SUPPLEMENTARY HUMAN DIMENSION MEETING
PRISON REFORM

FINAL REPORT

Vienna, 8-9 July, 2002

CONTENTS

I. EXECUTIVE SUMMARY

The OSCE held the second Supplementary Human Dimension Meeting for 2002 in Vienna on 8 – 9 July. The Meeting was dedicated to the topic of "Prison Reform". It gathered 136 participants from OSCE participating states, and more than 44 representatives of 38 NGOs.

The meeting was organized by the Portuguese Chairmanship with the assistance of the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR).

The aim of the meeting was the following:

- To discuss the steps that have been taken to reform prison systems in the OSCE region, including those related to the structural reform of the prison system and staff training.

- To focus on measures that participating States can take to improve the prison systems, including measures to improve the physical conditions of the prisons, alternative sentencing measures to reduce prison populations and measures to rehabilitate prisoners.

- To discuss the role that NGOs can play in the monitoring of prisons and detention facilities in cooperation with the State.

The meeting succeeded to produce concrete recommendations for national programs to implement the provisions in international law and OSCE commitments, and to reflect best practices related to the reform of penitentiary systems including pre-trial detention facilities. These recommendations are included in this report, and they are addressed to the OSCE as a whole, its institutions including the Office for Democratic Institutions and Human Rights, its field offices, or the participating States.

II. RECOMMENDATIONS

This report, just as the Meeting itself, focuses on concrete recommendations arising from the three Working Sessions. These recommendations – from delegations of OSCE participating States and partners for co-operation, international organizations and non-governmental organizations (NGOs) – are wide-ranging and aimed at various actors (OSCE institutions and field missions, governments, NGOs).

It is emphasized that the OSCE cannot implement all of these recommendations. The recommendations have no official status, are not based on consensus, and the inclusion of a recommendation in this report does not suggest that it reflects the views or policy of the OSCE. Nevertheless, the recommendations are a useful indicator for the OSCE in deciding priorities and possible new initiatives in promoting prison reform initiatives.

Outcome of Working Session I

Structural Reform of the Prison System – where are we and where are we going

Moderator:
Mr. Miroslav Nowak, Deputy Director of the Control and Inspection Bureau, Polish Central Prison Administration

Introducer:
Mr. Nikolay Arustamyan, Head of Department for Structural Reforms, Ministry of Justice, Armenia

Discussions in Working Group 1 focused on the structural reform underway in various OSCE participating States at the present stage. Participants shared their experiences and perspectives. In particular, they stressed the need for continuing the process of transferring the authority over the penitentiary system from a Ministry of Interior to a Ministry of Justice structure.

However, many speakers stressed that the reform could not be considered as a purely formal change of authority, i.e. as a goal in itself, but as a conceptual change leading to the demilitarisation of the penitentiary service. Participants discussed in particular the scope and modalities of such a transfer as well as issues relating to reform processes. A wide range of different experiences and challenges were presented. Numerous participants also commented on the continuous character of penitentiary reform in a democratic state and on the process and issues involved in penitentiary reform.

The following recommendations were made during Working Session 1:

Recommendations to the OSCE Participating States

- OSCE participating States that have not yet transferred their penitentiary system from the Ministry of Interior to the Ministry of Justice should consider doing so as a matter of urgency.

- Those OSCE participating States that are presently in the process of transferring authority should continue their efforts in order to change the nature, mentality and culture of their prison service.

- OSCE participating States should in particular transfer the authority over pre-trial facilities, since the separation of powers between those holding prisoners and the investigative branch is particularly critical at this stage of the criminal process.

- It is recommended that the transfer of authority should not lead to a split of authority over pre-trial detention places and prisons. The creation of two different bureaucracies should be avoided as it carries the inherent risk of slowing down the overall criminal justice reform process.

- The structural reform is not a goal in itself, but a means to demilitarize and democratize the penitentiary service. OSCE participating States need to approach it in a comprehensive way that should include issues beyond a broad range of legislative changes such as a modification of punishment policies, a truly effective system of more effective remedies, a functioning monitoring system, increased access to the outside world and a proper training concept for the professionalization of staff.

- In order to be successful, political will and leadership needs to be generated and co-operation with the media should be sought to ensure more knowledge and support for the reform process.

- The transfer of authority over facilities needs to include transfer over property, assets, training facilities and alike. The OSCE participating States should also ensure that the allocated budgetary means are also fully transferred to the new authorities.

- Structural reform should go hand in hand with a review of punishment policies. The introduction of alternatives to imprisonment should be considered a priority. Measures should be taken to prevent pre-trial detention from being the rule rather than the exception for those awaiting trial. Frequent amnesties are not a solution to overcrowding, but reflect the need for a substantial reform of punishment policies in a given country.

- The reform of the penitentiary service should generally be based on an inter-disciplinary approach and should be based on a broad public platform discussing the reform of the criminal justice system. Relevant authorities should seek dialogue with Civil Society and a broad range of actors within the criminal justice system.

- The role of independent national human rights institutions such as Ombudsman should be strengthened with regard to penitentiary reform. The ODIHR should work with these institutions in order to increase their monitoring capacity.

- OSCE participating States should establish an effective structure for monitoring the implementation of human rights within the penitentiary service. Within the penitentiary service, sufficient weight should be placed on the conceptualization of reforms that includes all relevant human rights protection aspects and functioning of the system.

- OSCE participating States should govern their penitentiary service with transparency and accountability as critical elements of a public service in a democratic society. Efforts should be made to increase those elements, in particular by a clearer regulatory framework, in order to prevent corruption within the system.

- OSCE participating States should increase their efforts to establish Public Monitoring bodies.

- OSCE participating States should consider the appropriateness of enabling Prisoners Associations to be created.

- OSCE participating States should give the judiciary control over the penitentiary service and decrease the influence of the Prosecutors Office with regard to the oversight over the penitentiary service.

- OSCE participating States should keep under review their policies with regard to high security prisons and prisoners. Rigorous regimes should be avoided as a general scheme for most prisoners.

- The penitentiary service needs to have an efficient set of complaint mechanisms. They need to be independent, confidential and expedient. An effective set of legal remedies should include access to courts. Due process considerations also need to be reflected in disciplinary procedures.

- OSCE participating States should provide the prisoners with effective avenues for complaints both within and outside the prison system and ensure confidential access to the appropriate authorities.

- Those OSCE participating States that are party to Convention for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment should increase their efforts to implement and follow-up on recommendations made by the Committee for the Prevention of

Torture (CPT) and should engage in an open dialogue on the implementation of such recommendations - once the confidentiality has been lifted.

Recommendations to the OSCE Institutions and field operations

- OSCE/ODIHR should continue to provide assistance to OSCE participating States with regard to the transfer of authority to the Ministry of Justice in order to ensure the de-militarization of the penitentiary service.

- Where necessary, OSCE/ODIHR and field operations should facilitate the dialogue on penitentiary reform as part of democratic reforms.

- OSCE/ODIHR and field operations should provide assistance to the conceptualization of penitentiary reforms and intensify their efforts in providing comparative experience on penitentiary reform.

- OSCE should elaborate projects on exchanging experience among officials – employees of penitentiary institutions of the OSCE Participating States with a view to facilitating the training or new formation of personnel in accordance with international standards related to the treatment of prisoners, as well as an exchange of best practices in the humanization of the penitentiary systems.

- Participating States should seek the assistance of the ODIHR or other intergovernmental or non-governmental bodies in the elaboration of effective remedies and complaint mechanisms.

Outcome of Working Session II

Human dimensions of prison reform – staff and inmate issues

Moderator:
Dr. Andrew Coyle, Director of the International Centre for Prison Studies, King's College, London
Introducer:
Mrs. Vesna Babic, Treatment Service Director, Croatian Prison Service, Ministry of Justice of the Republic of Croatia

Discussions in Session 2 focused on human dimension issues of prison reform, with a particular emphasis on the role of, and relationship between, prison staff and inmates. In general introductory statements, participants presented the status of reform in their relative countries sharing their experiences and voicing their expectations and the perspectives for the future process of prison reform. Specifically in the human dimension participants brought forward to attention of the plenary both positive and negative aspects relating to all issues of the human dimension in prison life. Particular attention was given to the relationship between inmates and prison staff, with an emphasis on, and a call for, increasing training and education efforts to be undertaken both by the OSCE Participating States and the international community to support the efforts of the reforming countries.

In more general terms, the plenary agreed that the main purpose of prisons was to execute the sentence of the court, i.e. to deprive prisoners of their liberty. However, it cannot, and must not, be the function of the prison to impose any additional punishment through poor conditions or

arbitrary and ill treatment. This fundamental principle should always be kept in mind when talking about the improvements in the human dimension field of prison reform.

With a call for increased attention to be given to the importance of alternative sanctions, the session also agreed that imprisonment should only be used when no other sanction is appropriate, i.e. only for the most serious crimes and for those presenting a real threat to public safety.

In addition, the following points were stressed in interventions by the participants:

- management of prisons within the context of international and regional human rights standards;
- importance of rehabilitation through involvement in learning new skills, vocational training, education and overcoming alcohol and drug addiction;
- the prisoners to be helped and supported in maintaining and developing contacts with their families;
- regular contacts between prisons and the outside world through regular prison visits of community volunteers and NGOs;
- staff should be recognized and respected by the public as professional public servants, reflecting both the importance and complexity of prison work for society.

The aspect of demilitarization of prison services was also stressed in the interventions during Session 2, showing that this issue is not a purely structural problem but rather an interdisciplinary issue influencing the relationship and interaction between staff and inmates. Since prisons are part of civil society rather than an element of military structure - as already stressed in Session 1- one way of confirming this is to place the responsibility for the administration of prisons within the Ministry of Justice (with other models, for instance independent prison structures within state administrations, to be included in future discussions). Linked with the aspect of *demilitarization* is the need for staffing structures to be civilian rather than military, which is not necessarily equating to a loss of discipline or other advantages that usually are linked with a military structure and organization. Moreover, the staff should still wear uniforms and keep their benefits.

The session concluded with the agreement that the most important feature of any prison system was the need for a positive relationship between prisoners and prison staff, which calls for increasing staff professionalism and should not be misunderstood as weak management or lack of discipline within the prison. On the contrary, it would require staff to be professionally trained, thus confident and experienced in their daily work and to be given firm leadership by senior management.

The following recommendations were made in Working Session II:

Recommendations to the OSCE participating States

- OSCE participating States should ensure that imprisonment is used *only* when there is no other reasonable alternative. This implies increased efforts of the legislator for establishing legislative frameworks providing for the possibility for courts to impose alternative sanctions.

