



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

Distr.: General

11 April 2016

English only

Committee against Torture

**Concluding observations on the combined fourth
and fifth periodic reports of Croatia**

Addendum

**Information received from Croatia on follow-up
to the concluding observations***

[Date received: 10 March 2016]

* The present document is being issued without formal editing.



In relation to *item 6* of the concluding observations, the croatian government declares as follows:

1. From item 6 we interpret that the concern of the Committee in relation to the right to prompt and unimpeded access to an independent lawyer of their choice, right to immediate access to an independent medical examination and the right to contact a family member refer to a conduct within the competence of the police and not the prison system.
2. Therefore, in connection with item 6 (a) we shall mention that the **cited rights are guaranteed to the people**, to whom pretrial detention has been ordered, by the Ordinance on House Rules in prisons for serving pretrial detention:
3. Art. 7 par. 2 – Upon being placed in pretrial detention, detainees will be allowed to immediately inform the members of the family or another person.
4. Art. 16 par. 1 and 2 – Medical treatment for detainees, who are health insured persons, is provided in clinics of contracting doctors of primary medical care in accordance with the general regulations on health care, and upon their request and with the approval of the competent court, the detainees can be visited by a doctor of their own choice. For detainees who have no health insurance, the medical treatment is provided at the expense of the State Budget in the prison clinic.

In relation to *item 6 (a, b and d)* of the concluding observations, the croatian government declares as follows:

Item 6 a – Fundamental legal safeguards against torture and ill-treatment of persons deprived of their liberty

Question 6 a

5. Articles 134 and 158 of the Misdemeanour Act (Official Gazette 107/07, 39./2013, 157/13 and 110/15) lay down that authorized persons of government bodies when acting within the framework of their competence to carry out control or if there is reasonable doubt that an offense has been committed, have an obligation to:
 - (a) Determine whether an offense was committed and by whom;
 - (b) Make sure that the perpetrator or accomplice neither hide nor escape;
 - (c) Discover and secure traces of the offense and objects which might serve to determine facts;
 - (d) Collect any information that could be useful for the successful conduct of the misdemeanour proceedings.
6. In order to fulfil these tasks the police can:
 - (a) Seek the necessary information from citizens;
 - (b) Do the necessary examination of vehicles, people and luggage;
 - (c) In the shortest time needed and no longer than six hours control and restrict the movement of certain people in a certain area;
 - (d) Take other measures to detect people and things (observation, escort, blockades, raids, ambushes, traps, etc.);
 - (e) Take the necessary measures in connection with establishing the identity of persons and objects;

(f) Carry out in the presence of a person in charge an inspection of certain facilities and premises of public bodies, legal persons and other business premises and gain insight in their specified documents and data;

(g) Take other necessary steps and actions.

7. Also, the police are authorized to arrest a person caught in committing an offense as provided for by the law if there are grounds for detention, after which the police are obliged to inform immediately on the prescribed form the arrested person of the reasons for his arrest and at the request of the arrested inform within 12 hours of arrest his family about the arrest while parents or guardians of juveniles arrested will receive information on the arrest regardless of the wish of the arrested.

Question 6 b

8. Articles 74 and 128 of the Ordinance on the conduct of police officers (Official Gazette 89/10 and 76/15), lay down, among other things, the obligations of a medical examination of detained persons in order to determine their ability for accommodation in a special room until the cessation of the intoxicant, and a medical examination will be arranged in cases where a person refuses to be tested on the presence of drugs in the body, and medical assistance will also be arranged to persons who were subjected to means of coercion, as well as in cases where the person against whom means of coercion were used requests such assistance during the application of official measures and actions, regardless whether earlier help offered was refused.

9. Similarly, Articles 20 and 21 of the Ordinance on admission and treatment of arrested persons and detainee and on the Records of detainees in the detention unit of the police (Official Gazette 88/09 and 78/14), lays down the manner of implementation of health care of detainees.

10. All arrested persons when submitted to the detention supervisor get acquainted with their rights in accordance with the provisions of the Criminal Procedure Act and the Ordinance on the admission and treatment of arrested persons and detainees and of the Records of detainees in the detention unit of the police that is evidenced in the Detention minutes and the Personal file of the detainee.

11. Among these rights is the right to legal counsel of one's own choice or from the list of attorneys on duty, the right to inform at one's request the family or other person designated of the arrest and the right to emergency medical care.

Question 6 d

12. Also, Article 68 of the Ordinance on the conduct of police officers stipulates that the police officer is obliged to inform the person he is bringing in or is apprehending with the right to inform the family or other persons as well as with the right to a legal counsel.

13. In conclusion to point 6 a — Basic legal protection against torture and ill-treatment of persons deprived of their liberty — we note that the Committee for the Prevention of Torture has stressed the need for consistent implementation of provisions which must allow persons who have been deprived of freedom on any ground the consumption of the right to legal counsel of their choice, the right to medical examination and the right of informing persons about the fact of deprivation of liberty.

14. It should be noted that the said rights are contained in a number of regulations governing the area of deprivation of liberty and treatment of persons deprived of liberty (e.g. Criminal Procedure Act, the Police Duties and Powers Act, the Ordinance on the conduct of police officers, Ordinance on reception and the treatment of arrested persons and detainees).

