by residents nor of the decision made by the commission in charge of considering them. While noting authorities' statement to the fact that commissions' decisions can be appealed, the Subcommittee is concerned by the lack of provisions specifically providing for it.

132. The Subcommittee encourages the State party to continue implementing and consider expanding policies fostering de-institutionalization.

133. While noting some institutions' efforts to "maintain dignity" when resorting to force, the Subcommittee recommends that the State party develop clear policies on physical restraints practices, including so-called "humane tying". Such policies should ensure adequate recording and monitoring to ensure compliance with international law.

134. The Subcommittee recommends that the State party ensure that the handling of complaints in social care homes is carried out promptly, confidentially, impartially and effectively by bodies with the power to investigate and trigger appropriate protective and remedial action, subject to independent review. The Subcommittee further recommends that the State party ensure that those submitting such complaints are not subjected to any form of reprisal or sanctions, including physical, disciplinary or administrative sanctions. The Subcommittee recommends the State party to ensure that the educational and training programs for social care home personnel includes the proper documentation and complaint processing methods. Records of all complaints received and related decisions must be kept.

V. Next Steps

135. The Subcommittee requests that the State party reply to the present report within six months of the date of its transmittal to the Permanent Mission of Croatia. The reply should respond directly to all the recommendations made in the present report, giving a full account of action that has already been taken or is planned, including timescales, in order to implement the recommendations. The reply should include details concerning the implementation of institution-specific recommendations and concerning general policy and practice.

136. Article 15 of the Optional Protocol prohibits all forms of sanction or reprisal, from all sources, against anyone who has been, or who has sought to be, in contact with the Subcommittee. The Subcommittee reminds Croatia of its obligation to ensure that no such sanctions or reprisals occur and requests that in the State party' s reply, it provide detailed information concerning the steps that it has taken to ensure that it has fulfilled that obligation.

137. The Subcommittee recalls that prevention of torture and ill-treatment is a continuing and wide-ranging obligation. It therefore requests that Croatia inform it of any legislative, regulatory, policy or other relevant developments relating to the treatment of persons deprived of their liberty and regarding the work of the National Preventive Mechanism.

138. The Subcommittee considers both its visit and the present report to form part of an ongoing process of dialogue. The Subcommittee looks forward to assisting Croatia in fulfilling its obligations under the Optional Protocol by providing further advice and technical assistance, in order to achieve the common goal of prevention of torture and ill-treatment in places of deprivation of liberty. The Subcommittee believes that the most efficient and effective way of developing the dialogue would be for it to meet with the national authorities responsible for the implementation of the Subcommittee's recommendations within six months of receiving the reply to the present report.

139. The Subcommittee recommends that, in accordance with article 12 (d) of the Optional Protocol, the national authorities of Croatia enter into dialogue with the Subcommittee on the implementation of the Subcommittee's recommendations within six months of the Subcommittee's receipt of the reply to the present report. The Subcommittee also recommends that Croatia initiate discussions with the Subcommittee on the arrangements for such a dialogue at the time of the submission of its reply to the present report.

Annexes

Annex I - List of places of deprivation of liberty visited by the Subcommittee

Police Station Karlovac

Police Station Jastrebarsko

Operations and Communications Center of the Police Department of Osijek

Police Station Dakovo

Valtura penitentiary

Pula-Pola prison

Rijeka prison

Osijek prison

Penitentiary Pozega (men)

Penitentiary Pozega (women)

Transit Reception Center for Foreigners Tovarnik

Home for adults Turnić

Osijek Center for Provision of Services in Community

Visits carried out with the National Preventive Mechanism

Karlovac Prison

Tovarnik Border Police Station

Annex II

List of government officials and other interlocutors with whom the Subcommittee met¹⁰

Ministry of Foreign and European Affairs

Ministry of Justice and Administration

Ministry of the Interior

Ministry of Defence

Ministry of Health

Ministry of Labour, Pension System, Family and Social Policy

The Office of the Ombudsperson

National preventive mechanism

¹⁰ The interlocutors are listed only by their respective institutions and/or organizations.