- OSCE participating States, in interaction with the respective civil societies, should emphasize the importance of deprivation of liberty as the *main* task of the prison, meaning that there should be *no additional punishment* as a result of prison conditions or ill-treatment.

- OSCE participating States should require prison authorities to make every effort to rehabilitate and help prisoners to reform themselves through learning new skills, improving education and overcoming addictions.

- OSCE participating States should support prisoners and inmates in all relevant aspects to maintain and develop contacts with their families and friends.

- OSCE participating States should pay special attention to the rights of vulnerable groups in prisons, in particular women, juveniles and minorities.

- OSCE participating States should observe the particular importance of rehabilitation and education, especially for juveniles.

- OSCE participating States should ensure that prisoners serving long-term sentences, including life sentences, are given opportunities to take part in a full range of activities in prisons and that they are not held in isolation.

- OSCE participating States should make every effort through the media and by other means to portray prison staff as professional public servants who deserve to be respected for their difficult public service. The same means should be used to re-educate public opinion to create a better understanding of the relationship between public protection and the incarceration function of penal institutions.

- OSCE participating States should establish prison administrations in a civil framework rather than a military structure.

- OSCE participating States should have proper arrangements for the recruitment of staff and their professional training as well as continuing education.

- OSCE participating States should establish training centres for prison staff and effectively support existing ones. The curricula need to ensure that respect for human rights and professionalism are at the forefront of the staff's training program.

- OSCE participating States should ensure that prison staff are paid a proper salary for their difficult work and do not suffer financially or in any other way as a result of their civilian status.

- OSCE participating States are encouraged to look for effective solutions that will address overcrowding in prison and detention facilities which creates the risk of prisoners being held in inhuman and/or degrading conditions; these solutions cannot be limited to only providing additional accommodation, which in itself does not provide a lasting solution to the problem.

- Instead OSCE participating States should increasingly concentrate on establishing policies that limit the number of persons sentenced to prison terms. To that end, participating States should review their current laws and practices in relation to custody pending trial and sentencing as well as the full range of non-custodial sentences available; this should reflect a coherent strategy for reducing custodial sentences.

- OSCE participating States should increasingly include the principle of proportionality in to the practice of custodial management and establish their internal security system based on individual risk assessments rather than following general regime categories where set regimes automatically apply to certain sentences.

- With the abolishment of, in some countries, the introduction of a moratorium on death penalty, a growing number of participating States are confronted with increasing numbers of life sentence prisoners without parole. The OSCE participating States are called to address the specific problems arising thereof, especially the issue of life sentence prisoners being held in conditions akin to solitary confinement.

Recommendations to the OSCE institutions and field operations

- OSCE ODIHR and its field operations should continue to provide assistance and support to OSCE participating States with regard to prison staff training.

- OSCE through a process of continuing dialogue with participating States should elaborate projects that address the need for non custodial sanctions and provide the exchange of experiences and best practices in the sphere of implementing such alternatives to imprisonment.

- Participating States should seek the assistance of the OSCE/ODIHR or other intergovernmental or non-governmental bodies in implementation of these recommendations.

Outcome of Working Session III

Different Approaches to Monitoring of Prisons and Detention Facilities

Moderator:
Mr. JB Weinstein, Director of the OSCE Department, Ministry of Foreign Affairs of Portugal
Introducer:
Mr. Krassimir Kanev, Chair of the Bulgarian Helsinki Committee

Discussions in Working Group 3 focused on the role of Civil Society in the penitentiary reform in the OSCE region. The participants discussed in particular the important role of NGOs and Civil Society actors in monitoring places of custody. The discussions pointed to the advantages and disadvantages of non-governmental and state actors in monitoring prison conditions. They tried to identify best practices and engaged in a lively discussion about the practicability of civil society

monitoring. A wide range of state and NGO representatives shared their experience about establishing effective prison monitoring.

Participants discussed the role of State institutions, State actors and National Human Rights institutions such as Ombudsman and NGO representatives in the methods, the aim and the framework of prison monitoring.

The following recommendations were made in Working Session III:

Recommendations to the OSCE participating States

- OSCE participating States are encouraged to allow for comprehensive civil society monitoring of all places of custody.

- OSCE participating States should consider providing for a firm legal basis for NGO monitoring of places of custody, including pre-trial facilities and police detention facilities. In the absence of a clear legal basis authorities should use their discretionary powers to allow for civil society monitoring.

- OSCE participating States should ensure effective access to legal counsel in places of custody.

- OSCE participating States should fully co-operate with international prison visiting procedures, such as the Committee for the Prevention of Torture (CPT) and other international governmental or non-governmental actors.

- OSCE participating States should support the adoption by the UN ECOSOC of the new additional protocol to the UN Convention against Torture. Once adopted they should consider the early ratification of the Draft Optional Protocol (DOP) to the UN Convention against Torture of April 2002.

- OSCE participating States should consider establishing national visiting procedures as foreseen in the optional protocol and seek international assistance for doing so; for example with the OSCE/ODIHR.

- OSCE participating States should consider establishment of an institutional framework such as a public commission with the right and also obligation to monitor on a permanent and systematic basis.

- National human rights institutions should increase their efforts to visit places of custody, including in particular police stations and pre-trial facilities.

- OSCE participating States should engage in an open and transparent dialogue on the results of public monitoring of places of custody.

- OSCE participating States should equally work to improve their state inspection systems in parallel to civil society monitoring.

- NGOs should seek to increase their professional capacity for sustainable monitoring. They should be aware of their obligation and responsibility in doing so. At the same time, they should be trained by specialists on this field.

Recommendations to the OSCE Institutions and field operations

- OSCE/ODIHR should consider providing for a comparative overview or a study of monitoring mechanisms in OSCE participating States in order to identify best practice in the OSCE area.

- ODIHR should take the lead in providing information to OSCE participating States on the nature of the Draft Optional Protocol to the UN Convention against Torture and render technical assistance to the OSCE participating States.

- OSCE should continue its efforts to strengthen the capacity of NGOs and other actors to monitor and report about prison conditions.

- OSCE/ODIHR should work with National Human Rights Institutions on their capacity to monitor police and penitentiary facilities.

III. ANNEXES

1. Agenda

Day 1	**8 July 2002**
9.00-10.00	OPENING SESSION: *Opening* by Ambassador Joao de Lima Pimentel, Chairman of the Permanent Council *Key-note speeches* : *Mrs. Renate Kicker,* Member of the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, Council of Europe *Mr. Piotr Posmakov,* Head of the Committee on the Penitentiary System of the Ministry of Justice of the Republic of Kazakhstan *Technical information* by the OSCE/ODIHR
10.00 - 10.30	BREAK
10.30 - 13.00	SESSION 1: STRUCTURAL REFORM OF THE PRISON SYSTEM – WHERE ARE WE AND WHERE ARE WE GOING *Moderator:* Mr. Miroslaw Nowak, Deputy Director of the Control and Inspection Bureau, Polish Central Prison Administration *Introducer:* Mr. Nikolay Arustamyan, Head of Department for Structural Reforms, Ministry of Justice of the Republic of Armenia
13.00 – 15.00	LUNCH
15.00-18.00	SESSION 2: THE HUMAN DIMENSION OF PRISON REFORM – STAFF AND INMATE ISSUES *Moderator:* Mr. Andrew Coyle, Director of the International Centre for Prison Studies King's College London *Introducer:* Ms. Vesna Babic, Treatment Service Director, Croatian Prison Service, Ministry of Justice of the Republic of Croatia
18.00	CLOSE OF DAY ONE
Day 2	**9 July 2002**
9.00 – 10.50	SESSION 3: DIFFERENT APPROACHES TO MONITORING OF PRISONS AND DETENTION FACILITIES *Moderator:* Mr. JB Weinstein, Director of the OSCE Department, Ministry of Foreign Affairs of Portugal *Introducer:* Mr. Krassimir Kanev, Chair of the Bulgarian Helsinki Committee
10.50-11.00	PRESENTATION OF COUNCIL OF EUROPE'S ACTIVITIES IN THE PRISON FIELD *Mr. Stephanos Stavros,* Head of Penology and Criminology Division, Directorate General of Legal Affairs

11.00 – 12.00 BREAK

12.00 - 13.00 CLOSING PLENARY

Moderator: Ambassador Joao de Lima Pimentel, Chairman of the Permanent Council

Closing Remarks by Mr. Steven Wagenseil, First Deputy Director of the ODIHR

Reports by the Working Session Moderators

Comments from the floor

Close

2. Annotated Agenda

OVERVIEW

The meeting will focus on three areas:

a. The first part of the meeting will be dedicated to the topic of structural reform of penitentiary systems, what has worked and what hasn't. The key goal of structural reform is the transfer of responsibility for prisons and detention facilities from military or paramilitary control to civilian control. In many transitional states the structural changes have taken the form of a transfer of their prison detention facilities from the Ministry of Interior to the Ministry of Justice. Many have done so in the last couple of years and some are just at the beginning of the process. The session will consider what kind of structural changes need to be made when transferring the system from the Ministry of Interior to the Ministry of Justice in order to achieve the goal. The session will also look at the experience of countries that have set up different structures not directly under the Ministry of Interior or the Ministry of Justice.

b. Secondly, the meeting will consider the human dimension of prison reform focusing on the staff issues and prisoners and the relationship between the two. One of the main issues when restructuring a prison system is the training of staff, including staff of detention facilities. Many OSCE States have separate training facilities for prison staff and others are in the process of setting these facilities up. The session will examine how best to train and re-train staff and examine the issue of demilitarisation. It will also focus on treatment of prisoners in the context of international standards and the relationship between staff and prisoners. This will include the treatment of minority populations in prisons, in particular the issue of the use of languages in prisons.

c. The final session of the meeting will focus on the different approaches to monitoring prisons and detention facilities. The session will consider the role NGOs play in monitoring prison conditions and the co-operation between NGOs and the State. It will also focus on monitoring conducted by International Organizations.

The meeting will seek to develop recommendations based on best practice across the OSCE region. Recommendations may be addressed to the OSCE as a whole, its institutions including the Office for Democratic Institutions and Human Rights, its field offices, or the participating States.

SESSIONS

I. Structural Reform of the Prison System

Context:
All OSCE States have faced the issue of how best to structure their prison systems in order to ensure compliance with international standards on the treatment of prisoners and to ensure that prisons fulfil their function of protecting society from dangerous criminals. In established democracies the process is ongoing and changes are made as problems develop. In many transitional democracies the restructuring process is fairly new and continues to develop. Many states face resource issues and long held beliefs about how prisons should be structured that do not allow for the adherence to international standards.

Possible discussion topics of this session could be:

- What lessons can be drawn from the experience of established democracies in how they have structured their prison systems and how they respond to problems in their prison systems?