15. In the course of the current proceedings of detention supervisors there were no cases of violations of the rights of the arrested person in detention police units. Lawyers and family members are contacted by the competent police officers, while medical examinations are provided by a team of emergency medical services (police officers do not attend medical examination but are close to, if necessary, to help the medical team) or, if necessary, by relevant health institutions (e.g. in case of an addict which prescribed therapy).

In relation to *item 10* of the concluding observations, the croatian government declares as follows:

16. The Act on the National Preventive Mechanism against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Official Gazette No. 18/11 – hereinafter: ANPM) was adopted on 28 January 2011. By the adoption of the ANPM the Republic of Croatia established the National Preventive Mechanism (hereinafter referred to as NPM), by which it fulfilled the obligation assumed by accepting the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Official Gazette – International Agreements, No. 2/05 hereinafter referred to as OPCAT).

17. The Act on the Amendments to the Act on the National Preventive Mechanism against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was published in March 2015 in the Official Gazette number 33/15.

18. The aim of the mentioned amendments to the ANPM were to increase the efficiency by: enabling a larger number of monitoring of places where there are or may be located persons deprived of their liberty; more active participation of associations registered for performing activities in the field of protection of human rights; more active involvement of independent experts and inclusion of special ombudsman to perform NPM.

19. In fact, the regular monitoring of places where the persons deprived of liberty are located, in accordance with Article 1 of the OPCAT, are the main purpose of the Optional Protocol. Furthermore, the regular monitoring of places is one of the key tasks in accordance with Article 3 of the ANPM. Since July 2012, when the performance of the activities relating to the NPM started, to the end of 2013, a total of 19 monitoring of places had been carried out (2012 – 7 monitoring of places, 2013 – 12 monitoring of places), which is a smaller number if compared to the data from the annual reports of other NPMs.

20. One of the reasons for the smaller number of monitoring of places was the impossibility to carry out the monitoring of places without the participation of the representatives of the academic community and associations. In fact, the inspections of places where the persons deprived of liberty are located, and which are conducted by the Ombudsman in accordance with Article 28 of the Ombudsman Act (Official Gazette, No. 76/12, hereinafter: OA), could not be considered as monitoring of places of the NPM if the representatives of the academic community or associations did not participate. The comparative legislation of most countries in which the performance of the NPM, as well as in the Republic of Croatia, falls within the jurisdiction of the Ombudsman, do not contain provisions which could prevent the ombudsman to independently perform the tasks of the NPM. Therefore, the amendments of the relevant provisions of the ANPM enabled a larger number of monitoring of places where the persons deprived of liberty are located, in a way that the inspections of the places, where the persons deprived of liberty are located, conducted by the Ombudsman independently can be considered as monitoring of places of the NPM, which will result in strengthening their protection against torture and other cruel, inhuman or degrading treatment or punishment.

21. Furthermore, before the amendments to the ANPM, it was prescribed that the work of the NPM should be performed by the Ombudsman, with the obligatory participation of two representatives of organizations registered for performing activities in the field of human rights and two representatives of the academic community. In this way, the participation of the academic community and associations was reduced to cooperation with four members. The amendments have enabled a more active participation of a larger number of organizations registered for performing activities in the field of human rights and the inclusion of a larger number of independent experts, thus contributing to increase the efficiency of performing the tasks of the NPM, and strengthen the protection of persons deprived of their liberty.

22. In fact, at the moment the Ombudsman chooses the associations with which s/he will conclude a cooperation agreement through a public call. In this way it is enabled a significantly wider, and therefore high-quality cooperation with organizations in the performance of the NPM activities.

In relation to *item 10* of the concluding observations, the croatian government declares as follows:

23. Article 28 of the Ombudsman Act (Official Gazette 76/12) lays down that the Ombudsman may at any time without prior notice inspect places where persons are deprived of their liberty, places where persons with restricted freedom of movement are placed and draws up a report on the status and gives possible recommendations.

24. Finally, Article 14 of the Police duties and powers Act (Official Gazette 76/09 and 92/14) lays down that a police officer shall apply police powers in accordance with the Constitution and law and in doing so shall respect the dignity, reputation and honour each person, as well as other fundamental rights and freedoms, and he shall treat with special care children, minors, elderly and disabled people, people with disabilities and victims of criminal acts and offenses. You are also advised that this Administration continuously delivers instructions to police departments clarifying the provisions of laws and bylaws relating to the application of police powers, as well as instructions in order to improve tactical and professional conduct.

In relation to *item 18* of the concluding observations, the croatian government declares as follows:

25. The Directorate for Prison System of the Ministry of Justice is participating in two projects which both contain a component that relates to the training of employees:

(a) IPA TAIB 2012 – 2013; support to the prison system of the Republic of Croatia, which, along with the improvement of infrastructure conditions, comprehend lifelong education for the employees of the Directorate for Prison System of the Ministry of Justice (TWINING). The project, foreseen to last 15 months, is in the stage of signing contracts with the partners from Germany and Spain and its realization should start in March 2016;

(b) The European Social Fund, Operational Program “Effective Human Resources” 2014-2020; development of system of treatment and health care for detainees, which is aimed at improving the working conditions and skills and competences of prison officers in the field of planning and implementation of treatment and health care. The Directorate for Prison System has prepared the project taking into account, among other things, the Concluding observations of the UN Committee against Torture. The preparation for the public call in March is underway and the start of the project is expected at the beginning of 2017. The foreseen duration of the project is 3-5 years.

26. Both projects offer the possibility to create and implement a sustainable program of gender-specific training of medical staff in relation to the identification of signs of torture and ill-treatment.