- What lessons can established democracies draw from developing democracies as they restructure their prison systems?

- Transferring the prison system from the Ministry of Interior to the Ministry of Justice, is it the answer? When can the transfer be considered successful? What obstacles are there to a successful transfer?

- What role does political will play in the way a state develops a strategy for structuring its prison system? Who should be in charge of restructuring strategy the politicians or the experts?

- What role should judges and/or prosecutors play in the structuring of a prison system?

II. The Human Dimension of Prison Reform

Context:
When deciding how to reform a prison system two of the biggest issues are staff training and treatment of inmates. A related question is how to improve the relationship between staff and inmates in ways that improve the management of the prison system. In those states where a total restructuring of the prison system is taking place the issue of the status of the staff is often the most difficult one to resolve. There are issues of pay and benefits, military rank, staff transferring from one ministry to another and training. Because most of the present staff has been trained in military type academies and the new staff will be trained in academies that specialize in prison training there is inevitably conflict between these two groups. How can the present staff be retrained while at the same time trying to train the new staff? The issue of treatment of prisoners is also important in the context of developing training for staff as staff must be taught how to incorporate the international standards into their work. Better staff inmate relations also lead to better working conditions for the staff and better management of prisons. The issue of the use of languages in prisons will also be explored including the ability of prison staff to communicate with minority populations and the use right of prisoners to use their own language when communicating.

Possible discussion topics of this session could be:

- What lessons can be drawn from the experience of those states that have recently restructured their prison systems concerning the issue of staff training?

- What is the best way to deal with the issue of demilitarisation of the prison service?

- What amount of human rights training should the curriculum of a prison training institution contain? How can the human rights component be incorporated into the curriculum?

- What obligations are there for prison staff to speak the language of the greatest number of prisoners? What rules are appropriate concerning the use of native languages by inmates in communicating with other inmates, visitors and in personal correspondence?

III. Different Approaches to Monitoring of Prisons and Detention Facilities

Context:
Many OSCE States have adopted formal procedures whereby the conditions in prisons are monitored by outside groups or governmental institutions. Some states have set up monitoring committees by statute that are composed of NGOs, citizens and governmental personnel. Others have informal agreements with NGOs to conduct monitoring of detention facilities. In still other states prison monitoring is the responsibility of the Ombudsman Office or the Prosecutors Office. Also, several International Organizations conduct prison monitoring, some in co-operation with the host government and others on an ad hoc basis. This session will explore the various mechanisms for monitoring and the relationship of the state to these monitoring bodies or organizations. It will also explore the obligation of the state to submit to prison monitoring by International Organizations.
Possible discussion topics of this session could be:

- Why is prison monitoring important and what does the state get out of it?

- Who should conduct prison monitoring, the state, NGOs or International Organizations? Should it be all three?

- Should prison monitoring be formalized by statute and sponsored by the state? What are the dangers in this approach?

- Is independent monitoring carried out by a local NGO a better method and how much should the state co-operate in this type of monitoring?

3. Keynote Speeches

A. Ms. Renate Kicker:

"THE CPT 'S STANDARDS CONCERNING IMPRISONMENT[1]"

Key-note speech delivered by Renate Kicker, Member of the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment (CPT)

Distinguished delegates,

It is a particular honour for me to be addressing this important seminar on behalf of the European Committee for the Prevention of Torture. The CPT is grateful to the organisers of this meeting for this invitation and for this opportunity to exchange views on a subject of great interest and importance to the CPT's work.

In this brief introductory presentation I would like to preface my remarks by explaining how the CPT's remit intersects with the focus of this seminar. Then I will try to look at the CPT's work in relation to the development of custodial systems in Europe, by focusing on four areas of concern:

- overcrowding
- security
- professionalism
- transparency

Each of these areas relates to key factors associated with the ill treatment of people in custody. For each area I shall highlight CPT recommendations for standards and safeguards to prevent ill treatment and illustrate the point with some examples of good practice.

The CPT's remit

The work of the CPT centres, as you know, on the prevention of ill treatment of persons deprived of their liberty. The CPT is a proactive non-judicial mechanism: the work is carried out through visits to every member state which has ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. At present there are 41 member states and two more members have already ratified the convention namely Azerbaijan and Armenia. Bosnia and Herzegovina has become a member of the Council of Europe and is expected to ratify the convention soon. The Federal Republic of Yugoslavia has been invited to accede to the ECPT after the convention has opened to non-member states as of 1st of March this year.

Under the Convention the CPT has unlimited access to all places of custody. The CPT operates in accordance with two guiding principles: co-operation and confidentiality. The role of the CPT is to assist states to prevent ill-treatment through the on-going dialogue flowing from the visits.

The remit is therefore broad and covers a wide variety of settings and people whose status in law varies considerably, because it includes:

[1] This text is based on a draft by Dr. Silvia Casale, President of the CPT

- persons deprived of their liberty by the police at the point of first involvement with the criminal justice process,
- people held on remand pending trial,
- people held under immigration law or
- people in custody for mental health reasons and
- prisoners serving sentences
- (not to mention others deprived of their liberty in institutions under state authority, such as elderly homes, social care homes and children's homes).

Not all of these types of people in custody are the focus of this conference, but even when we consider custodial institutions within the criminal justice system it is worth remembering that the boundaries of custodial institutions vary in different systems. In some countries, people from all these different groups may be found in what are called "prisons", while in some countries remand prisoners may be held in custodial facilities run by the police or operated under the authority of the ministry which is responsible for the police.

The CPT's reports on visits to individual members contain specific recommendations for improvements to local situations. These recommendations and the general principles elaborated in substantive sections of the CPT's general reports constitute an evolving body of standards for the treatment of people in custody. See the extracts from the 2nd and the 7th General Report and most recently the 11th General Report which summarises recent developments concerning CPT standards in respect of imprisonment.

Overcrowding

The CPT's concern with the treatment of persons deprived of their liberty includes the conditions to which they are subjected in custody. The issue of overcrowding emerges as one of the recurrent problems across European custodial systems. (See Parliamentary Assembly's recommendation 1257 (1995) concerning conditions of detention and action on overcrowding).

Prison overcrowding is an issue of direct relevance to the CPT's mandate. Overcrowding reduces the level of hygiene, makes privacy impossible (even when performing such basic tasks as using a sanitary facility), overburdens services such as health-care, puts a severe strain on activity programmes, and inevitably adds to the tension among prisoners and between prisoners and staff, increasing the risk of violence. Overcrowding dehumanises and anonymises both prisoners and staff. Relations between staff and prisoners, which lie at the heart of ill-treatment, inevitably become more distant and fragmented.

It is a fundamental requirement that those committed to prison by the courts be held in safe and decent conditions. For so long as overcrowding persists, the risk of prisoners being held in inhuman and degrading conditions of detention will remain.

In its reports the CPT has repeatedly stressed the need to find solutions to this issue which dogs the efforts of prison systems across Europe to improve standards, [and I quote] "The CPT considers it unlikely that providing additional accommodation will, in itself, provide a lasting solution to the problem of overcrowding. Indeed, a number of European States have embarked on extensive programmes of prison building, only to find their prison populations rising in tandem with the increased capacity acquired by their prison estates. By contrast, in those countries which enjoy relatively uncrowded prison systems, the existence of policies to limit and/or modulate the

number of persons being sent to prison has tended to be an important element in maintaining the prison population at a manageable level." (Extract from the 7th General Report, CPT/Inf (97) 10, § 14).

In commenting further on this issue in its 11th General Report the CPT says "throwing increasing amounts of money at the prison estate will not offer a solution. Instead, current law and practice in relation to custody pending trial and sentencing as well as the range of non-custodial sentences available need to be reviewed. This is precisely the approach advocated in Committee of Ministers Recommendation No R (99) 22 on prison overcrowding and prison population inflation. The CPT very much hopes that the principles set out in that important text will indeed be applied by member States; the implementation of this Recommendation deserves to be closely monitored by the Council of Europe."

Of course, a coherent strategy for reducing the custodial sentences depends not upon the prison administration but upon ministers and upon a re-education of public opinion to create a better understanding about the relationship between public protection and incarceration. One of the most intractable features of the problem of custodial overcrowding is that its origins lie beyond the control of the prison administration. However, it is not true to say that prison managers can do nothing about overcrowding. Prison manager can reduce the effect of overcrowding by a number of strategies, notably through provision of activities out of cell and through a differentiated approach to security.
Cramped facilities impinge on life in custody, but the degree of deprivation experienced is directly related to the degree of restriction within such facilities and the amount of time spent locked up there. Even dilapidated accommodation is more tolerable if prisoners are only in it to sleep and can be actively occupied elsewhere, including in the open air, for most of the day.

Security

Security restrictions are a matter of special concern to the CPT, because the risk of ill-treatment increases in closed settings. The principle that security should be kept to the minimum required for safety is frequently disregarded in custodial contexts, where it often appears easier to apply blanket security restrictions to everyone based on the requirements of the most dangerous person in custody. Equally this stepping up of security may fit well with a punitive ethos among some custodial staff.

In the long run, however, excessive and unjustified levels of security create rather than solve problems. Relations between staff and prisoners will deteriorate under these circumstances. Security based on individual risk assessment is part of a more professional approach to custodial management.

Following this approach, only a minority of persons in custody is likely to be found in need of high security conditions. A variety of forms of high security conditions exist in custodial systems across Europe, featuring inter alia segregation, isolation or solitary confinement.

The CPT pays particular attention to prisoners held under conditions akin to solitary confinement. They may be there for various reasons - for disciplinary purposes, as a result of their "dangerousness" or their "troublesome" behaviour, as remand prisoners subject to a criminal investigation, or at their own request. It is worth noting in this connection that the moratorium on

the death penalty in Europe has created a growing group of life sentence prisoners without parole who are sometimes held in conditions akin to solitary confinement.

The principle of proportionality requires that a balance be struck between the requirements of the individual case and the application of a regime akin to solitary confinement, which is a step, which can have very harmful consequences for the person concerned. The CPT has found that solitary confinement can, in certain circumstances, amount to inhuman and degrading treatment. All forms of solitary confinement should be as short as possible and their application to individual prisoners regularly reviewed.

In many of the systems we visit, we find that there is one section of a custodial institution designated for segregation. It may in practice hold people who are segregated for very different reasons. The CPT considers that it is not appropriate to hold prisoners requesting segregation for their own protection together with prisoners considered as dangerous. Further, it would be preferable for prisoners identified as representing an extremely high escape risk to be dealt with separately from those presenting management and control problems within the institution.

In every country there will be a number of so-called "dangerous" prisoners (a notion which covers a variety of types of person) for whom special conditions of custody are required. This group of prisoners will (or at least should, if the classification system is operating satisfactorily) represent a very small proportion of the overall prison population. However, it is a group that is of particular concern to the CPT, in view of the fact that the need to take exceptional measures concerning such prisoners brings with it a greater risk of inhuman treatment than is the case with the average prisoner.

The development of special security units is one response to dealing with such prisoners which requires particular attention if ill-treatment is to be avoided. Prisoners held in a special security unit should enjoy a relatively relaxed regime (able to mix freely with the small number of fellow prisoners in the unit; allowed to move without restriction within what is likely to be a relatively small physical space; granted a good deal of choice about activities, etc.) by way of compensation for their severe custodial situation. The existence of a satisfactory programme of activities is just as important - if not more so - in a special detention unit as on normal location. It can do much to counter the harmful effects on a prisoner's personality of living in the bubble-like atmosphere of such a unit.

Special efforts should be made to develop a good internal atmosphere within such units. The aim, as in all custodial situations, should be to achieve dynamic security, i.e. to create and sustain a safe environment by building positive relations between staff and prisoners. This is in the interests not only of the humane treatment of those deprived of their liberty but also of the maintenance of effective control and security and of staff safety.

Success in this area requires that the staff assigned to work in special secure units must be very carefully chosen. They should be appropriately trained, possess highly developed communication skills and have a genuine commitment to the exercise of their skills in a more than usually challenging environment.

Professionalism

The proper treatment of people deprived of their liberty is predicated on the proper treatment of staff. In many prison systems across Europe the messages to custodial staff are confusing. Policy requires professional standards of behaviour and respect for human rights, while poor conditions and low status are the reality of custodial work.

Efforts have been made to develop programmes aimed at increasing the professionalism of prison service personnel and raising awareness of human rights. These work best when they are not tacked on to training as a separate academic exercise, but rather fit with the grain of prison training and practice as experienced in custodial institutions. The Council of Europe provides some valuable initiatives in this respect, based on the model developed by Anita Hasenberg in police training programmes.

Professional standards evolve in work teams through professional leadership. The divide between prison administrators and custodial staff is often wide. Too often prison governors or directors sit in their administrative offices unaware of what is happening in their prison.
When staff are working in overcrowded conditions, where individual prisoners are lost in a sea of faces and staff are equally anonymous, where work goes unsupervised and rigid security creates closed conditions, there is the breeding ground for fear and abuse (inter-prisoner violence).

Raising professional standards is not resource neutral. Staffing is and should be the most costly element of prison administration. Investment in sufficient, properly trained staff to work effectively pays off in terms of safe and civilised custodial institutions. If staff are working a 24-hour shift followed by three days off, this arrangement may allow them illegally to supplement meagre prison pay by doing a second job, but it is undermining professionalism and is a recipe for poor custodial care.

Transparency

In the interests of preventing ill-treatment there is a need to open the closed world of custody. This may be done in a variety of ways, including facilitating better access for visitors to prisoners and ensuring greater transparency in all procedures.

Effective complaints and inspection procedures are basic safeguards against ill-treatment in prisons. Prisoners should have avenues of complaint open to them, both within and outside the prison system, and be entitled to confidential access to an appropriate authority.

The CPT regularly recommends improvements to complaints systems. It is an area where the gap between theory and practice is conspicuous. For example, even when the need for confidential channels for complaint is understood, provision may be quite inadequate. The box for confidential written complaints may be kept locked but if it is located in full view of the staff centre office, it is not likely that prisoners will avail themselves of the opportunity to complain in confidence.

It is important that an independent element is provided in dealing with complaints. The CPT attaches particular importance to regular visits to all prison establishments by an independent body (for example, a visiting committee or a judge with responsibility for carrying out inspections) with authority to receive - and, if necessary, take action on - prisoners' complaints and to visit the premises. Such visiting bodies should not limit their contacts to persons who have expressly

requested to meet them; they should take the initiative by visiting the prison's detention areas and entering into contact with inmates.

Good practice is evolving in a number of countries. For example, a lay monitoring scheme has been piloted in prisons by a non-governmental organisation in Central Europe. Some countries have external inspectorates as well as internal mechanisms for inspection. In several countries the office of independent Ombudsman or Human Rights Commissioner is emerging as another mechanism for external scrutiny. It is important that prison administrations and staff come to see these mechanisms as valuable instruments for constructive criticism as well as a safeguard against abuse.

In conclusion

I have tried to convey something of the CPT's work in relation to the development of custodial systems in the broad Pan European region of the 21st century. Looking at the areas of overcrowding, security, professionalism and transparency, I have tried to indicate some examples of good practice and some ways of tackling those factors which inhibit progress towards our shared goal: to develop systems of justice which reflect our cultural diversity but at the same time which demonstrate the values of modern democratic societies, including respect for the rights of people in custody.

B. Mr. Piotr Posmakov

Chairman, Penal System Committee, Ministry of Justice, Republic of Kazakhstan

Esteemed Ladies and Gentlemen!

First of all, may I thank you for the opportunity to attend such a high international forum.

During our meeting we will have to discuss three major problems, and I would like to look at each of them through the prism of our experience gained in the course of reforming the penal system. I will be happy if our experience proves useful to you. In turn this meeting and contacts with you will help us adjust our policy in such a manner as to fit it in the world drive aimed at improving penal systems.

Generally speaking our country is unique in that it was turned into a country of prison camps back in the thirties, where criminals and what was known as "people's enemies" were brought to serve their sentences from all over the Soviet Union. As a result Kazakhstan is number three in the world in terms of the number of convicts per 100,000 of its population. Base on our estimates 1 in 35 citizens of Kazakhstan, 1 citizen in 18 in the age group 18 to 50, and 1 in 9 men of one generation is a convict. 1 of 9 families has a convict as a member.

In the last ten years the independent Kazakhstan has had to tackle such problems as overcrowded prisons, low hygiene, lack of food, poor health care, high incidence of tuberculosis and other infectious diseases, and mortality in places of detention.

The first positive changes to the penal system were made at the time it was under the Ministry of Internal Affairs. Lifted were such unsound restrictions and limitations as correspondence limit, prisoners were allowed to wear sports outfits after work and wristwatches. The windows in prison cells were widened and steel shutters were removed to allow daylight and fresh air, and wooden floors were laid. Food was improved, tuberculosis mortality dropped considerably, and the penal system started to improve living conditions of prisoners, to build and upgrade remand prisons and correctional facilities, and to bring living conditions of prisoners in compliance with international standards. After the adoption of new Criminal Code, Code of Criminal Procedure and Criminal Execution Code of the Republic of Kazakhstan the penal system closely came up to the idea of humanisation and the priority of educational activity as one of the main methods of correction of convicts.

It would seem that everything is in order: the penal system is in place, successfully operating and undergoing reformation. However in 2000 the Head of the State took a political decision to transfer the penal system from the MIA to the Ministry of Justice. Why to the Ministry of Justice and what was behind such a decision? Why not to the Ministry of Finance for the system to be closer to the money? Why not to form a separate Ministry? However for me it is hard to imagine a Ministry of Prisons in a democratic state.

The thing is that with Kazakhstan becoming a democratic, secular and constitutional state, the interests of individuals, their rights and freedoms have come to the fore. Legally speaking Kazakhstan has reached a stage, where the criminal prosecution is expected to be exercised lawfully and the dispensation of justice administered with humanity. It is not accidental that the Head of State in his Address to the people of Kazakhstan said that the consolidation of the independent judicial system and the transfer of the penal system under the jurisdiction of the

Ministry of Justice were one of the directions on the road to a democratic political system of the society.

The mentality of a law enforcement agency is such that any offender is looked at as a criminal regardless of the stage of criminal prosecution the offender is at. Even when the offender is in jail in the eyes of a police authority he remains a criminal. Accordingly the policy with respect to the enforcement agency is based on such attitude. For the police authority the top priority objective is crime detection, and voluntarily or not correctional facilities have turned into crime detection agencies. Given the above it is hard to avoid breaches of the law.

The situation is quite different with the Ministry of Justice. While in the former Soviet Union the Ministry was a body whose functions were vaguely outlined and whose place in the hierarchy of power was clearly not high, in the sovereign Kazakhstan the Ministry of Justice has become an agency responsible for the formation of a new national legislation, which ensures the priority of human rights and freedoms, and the development of the society and state in Kazakhstan. For this purpose the Ministry takes part in the drafting and implementation of a national strategy of development, is engaged in the drafting of laws, studies, makes improvements of and systematises the existing legislation, makes expert examinations of legislative acts. In other words, in contrast to other ministries and departments (e.g., the Ministry of Internal Affairs, the National Security Committee, and the Financial Police) the Ministry of Justice is engaged large scale legal activities, which in the aggregate ensure the maintenance of law and order in the country on the whole. Accordingly the transfer of the penal system in general and remand prisons in particular to the Ministry of Justice should be regarded as the formation of a state-legal vehicle, which ensures the compliance with law in the course of criminal prosecution and an optimal balance between the observance of human rights and the interests of crime investigation.

Since 1 January 2002 the penal system has been operating under the Ministry of Justice of the Republic of Kazakhstan. However remand prisons were left under the Ministry of Internal Affairs. The Government resolved to transfer the remand prisons to the Ministry of Justice after all of the organisational issues related to the transfer had been settled so as to ensure their smooth operation under the Ministry of Justice. Before the transfer was made a legal basis had been developed to allow the penal system to operate under the Ministry of Justice, 11 legislative acts and 13 resolutions of the Government had been amended. Legally speaking the penal system has found its place in the single system of justice agencies in the Law of the Republic of Kazakhstan "On Justice Authorities" adopted on 18 March 2002.

Given the tasks set, the in-house legislation has been amended towards humanisation. We have amended 21 instructions, which define the conditions of administering penalties, to lift extra restrictions and limitations. As a result the list of foodstuff and goods which convicts are allowed to purchase has been expanded; now convicts are allowed to have free conversations with their relatives over the telephone; they are also allowed to wear a trimmed moustache and beard. These trifles are very important for a prisoner.

At present the Penal System Committee is drafting the Law "On the Penal System" which will define the tasks, basic guidelines and peculiarities of the legal status of institutions and bodies of the penal system.

Furthermore the process of transferring the penal system to the Ministry of Justice went along with improvements of its structure. Still being under the Ministry of Internal Affairs we removed our field branches from the jurisdiction of town and district departments of internal affairs and formed a single centralised structure of the Penal System Committee with its field branches

vertically subordinate to it. This scheme of running the penal system allows to promptly resolve all the matters related to the activity of correctional facilities, and have been selected based on a study of the experience gained by the penal systems of other countries.

However, no changing of jurisdiction can be a solution of the problem. The transfer to the Ministry of Justice should be regarded as the starting point of reformation of the penal system. Over the last few years, we have been chanced to see the prison systems of Poland, England, Sweden, and the United States of America, and this was helpful in selecting the type of correctional facilities. The inmates of correctional facilities live in barracks-type hostels, which do not comply with the requirements of their personal security and that of wardens. We are making efforts to resolve this problem by way of separation of parties. However this is not sufficient. Therefore we have made a proposal to use correctional facilities to accommodate no more than 500 inmates and to build high and minimum-security facilities with cells. The Government has supported our proposal. Under the 2002-2004 Investment Plan funds have been allocated for revamping correctional facilities. We believe that it is unreasonable to fully switch over to the cell system. Ours are going to be of a combination of cells and hostels, which will allow for a differentiated approach to convicts with account of their personal traits.

One of the global tasks to be resolved by the penal system is to make it civil in essence. To do this we need to gradually stop using the services paramilitary guards. At present about 5,500 troops of the Ministry of Internal Affairs serve as guards of correctional facilities. Most of their time is spent on military training, including drills, duty, etc. All this is required, provided we train military personnel, but has not much to do with the safekeeping of prisoners. The military approach prevailed to such an extent that until recently custodial supervision inside prisons was performed by over 1,500 servicemen. The officers of the penal system have military ranks, wear uniforms and cannot imagine themselves the workers of a civilian agency.

Nowadays it is hard to convince people of the possibility of forming a professional penal system, which would be completely different from the military one at the same time remaining highly disciplined to ensure the due strictness in administering criminal penalties. In view of the adoption of the above resolution many officers of the penal system feel uncertain, as they believe that making the penal system civil would degrade their social status. As history would have it the man in uniform has always been respected. Therefore every effort must be made to reserve to officers of the penal system of the Ministry of Justice at least the same status. Given the high prestige enjoyed by the uniform there is no need to abandon it. Why not to allow wearing uniforms in a civil agency, as is the case, for instance, in the USA, Germany, Poland, Sweden and other countries. In our view the replacement of certified staff with civil personnel should be gradual and backed up by a system of insurance and an increase of the status of officers of the penal system.

We understand that without suitably qualified officers working in the correctional facilities who are adapted to work in present-day reality, further development of the penal system is impossible. Previously officers for correctional facilities were trained in the educational establishments under the jurisdiction of the Ministry of Internal Affairs, where field and detection work was the main subject. And, where they have been brought up to be irreconcilable to crime and criminals. This was appropriate to meet the earlier objectives set before the police. Voluntarily or not, by force of the prevalent stereotypes, the police personnel having such background carryover and apply that ideology to convicts. Given the objectives set before officers working in the penal system, somewhat other qualities are required now. Each officer is expected to regard imprisoned persons, first of all, as human beings and individuals, and take all steps to secure his/her rights and fulfil the duties arising in connection with the execution of sentences in accordance with the laws. In this situation, knowledge of penitentiary psychology, latest methods of correction of convicts,

international norms and standards of treatment of convicts are of primary importance. One of the objectives of the punishment is to correct that is impossible to do without convicts taking part in the process, and, consequently, without establishing partner relations between officers and convicts. These are the priorities set for the purpose of training officers.

After the penal system has been transferred under the auspices of the Ministry of Justice, the Pavlodar Law College was passed to the jurisdiction of the penal system. We intend to convert it into a higher educational establishment for training officers for the penal system and to make it the centre of scientific researches. Furthermore, we are planning to establish training centres in a number of regions for training officers for the penal system.

The most important is to train officers to international standards of treatment of convicts. Appropriate programs are already being prepared in cooperation with the OSCE, in particular with the present Professor Monica Platek who provided us with practical and theoretical assistance, for which we are extremely grateful to her.

However, we do realize that whatever the conditions have been created for convicts and whatever the training is, this do not provide an absolute guarantee that all the rights of convicts will be respected, therefore, the correctional facilities should be constantly monitored. In Kazakhstan, we can identify several types of control over the correctional facilities, including control exercised by executive authorities, judicial control, prosecutor's office control and departmental control. Executive authorities exercise control by adopting regulatory acts regulating execution and service of sentence, control over execution, and financial and material support.

Judicial agencies control execution of sentences in connection with grant of parole, substitution of mild sentences with remand, relieve from sentence due to illness or change of the type of correctional facilities.

Prosecutor's offices supervise accurate and uniform compliance with laws and have broad authorities to the extent that they can cancel disciplinary penalties and immediately release convicts out of penalty and disciplinary wards, jail-type places and one-man cells.

For the purpose of departmental control, back in 1999, a convicts' legal protection board was created in the Penal System Committee, whose main function is to review applications and complaints of convicts and control the observance of their rights. We understand that this is not the best option and therefore, the Penal System Committee intends to intensify its actions aimed at protecting the rights and lawful interests of convicts. In future, in order to control the operation of the administration of correctional facilities for securing the legal position of convicts and considering their complaints with respect to these matters, we think of creating a special inspection within the jurisdiction of the Ministry of Justice which will be a successor of the convicts legal protection board, however a new inspection will hold broader authorities. We assume that such inspection must be staffed with competent national specialists who will report to the Minister of Justice, exert departmental control over observance of the rights of convicts kept in correctional facilities and review and react to their complaints and applications.

A day or two ago, the Government of the Republic of Kazakhstan issued a resolution approving the Regulations on the Board of Trustees. We shall have to create and staff it, however we hope that this Board will have a profound effect on the law and order in the correctional facilities and will lead to improvement of convicts keeping conditions.

At the same time we have realised that without participation of the civil society the process of penal reformation will be difficult, and in this respect we have come through many difficulties starting from misunderstanding and open confrontation with non-governmental organisations and mass media and up to dialogue and mutual cooperation. Even today, a lot has been, and continues

to be, done together with international governmental and non-governmental rights protection organisations such as the OSCE, the International Centre for Prison Study, Penal Reform International in order to train the officers of correctional facilities to the international principles and norms of human rights. From 1999 until now 5 regional workshops have been held and 6 workshops were organised in cooperation with the Kazakhstan International Bureau for Human Rights and Rule of Law in settlements which helped to improve moral and psychological atmosphere and relations between officers and convicts.

Two projects “Penitentiary reform and human rights in the context of international norms and standards” and “Educational program for penitentiary system in the Republic of Kazakhstan” have been implemented. Currently, the Kazakhstan International Bureau for Human Rights and Rule of Law is involved in implementation of the project “Assistance to the reform of penitentiary system: legal education and securing the rights of convicts to qualified legal assistance”.

By establishing close cooperation between the penal system and non-governmental organisations, wide coverage in mass media of problems and achievements of our system in reforms progress, we have taken first steps to make our correctional facilities more open and transparent. Having opened to public our correctional facilities we have set up a community control over their activities. Now, a convict can at any time appeal to the community, which discipline officers of correctional facilities, since nothing can have such a pernicious influence on the relations between the officers and convicts as a chance to hide their actions.

In the last year alone there were 256 visits of non-governmental organisations to correctional facilities, and the number of press publications and TV coverage has exceeded 400. These figures coincide with the data for the previous five years.

Nowadays religion becomes more significant in moral and ethic education of convicts in Kazakhstan. Currently, there are 39 mosques, 14 churches and 38 pray rooms operate in correctional facilities. Representatives of 34 different religious confessions regularly visit correctional facilities. They not only read sermons and conduct religious ceremonies but also provide considerable humanitarian aid.

Close cooperation with non-governmental organisations and mass media allows to gradually altering the public consciousness and attitude to prisons. Highlighted in mass media, the problem of prisons ceases to be only our problem, it becomes a problem of the community, and the most active members of the community take part in the discussions of this problem and have an influence on the formation of public opinion.

Nevertheless, we would not say all about the reforms carried out in Kazakhstan if we forget to " mention the criminal policy reform. In his speech at the Congress of Judges the Head of the State noted that the criminal policy must have a twin-cone objective: it should lay stricter responsibility for commitment of crimes especially dangerous for the society and the State, on the one hand, and on the other hand, it should mitigate punishment for crimes of no serious social danger and make it more human, exercise humane attitude to people committed lesser crime. In other words, the penalty should be strictly dozed. The compliance with these principles will immediately result in reduced number of convicts being in prisons.

Therefore, the Government was instructed to draft law to introduce amendments into the Criminal Code, Code of Criminal Procedure and Execution Code of the Republic of Kazakhstan directed at humanization of imposition and execution of sentence. The working group, created by the International Penal Reform in cooperation with the Penal System Committee in Kazakhstan within the framework of the "Alternatives to Imprisonment" Project, took part in law drafting. The

working group was consisted of representatives of the Senate, Parliament, Supreme Court, General Prosecutor's Office, Ministry of Justice, Ministry of Internal Affairs, Ministry of Education and Science, Ministry of Public Health, Ministry of Social Protection, Kazakhstan International Bureau for Human Rights and Rule of Law, Association of Criminology and Bar Association of the Republic of Kazakhstan.

The working group prepared recommendations to amend appropriate laws and regulations of the Republic of Kazakhstan in order to decrease the number of imprisoned, and forwarded such recommendations to the Government of the Republic of Kazakhstan. Many of those recommendations have been incorporated in the draft law prepared by the Ministry of Justice. By now the Parliament has given the draft law its first reading, and will be further reviewed. The draft law stipulates milder liability for 54 *corpus delicti.* Furthermore imprisonment is proposed to exclude from the list of punishment for 24 *corpus delicti.* The punishment by imprisonment has been reduced for 27 *corpus delicti,* and as a result 19 *corpus delicti* were moved from one category of gravity to another one with lesser gravity. Sanctions for seven corpus delicti are expanded to include alternative sentence to imprisonment. Criminal and Criminal Execution Codes are proposed to be amended to introduce restriction of freedom as a type of the punishment.

In general, we have created a penal system development concept for the nearest perspective and discussed it at the international scientific and practical conference recently held in Almaty, organized by the Penal System Committee of the Ministry of Justice of the Republic of Kazakhstan jointly with the Office for Democratic Institutions and Human Rights / OSCE in Almaty and Representative Office of Penal Reform International in Kazakhstan and with the Constitutional and Legislative Policy Institute (Colpi). The representatives of the Presidential Administration, Government, Parliament, General Prosecutor's Office, Ministry of Justice of the Republic of Kazakhstan, lawyers, representatives of penitentiary systems and scholars in criminal law from Kazakhstan, Russia, Azerbaijan, Kyrgyzstan, Uzbekistan, Tajikistan, Poland, Sweden, UK, representatives of non-governmental and international organizations participated in the conference. As a result the concept was expanded and enriched owing to input of the participants in the conference.

The following priorities have been distinguished in the development of the penal system of Kazakhstan:

- to transfer of investigation cells and security and convoy functions from the Ministry of Internal Affairs to the Ministry of Justice;
- to improve logistical basis of the penal system;
- to humanize punishment execution;
- to train and develop personnel and scientific potential of the penal system.

And, finally, for you to better understand what progress our penal system has made over the last ten years, I must confess that if I had heard the same what I'm saying now ten years ago I wouldn't have believed myself and, to say more, I wouldn't have understood to set conditions for a wider application of punishments alternative to imprisonment.

Democratic reforms in the country, advanced progress of reforms have undoubtedly altered our State system and the society, as a whole. Even the penal system, the most conservative part of the State, which was designed to believe that a criminal as a social outcast, not a human being, and long before as a public enemy, now it regards each of its wards as a person who took a false step and who needs support from the State. Convicting a person to any punishment, the State and the community should solve these problems and not to disavow responsibility for those problems,

since the roots and reasons of the crime are at the bottom of the social order and its social problems.

Thank you for your attention.

4. Introductions to Working Sessions

a) SESSION 1: STRUCTURAL REFORM OF THE PRISON SYSTEM

Introducer: Nikolay Arustamyan, Head of department for Structural Reforms, Ministry of Justice of the Republic of Armenia

РЕФОРМЫ ПЕНИТЕНЦИАРНОЙ СИСТЕМЫ В РЕСПУБЛИКЕ АРМЕНИЯ

После приобретения независимости Республика Армения приступила к осуществлению ряда политических и организационных мероприятий, к интеграции международному сообществу, которые способствовали формированию нового общественного строя и создали базу для его развития. В этом процессе важное место занимало осуществление реформ в судебно-правовой сфере, в том числе глобальное реформирование пенитенциарной системы, разработка и принятие нового уголовного и уголовно-исполнительного законодательств. Это приобрело важность также в связи со становлением Республики Армения членом Совета Европы, которое, в свою очередь, подразумевало демилитаризацию пенитенциарной системы.

Имея в виду то обстоятельство, что в целях реформирования пенитенциарной системы РА был разработан соответствующий трехлетний проект (в основе которого лежали анализы об уголовно-исполнительной политике РА, проведенные в июле 1999 года в рамках программы ТАСИС, а также рекомендации экспертов Совета Европы), нижеследующие анализы представляются в свете вышеупомянутого проекта.

В 2000 году проект был одобрен Правительством РА, и суть его заключается в реорганизации системы исполнения уголовных наказаний МВД РА в Уголовно-исполнительную службу Министерства юстиции РА, а также проведение реформ на базе имеющихся в наличии материально-технических средств. Эти реформы в частности включают:

- разработка и осуществление необходимых правовых, административных, материальных и иных мер, направленных на улучшение условий содержания;
- более полноценную защиту прав этих лиц;
- осуществление всего обьема функций уголовно-исполнительной системы и обеспечение стабильной деятельности системы;
- дальнейшую гуманизацию условий и порядка несения наказания, разрешение проблем, связанных с организацией медицинского обслуживания и занятости заключенных;
- создание благоприятных условий для исправления, социально-психологической реабилитации заключенных – включением в этот процесс пбщественных обьединений и средств массовой информации;
- создание предусловий для понимания со стороны персонала уголовно-исполнительной системы необходимости применения международных стандартов обращения с заключенными, а также предусловий для обеспечения гарантий для правовой и социальной защиты персонала;
- создание необходимых учебных условий для персонала системы.

Проект состоит из двух основных фаз: первая – сам процесс перевода системы исполнения уголовных наказаний из МВД в МЮ РА, вторая – развитие уголовно-исполнительной системы. Продолжительность проекта – 3 года. Начало проекта совпадает с первой его фазой, официально – 1-ое октября 2001 года.

Подготовилтельные работы.

Правовая сфера.

В списке подготовительных работ стоило бы отметить создание Министерством юстиции соответствующего подразделения для разработки и осуществления уголовно-исполнительной политики – Управления структурных реформ, еще при нахождения системы в структуре МВД. Этот шаг позволил осуществить переход (первую фазу) более чем гладко, а также создать возможность для развития системы (вторую фазу).

Стоило отметить также разработку проектов двух законов Министерством юстиции РА: Закона РА “О правовом статусе УИС” а также Закона РА “О внесении дополнения в Закон РА “О социальной защите военнослужащих и их семей””.

Указом Президента РА NH – 705 от 27-ого февраля 1997 года был утвержден временной указатель принятия кодексов и законов, необходимых для судебно-правовых реформ, который включает в себя также Уголовно-исполнительный кодекс.

В этой цели решением Премьер-министра РА N^{o} 561 от 25-ого сентября была создана рабочая группа для организации переразработки проекта Уголовного кодекса и разработки проекта Уголовно-исполнительного кодекса. В эту группу были влечены специалисты различных ведомств.

В ноябре 1998 года в Ереване была проведена экспертиза концепции Уголовного кодекса.

Параллельно с разработкой со стороны рабочей группы проекта УК в рамках программы ТАСИС была проведена текущая экспертиза проекта, а после его разработки, в сентябре 1999 года была проведена еще дна экспертиза экспертами Совета Европы.

После принятия первым чтением проекта УК Национальным Собранием предусматривается еще раз представить его на экспертизу Совета Европы.

Совестно с проектом Уголовно-исполнительного кодекса был разработан также проект Закона РА “О вступлении в силу Уголовного кодекса РА” и проект Закона РА “О содержании под задеранных и арестованных лиц” (принят в феврале 2002 года) которыые, вместе с проектом кодекса прошли те же процедуры. Разработан также проект закона РА “Об уголовно-исполнительной службе”.

Кроме вышеизложенного, предусматривается разработка и принятие ряда правовых актов, которые будут обеспечивать целостность деятельности УИС.

Проведено большое количество практических реформ.

1. Первая фаза. Реорганизация системы

Первая фаза в свою очередь предусматривает две подраздела, первая из которых включало работы по разработке основных правовых актов касательно самого процесса перевода, которые были представлены обсуждению законодательных и исполнительных органов.

1.1. Здесь приобретает важность окончание разработки и принятие законодательных актов (Закон РА “О правовом статусе УИС” а также Закон РА “О внесении дополнения в Закон РА “О социальной защите военнослужащих и их семей””).

Необходимость принятия Закона РА “О правовом статусе УИС” была обусловлена обязательствами, взятыми на себя Республикой Армения, в связи со становлением члена Совета Европы. В частности, в рекомендации N^{o} 221 Совета Европы было отмечено, что в течение шести месяцев со дня становления членом Совета Европы должен быть принят закон о переводе под ведомство Министерства юстиции из Министерства внутренних дел и национальной безопасности системы мест лишения свободы, в том числе следственные изоляторы и исправительные колонии, обеспечивая тем самым глобальные реформы и демилитаризацию системы, а также обеспечивать эффективное исполнение этого закона в

течении шести месяцев со дня его принятия. Сроки принятия и вступления в силу закона выбраны, учитывая эту рекомендацию.

Проект Закона РА “О социальной защите военнослужащих и их семей” был разработан, учитывая необходимость сохранения социальных гарантий для персонала системы. Изучение международного опыта показывает, что сохранение социальных гарантий для персонала (они сохранены во всех тех странах СНГ и Прибалтики, где этот перевод осуществлен) обусловлено с необходимостью предупреждения возможной утечки кадров из системы. Кроме того, отсуствие таких гарантий приведет осложнению пополнения системы новыму кадрами.

1.2. Второй подраздел – конкретные действия, направленные на реорганизацию системы исполнения наказаний на уголовно-исполнительную систему МЮ. Логическим продолжением принятия вышеуказанных законов (пункт 1.1) являялось решение Премьер-министра РА о внесении изменений в уставах МВД и МЮ РА, которым была фиксирована функция МЮ по исполнению уголовных наказаний.

Следующим шагом осуществления проекта являлось утверждение уставов Уголовно-исполнительного управления и уголовно-исполнительных учреждений. Этим регулировались задачи управления и учреждений, а также их статус, структуру, функции структурных подразделений, правомочия.

Этому последовало утверждение штатов учреждений и органов системы.

В первой фазе проекта кадровые изменения не проводились, в целях предупреждения возможной утечки высшего офицерского состава. В результате этой политики только 50 сотрудников системы не выразили желания работать в Министерстве юстиции.

Предусматривалось параллельно осуществить перевод имущества УИ учреждений и органов из баланса МВД в баланс МЮ. МВД и МЮ совместно утвердили график, и созданные комиссии осуществили учет имущества, а также перевод имущества и обязательств с помощью соответствующих документов.

Работы, предусмотренные первой фазой проекта, полностью завершены и соответствующие правовые акты в целом приняты или утверждены в установленных сроках - до 1-ого декабря 2001 года.

2. Вторая фаза. Развитие УИС

2.1. Правовое обеспечениереформ в УИС.

Для реформирования УИС важное значение имеют разработка и принятие таких правовых актов, как Уголовно-исполнительный кодекс, проекты законов РА “О содержании задержанных и арестованных лиц” и “Об уголовно-исполнительной службе”.

Проект Уголовно-исполнительного кодекса давно представлен в Национальное Собрание, но, как можно догадываться, этот кодекс последует принятию Уголовного кодекса.

Как я уже отметил, в феврале 2002 года был принят закон РА «УО содержании задержанных и арестованных лиц». Этим внеслось ряд значительных изменений в сфере осуществления прав задержанных и арестованных лиц, в частности, в вопросах разрешения задержанным и арестованным свиданий с близкими родственниками, правового статуса этих лиц. До принятия этого закона порядок содержания задержанных и арестованных лиц в соответствующих учреждениях регулировался Законом РА «Об утверждении устава взятия под предварительное заключение». Во время разработки проекта закона максимум учтены положения Европейских тюремных правил. До принятия закон прошел ряд экспертиз.

Разрабатывается проект закона РА «Об уголовно-исполнительной службе», которым будут регулироваться порядок и условия несения службы служащими уголовно-

исполнительной системы, вопросы социальной, правовой защиты последних. Службу мест лишения свободы предусматривается превратить в автономную социальную службу. В этом направлении разрабатываются соответствующие нормативные акты. Проектом вышеуказанного закона предусматриваются специальные невоинские звания. Разрабатывается соответствующий акт, которым в систему будет внедрена новая форма одежды.

Нужно отметить, что многие структурные изменения, в том числе изменения, направленные на организацию осуществление новых видов наказаний, предусмотренных проектом нового Уголовного кодекса, могут быть реализованы только после принятия нового уголовно-исполнительного законодательства (в частности, создание исправительных центров и домов ареста, в которых будут осуществляться соответственно ограничение свободы и арест). Этот вопрос будет решен принятием Закона РА "О вступлении в силу Уголовно-исполнительного кодекса", которым возможно будет начать применение этих видов наказаний позднее.

После принятия законодательства предусматривается разработка более двух десятков правовых актов, а также многочисленные работы, которые обеспечат целостную деятельность УИС. Эти акты и работы предусмотрены временным указателем реформ УИС РА, который был утвержден указом Президента РА от 3-его марта 2001 года. В частности:

Решения Правительства РА:

- "Об утверждении местонахождения и структуры дисциплинарных батальонов";
- "Об утверждении перечня работ, запрещенных осужденным";
- "Об утверждении порядка применения физической силы, специальных средств и огнестрельного оружия в исправительных учреждениях и в местах содержания под стражей".
- Приказы Министра юстиции РА:
  "Об утверждении порядка осуществления ведомственного надзора над деятельностью исправительных учреждений";
- "Об утверждении порядка осуществления общественного надзора над деятельностью исправительных учреждений и мест содержания под стражей";
- "Об утверждении порядка направления осужденных в исправительные учреждения";
- "Об утверждении Инструкции о порядке исполнения наказаний в виде лишения права занимать определенные должности или заниматься определенней деятельностью и осуществления контроля за поведением условно осужденных, осужденных беременных женщин и женщин, имеющих малолетних детей, к которым применена отсрочка отбывания наказания";
- "Об утверждении порядка осуществления надзора над лицами, освобожденными от несения наказания";
- "Об утверждении должностных инструкций работников уголовно-исполнительной службы";
- "Об организации деятельности специальных подразделений уголовно-исполнительной службы".

Приказ Министра обороны РА "Об утверждении Инструкции об организации надзора над военнослужащими в случае условного неприменения наказания".

Приказы Министра здравоохранения РА:

- "Об утверждении правил применения внебольничного психиатрического надзора и принудительного лечения";
- "Об утверждении правил применения принудительных мер медицинского характера, соединенных с исполнением наказания";

- “Об утверждении правил применения принудительного лечения в психиатрических больницах”.

2.2. Инфраструктурное обеспечение реформ в УИС.

Обязательным условием реформ пенитенциарной системы является пересмотр основных направлений деятельности руководствующих органов. Передача пенитенциарной системы в юрисдикцию Министерства юстиции и ее деятельность как сравнительно автономной, но единой централизованной структуры, требует пересмотр рамок правомочий различных служб, руководствующих органов. Реорганизацию необходимо совместить с улучшением организационной структуры органов и учреждений, четко разграничив полномочия между центральными и территориальными (которые являются структурными подразделениями центральных органов) органами управления пенитенциарными учреждениями.

Пересмотрены статусы центрального органа управления УИС и его структурных подразделений. Сказанное касается также пересмотру и перераспределению штатов.

Дан старт процессу создания качественно новой компьютерной системы учета и информационно-аналитической, а также статистической служб.

В структуре УИ управления созданы новые подразделения: отдел по правовум и международным отношениям, отдел по социально-психологической реабилитации, отдел по медицинскому обеспечению. Не предусмотрены отделы по воспитательной работе и оперативной работе.

Но большинство дел касательно инфраструктуры еще впереди. Речь идет о создании уголовно-исполнительных инспекций и специальных подразделений.

Уголовно-исполнительные инспекции будут являтсья структурными подразделениями Уголовно-исполнительного управления и будут в основном осуществлять наказания, не связанные с лишением свободы. К этому нужно еще прибавить контроль над условно осужденными лицами и лицами, условно-досрочно освобожденными от несения наказания, если такое назначено судом.

Специальные подразделения также будут являться структурными подразделениями Уголовно-исполнительного управления и будут осуществлять функции по охране и сопровождению осужденных и арестованных лиц. Эти изменения будут осуществлены после вступления в силу соответственно Уголовно-исполнительного кодекса и Закона РА “Об уголовно-исполнительной службе”.

2.3. Подготовка и переподготовка кадров УИС.

Параллельно с реорганизацией УИС нужно проводить комплекс мер, направленных на кадровое обеспечение системы, на воспитание сотрудников с новыми убеждениями, на повышение общественного авторитета сотрудников системы. Предусматривается даже решить вопрос об определении "Дня уголовно-исполнительного сотрудника",

Для обеспечения удачного продолжения осуществляемых реформ необходимо иметь постоянную систему подготовки и переподготовки уголовно-исполнительных служащих. В настоящем эту функцию осуществляет Юридический институт Министерства юстиции РА, который, совместно с Уголовно-исполнительным управлением Министерства юстиции РА осуществляет различные проекты по переподготовке персонала.

С января 2002 года при содействии фонда Сороса и ОБСЕ осуществляются курсы переподготовки в соответствии с международными стандартами. Учитывая важность этого вопроса, будут искаться пути для продолжения этого процесса.

Для создания постоянной системы необходимо иметь постоянную профессуру. В этом плане важна роль иностранных экспертов, в частности, в вопросах организации

training of trainers. В этой сфере предусматривается развивать сотрудничество с Ереванским офисом ОБСЕ.

2.4. Занятость осужденных.

Для укрепления производственных возможностей пенитенциарных учреждений и решения тем самым задач, связанных с занятостью осужденных решением N^{o} 888 Правительства РА от 22-ого сентября в 2001 году был создан фонд «Содействие осужденному», который уже взялся за работы по основанию и развитию производства в указанных учреждениях. При УИ учреждениях созданы подразделения этого фонда. Этим появилась возможность осуществления любыми не запрещенными видами деятельности, с целью обеспечения занятости осужденных. Важно то обстоятельство, что в дальнейшем фонд будет осуществлять также неприбыльную деятельность, так как занятость осужденных нужно считать положительным фактором даже при финансовых потерях.

В 2002 году восстановлены и работают швейные, токарные цеха. В агропромышленных целях обрабатывается около 50 га земли. В скором времени будут работать скотоводческие и птицефермы.

Политика в этой сфере полностью локализована, то есть фонд при учреждении сам решает какую деятельность осуществить. Конечно, приоритет дается тем видам деятельности, которые способствуют социально-психологической реабилитации осужденных.

Организация медицинского обслуживания.

Один из самых важных аспектов реформ является медицинское обслуживание заключенных. В скором будущем экспертизе Совета Европы будет представлен акт под названием «Порядок медицинского обслуживания лиц, содержащихся в уголовно-исполнительных учреждениях», перевод на английский которого осуществляется Ереванским офисом ОБСЕ.

С помощью Международной Организации Красного Креста созданы соответствующие условия (новое здание) для нормального содержания и амбулаторного лечения больных открытым типом туберкулеза, учитывая тенденции распространения этой болезни.

Приобретена новая медтехника. Делается попытка привлечь внимание доноров для более масштабных изменений в этой сфере.

С окон мест содержания под стражей снимаются металлические жалюзи, в целях улучшения натурального освещения.

2.6. Социально-психологическая реабилитация заключенных.

Необходимо сохранить и развить деятельность в направлении социально-психологическая реабилитация заключенных. В этой цели разрабатывается концепция воспитательно-профилактических работ с заключенными, для регулирования чего в УИ управлении создан отдел по социально-психологической реабилитации заключенных.

Нужно способствовать сохранению и укрепления связей заключенных с родственниками, а также деятельности религиозных и других организаций, которые прошли соответствующую государственную регистрацию.

В этом направлении предусматривается развить сотрудничество с благотворительным фондом “Ганс Кристиан Кофоед”, а также найти узлы сотрудничества с другими организациями.

Новостью в системе являются духовно-религиозные мероприятия. Созданы соответствующие помещения для религиозных обрядов. Заключенные пользуются

средствами массовой информации. Прекращены ограничения для переписи. Разрешаются каждодневные телефонные переговоры, с продолжительностью 5-7 минут.

Развитию деятельности в направлении социально-психологической реабилитации заключенных способствует открытость системы – в плане сотрудничества с общественными организациями.

Места лишения свободы являются зеркалом общества. В этом плане важно развивать двусторонние отношения между обществом и заключенными, то есть, в этом должны быть заинтересованы все. То есть, места лишения свободы должны быть открыты для общественных, благотворительных, религиозных, а также культурных организаций, поскольку эти организации смогут решить следующие задачи:

- предоставление заключенным информации об их статусе и прав, а также о других правовых вопросов;
- оказание помощи заключенным в вопросах организации дальнейшей жизни после выхода на свободу;
- оказание особой помощи беззащитным группам заключенных, таких как женщины, несовершеннолетние и молодые заключенные.

Роль упомянутых организаций важна еще тем, что с их помощью общественность информируется о реальной ситуации в местах лишения свободы. В плане обоснования необходимости сотрудничества с общественностью приобретают значимость такие обстоятельства, как высокий авторитет мест лишения свободы, а также низкая эффективность массового применения лишения свободы в борьбе с преступностью.

2.7. Необходимые финансовые средства для осуществления проекта.

Для осуществления первой фазы программы – для изменения подчиненности системы, серьезные финансовые вложения не понадобились. Сделаны лишь незначительные расходы в рамках госбюджета (государственная регистрация недвижимости, предоставление новых удостоверений).

Что касается осуществлению второй фазы - развитию УИС, без сомнения, необходимы финансовые вложения, которые предусматривается осуществить самостоятельно - за счет доходов фондов при УИ учреждениях,

Тем не менее, учитывая разнообразность и масштабы задач, которые стоят перед УИС, а также работы, предусмотренные проектом, основные задачи еще впереди.

Таким образом, закончив выступление, я бы хотел еще раз подчеркивать его основные тезисы. Пенитенциарная система РА сильно нуждается в реформах. Основой для реформ должно являться принятие нового уголовно-исполнительного законодательства. Подчеркивая это, отметим, что реформы должны носить комплексный и систематизированный характер, меняя представления общества о карательной системе, включая международно-правовые и, почему бы нет, также экономические методы и стандарты управления, развивая новое правовое мышление.

b) SESSION 2: THE HUMAN DIMENSION OF PRISON REFORM – STAFF AND INMATE ISSUES

Introducer: Vesna Babic, Treatment Service Director, Croatian Prison Service, Ministry of Justice of the Republic of Croatia

I. INTRODUCTION

Instead of a formal introduction, I decided to provide a short history of co-operation between the Croatian Prison System and the OSCE-ODIHR, for a fair share of the following presentation actually presents the consequences and results of that co-operation.

OSCE first offered the assistance in prison system reform in 1997, and it begun with analysing problems regarding treatment of prisoners and security of prisons. The necessity of organised and adequate training for prison staff came up in 1998. At that point, we used to have only fragmentary training for uniformed staff at the Police Academy, and no systematic training whatsoever. OSCE-ODIHR provided assistance through: experts' opinions, study visits for Croatian prison officers in United Kingdom and in Poland, as well as in "training for trainers" projects approved for several Croatian prison officers, and which our colleagues from HM Prison Service successfully accomplished.

The basic training for new generation of uniformed staff at Training Centre began at the end of 1999, and our sixth generation finished that training a couple of weeks ago. In order to keep up with professional needs of other staff (treatment experts, health-care staff and high-ranking uniformed officers), we organised numerous specialised courses regarding drugs in prison; contagious diseases; treatment of drug-and alcohol addicts; treatment of prisoners with PTSD; alternatives to violence; the drama-therapy etc.

In addition, some ten days ago, OSCE organised and the trainers of Croatian Prison System accomplished the introductory training for future trainers of Montenegrin Prison Service. Given the motivation of our colleagues, I truly hope that their Training Centre will begin working in short period of time.

At this point I would like to express gratitude and thankfulness to OSCE experts for given professional assistance, and specifically for their patience and support in situations when we faced delays and difficulties. The exchange of experiences, discussions concerning our professional doubts and realistic perception of situations brought us back to our senses and showed us the path we are willing to take. We were enabled to add to our knowledge the experience and the knowledge of our colleagues from various prison systems, and therefore to create an authentic programme founded on our penology tradition, which we are proud of.

However, within this issue of "Human Dimension in Prison Reform", I would like to share with you some thoughts regarding the importance of prison staff training in line of prisoners' treatment, and in the aspect of respecting human rights.

Human rights and all the discussions attached to this issue seem to be one of central topics in countries that have been changing their social frames and developing them in the direction of pluralistic West-European democracy tradition. On the other hand, the fulfilment of accepted declarations, standards, rules and recommendations is a difficult task, and it requires more than a good will on a governing level. Moreover, legal provisions are not the only source of human

rights, but they rather result from customised practice in wider socio-cultural context. Their implementation is related to numerous differences, which vary from one society to another and from one social population to another as well. Human rights of prisoners (all persons deprived of their liberty regardless of the legal background, i.e. remand prisoners and convicted offenders) present a specific category for they are related to population that was legitimately deprived of the basic right – freedom. In this context human rights bear an additional burden, and respecting of those rights expresses the complete civilisation level within a society. The prison population should be viewed as an integral part of the whole population in a particular social community, and therefore the protection of their human rights should be equal to those provided for the rest of the people in that very society. Moreover, protection of prisoners' human rights must be given particular care. Specifically, it is a well-known fact that people serving imprisonment sentence have significantly worse living conditions than the rest of population, and human beings should never lose fundamental human rights.

The very purpose of building the training system for prison staff, being the inevitable part of reforms and development of prison systems and based on the international standards, is the undoubted fact that the violation of human rights of prisoners is not always and entirely result of social hypocrisy, but it is often the consequence of the pure ignorance.

One may assume that contemporary reforms of national prison systems will, in their legislature, involve principles stipulated by international standards, but their implementation in daily proceedings towards prisoners will certainly not begin unless they become an integral part of personality and character of each end every person who work with prisoners.

II. THE IMPORTANCE OF SETTING THE RECRUITMENT CRITERIA

There are more than few factors making a job of a prison officer demanding and complex. Staff faces tasks that seem to involve contradictory demands. The priority task of prison staff is to organise prisons in a manner that will protect society from dangerous prisoners. Some of prisoners require high level of security, and on the other hand, for some of them the minimum security will be sufficient.

In small areas and in various situations prison staff faces enormous diversity of personalities, maturities, philosophies of life, education levels, cultures, people who committed different offences and who often express personality disorders, that is people of various capabilities and needs. At the end of the day, each of those people must be taken care of by paying attention to one's specific characteristics and needs.

Prison staff should organise prisons in a manner that will make them safe and secure places not only for prisoners, but for employees as well. Safe prisons require intensive work different from supervision and guarding; this involves communication, rightfulness and consistency in proceedings, organisation and supporting of numerous and various activities and treatment programmes, including the trust-building surroundings.

Prison staff should organise life in prison in a way that will provide a prisoner with preparation for life in freedom at the very point of admittance on serving imprisonment sentence. Prison staff should encourage a prisoner to using time in prison in a way that will help him behaving more responsibly after release, and motivate him, through work and education, in acquiring necessary skills for independent life adjusted to social rules.

All those tasks are mutual to all prison staff and all of them are subordinated to one ultimate aim, which is organisation the enforcement of the imprisonment sentence in a way providing prisoners with different activities and treatment proceedings in safe and secure conditions, and in order to prepare them for life in freedom by reducing damaging consequences of living in limited prison conditions as much as possible.

It is obvious that only highly motivated people having personal characteristics and capabilities enabling them to do such a demanding job can achieve those tasks. Therefore, throughout the recruitment procedure special attention should be related not only towards the fulfilment of formal demands, but also to specific personal requirements due to the nature and character of duties in prison system.

III. PRISON STAFF RECRUITMENT PROCEDURE – A PROPOSAL

The procedure of recruiting prison staff starts with "administrative" checking of formal requirements, which are in most cases stipulated in law. Together with an application form and required documents, applicants should provide a completed questionnaire involving data regarding: success in school, some special knowledge or skills acquired in additional training (like: sport skills, therapeutic techniques, foreign languages, PC skills etc.), as well as free-time interests and activities, or hobbies (arts, sports etc.).

A three member's board interviews applicants who made to finals. One of the board members is always the expert in that specific area of work.

The next stage involves testing the applicant on particular attributes for performing specific jobs in prison system like aggressiveness, impulsive reactions, neurotic disorders, empathy, capability for teamwork and so on.).

In the following stage, chosen applicants should pass targeted medical exams that should prove their having of appropriate sensory and physical capabilities for specific working posts.
In addition, all newly recruited prison staff members should pass training courses that differ due to specific working posts.

IV. PRISON STAFF TRAINING: A MODEL EXAMPLE OF THE CROATIAN PRISON SYSTEM

Targets:

1. Consistent proceedings in accordance with legal provisions and international standards
2. Treatment of prisoners in accordance with contemporary achievements of penological practice
3. Promotion of prison officer's professionality

Training modalities:

The training concept offers possibilities of involving all prison officers through:

1. Introductory training
2. Basic training course for uniformed staff
3. Additional courses

Introductory training is provided for all newly recruited staff members. It takes place in every prison and penitentiary. A mentor is appointed to the employee. During five days, and two hours daily, his (or hers) duty is to make this new staff member familiar with organisation of work in penitentiary or prison, with basic standards of proceedings with prisoners, and with specific requirements of the working post.

The basic training course for uniformed staff is provided for newly recruited officers who, and again under the mentor's supervision, work during three months. After that time, in another four months they attend a training course in the Training Centre. Each month they have seven days of practical training in the penitentiary or in the prison where they work. Only after passing the final exam at the end of the course, new recruits become full members of staff. Given that uniformed staff presents the most numerous and fundamental service in prison system itself, please find attached the detailed training programme.

All kinds of **additional courses** are organised as a form of continuous training for all the employees throughout their service in prison system. The aim of those additional courses is refreshing and updating of knowledge. Those courses are prepared for groups of participants in accordance with their profession and work.

Prison system officers are appointed trainers in charge of training activities. This conception showed advantage in possibility of daily contact with practice, and in re-checking of programme efficiency.

The training programmes are open to changes due to existing needs, and their functionality is in direct relation to capability of adjustment to specific needs of work.

The common issue lies in conceptualising each lesson in a way that shows practical implementation of stipulated international standards.

We target and promote the approach of making each officer a member of a group having identical professional aim, and whose personal involvement is equally valuable regardless of the work one actually does.

We promote the attitude of one's professional capability, being the resource of the authority and power of a prison officer.

Consequently, we promote the approach of direct relation between the security of penitentiaries and prisons on one side, and the communication and improvement of relationship between prisoners and employees on the other.

V. INSTEAD OF A CONCLUSION

It is indisputable that some things could have been done differently. Initially we burdened the basic courses with too many theoretical lessons. The experience we acquired in the meantime pointed us in a somewhat different direction, and consequently resulted with the approach, which emphasises practising of skills and techniques required in daily work. Now it seems that training of prison staff would be significantly more effective if we started with programmes for governors and superior senior officers. One of several reasons certainly lies in the fact that the organisation of management would be more efficient and subordinated to promoted principles. Our students have various difficulties in applying skills and knowledge they acquired on training courses within

teams complied of senior colleagues who had no such training. In addition, it seems that additional training and re-education of senior staff would be a good approach.

The thoughts I presented, and the training model I suggested are rather some kind of a good start for a more thorough discussion, for the exchange of ideas and experiences regarding possible approaches in acquiring mutual targets and benefits for both, prisoners and employees, and at the same time.

BASIC COURSE TRAINING PROGRAMME
FOR NEWLY RECRUITED UNIFORMED STAFF

1. Legal Background:
   - Criminal Code
   - Criminal Procedure Code
   - Code on Enforcement of Probation and Community Service in Freedom
   - Criminal Justice Regime for Juveniles (basic background)
   - The Enforcement of Imprisonment Sentence Act (detailed)

2. Treatment of Prisoners:
   - International prison rules and standards, human rights;
   - Prison as a part of social community;
   - Attitudes towards prisoners;
   - The loss of freedom and its influence on human behaviour;
   - Prisoners' diagnostics – planning the enforcement of imprisonment sentence;
   - Treatment procedures – work, sports and cultural activities, education and vocational training; working with specific groups (drug addicts, alcohol addicts, prisoners with PTSD etc.);
   - Psychopathology – prisoners with mental disorder;
   - Effects of stress;
   - Prisoners' risk behaviours – strategy of preventing violent behaviour;
   - Modalities of individual-and group work;
   - Training of communication skills;
   - Co-operation and team work;
   - Specific issues in treatment of juveniles;
   - Specific issues in treatment of female prisoners.

3. Specific Tasks of uniformed staff:
   - Procedure at the entrance to prison or penitentiary;
   - Procedure of prisoner's admittance (remand prisoner and convicted offender) – Admittance form;
   - Body search;
   - Cell and premises search;
   - Official records;
   - Acquirement of evidence and its presentation in a disciplinary procedure;
   - Securing and searching a crime scene in penal institutions;
   - The use of violence;
   - Escort;
   - Visiting hours and contacts with an attorney;
   - Procedures of officers in cases of incidents;
   - Riots and hostage situations;
   - Drugs in prisons;
   - Psychological manipulation of prison staff;
   - Techniques and methods of supervising high-security risk prisoners;
   - Technical equipment (video surveillance, metal detectors, radio communication).

4. Exercising team work – team building