



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

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English only

Committee against Torture

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

Addendum

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

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* The present document is being issued without formal editing.

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In relation to item 6 (a and b), 10 and 18 of the concluding observations, the Croatian government declares as follows:

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

Question 6a – Supplement

1. Our letter ref above cited Articles 134 and 158 of the Misdemeanor Act (Official Gazette 107/07, 39/13, 157/13 and 110/15); however, in support of human treatment we would like to add Articles 86 and 109a of the Misdemeanor Act specifying that a person arrested or detained for suspicion of having committed a misdemeanor shall instantly be informed of the reason(s) of his/her arrest or detention. Also, at his/her request the competent authority informs thereof his/her family or other person of his/her own choosing. If the person is interrogated as a suspect or defendant, he/she is informed that he/she is not obligated to give a statement and that he/she has the right to expert assistance of a lawyer of his/her choice. The police fill out the Arrest Report.
2. In addition, before the proposal of indictment is filed with the competent court or other authority competent in the matter, authorized plaintiff has to establish the person's exact permanent or temporary address, or the address of the head office, and present the person with written notification in the language he/she understands, containing the following information:
3. The misdemeanor regarding which the indictment proposal is to be filed against the person, including the facts and legal description of the misdemeanor:
 - (i) During the proceedings, he/she may freely present his/her defense or submit it in written form, may refrain from presenting his/her defense, or refrain from replying to a specific question,
 - (ii) During the proceedings he/she has the right to view the file and get acquainted with the evidence gathered against him/her,
 - (iii) During the proceedings, he/she may defend himself/herself either on his/her own or with the assistance from a lawyer of his/her choice. However, should the lawyer fail to appear at the court hearing or should the lawyer be engaged at the very hearing, the hearing shall not be cancelled for such reasons,
 - (iv) During the proceedings he/she may file proposals for taking of evidence for his/her defense,
 - (v) The court hearing may be held even in his/her absence, as well as the verdict on the misdemeanor reached,
 - (vi) He/she are obliged to notify the authority competent in the matter of any change in his/her permanent or temporary address, or the address of the head office, until the proceedings is validly finalized and enforced; failing to do so, or avoiding the delivery, will result in all documents being delivered by means of the notice board of the authority competent in the matter,
 - (vii) During the proceedings he/she has the right to use his/her language, i.e. the right to an interpreter if the proceedings or any part thereof is conducted in the language other than his/hers. He/she may waive this right if he/she speaks the language in which the proceedings, or any of its parts, is conducted,
 - (viii) He/she has the right to amicable settlement.

4. The form of the written notification is made in two copies, which will be signed by the perpetrator proving that he/she has received it, and the authorized official of the authorized plaintiff. One copy of the notification is enclosed with the indictment proposal, and the other is served to the perpetrator.
5. Items 1 through 5 of Article 7(2) of the Criminal Procedure Act expressly define the rights that are to be immediately communicated to the arrested person. These rights include the right of the arrested person to expert assistance from a lawyer of his/her own choice or selected from the list of on-duty lawyers, as well as to emergency first aid assistance. Aiming at monitoring the implementation of its provisions, the Act sets out a form entitled 'Instruction on the Arrestee's Rights' (translated into several languages) which is being filled out at the moment the arrested person is being informed of his/her rights and signed by the arrestee by his own hand. Upon arriving at the detention unit, the Instruction and the Arrest Report are presented to the detention officer. The detention officer once again informs the arrested person of his/her rights after which the Instruction, replies and request are noted in the detention record (which is delivered to the state attorney) and the detainee's personal file.
6. Emergency first aid assistance is provided to the arrested person in the detention unit at his/her request or if the detention officer believes it necessary. The medical examinations are provided by the emergency medical team sent by the dispatcher of the Emergency Medical Service (emergency call number 194) of the town or municipality in question. There is no special medical team for the needs of the police providing first aid assistance only to arrested persons. If the leading member of the medical team believes that further medical care in a health care institution is necessary, the arrested person will be taken in an ambulance to the nearest hospital or other health institution as determined by the physician.
7. Please note that that Article 14 of the Police Duties and Powers Act (Official Gazette 76/09 and 92/14), lays down that the police officer applies police powers in accordance with the Constitution and the Law and is obligated to respect dignity, reputation and honor of each person, as well as other fundamental rights and freedoms of man. The police officers are to take special care when addressing children, minors, the elderly and the disabled, as well as victims of crime and misdemeanor.
8. Furthermore, we believe that the right of the persons to whom pretrial detention has been ordered to access to independent medical examination upon their own request, when arriving at prison, is fully regulated by the Ordinance on House Rules in prisons for serving pretrial detention as it has been described in the previous statement. The mentioned Regulation ensures the right to unimpeded and without surveillance access to a lawyer of their choice. We shall mention that before entering in a prison the person deprived of liberty is usually in a status of a detainee for 48 hours, which is under the competence of the Ministry of the Interior. We suppose that the observations of the Committee relate to the first and most sensitive period of deprivation of liberty.

Question 6b – supplement

9. The previous reply to the question states that Articles 20 and 21 of the Rules on reception and treatment of arrested and detained persons, as well as the Records on detained persons in detention police unit (Official Gazette 88/09 and 78/14), provide health care provisions for detained persons.
10. We avail of this opportunity to supplement the reply with the provision of Article 21(1) of the above mentioned Rules stipulating that, with approval of the competent state attorney or judge of investigation, the detainee in the detention unit may be seen and examined by a physician of his/her own choice.

Item 10 – Independent monitoring places of deprivation of liberty

11. Regarding the provision of funds for the work of the National Preventive Mechanism, we shall mention that, in accordance with Article 10 of the Act on the National Preventive Mechanism against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the funds for the performance of the activities of the National Preventive Mechanism are ensured in the state budget on a separate item, within the budget of the Office of the Ombudsman, and as such, the mentioned item is not within the competence of the Ministry of Justice.

12. With regard to the question of giving opportunities to organizations to independently carry out visits to persons deprived of liberty, we shall mention again that in March 2015, it was published the Act on the Amendments to the Act on the National Preventive Mechanism against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which is aimed at increasing the efficiency by enabling a larger number of visits to places where there are located or may be located the persons deprived of liberty, and more active participation of associations, independent experts and special ombudsmen in the performance of the NPM. The mentioned amendments enable an increasing number of visits to places of deprivation of liberty in a way that the inspections of such places, conducted by the Ombudsman independently, can be considered as visits of the NPM. Furthermore, the amendments have enabled more active participation of a larger number of organizations registered for performing activities in the field of protection of human rights and the inclusion of a larger number of independent experts, which contributes to increasing the efficiency of the performance of the activities of the NPM, and thus strengthen the protection of the persons deprived of liberty. At the moment the Ombudsman chooses the associations with which s/he will conclude a cooperation agreement through a public call. In this way it is enabled a significantly wider, and therefore high-quality cooperation with organizations in the performance of the NPM activities.

Item 18 – Training of personnel

13. Operational Communications Center of the Ministry of the Interior regularly conducts courses for training police officers to be detention officers.

14. In this regard, we would like to point out that the Directorate for Prison System of the Ministry of Justice is aware that there is not only an obligation but also a necessity for the officials of the prison system, especially the medical staff, to organize a comprehensive gender-specific education dealing with persons deprived of liberty, especially in the investigative procedure, in relation to the identification of signs of torture and abuse. As stated before, the Directorate for Prison System is participating in two projects which both contain a component that relates to the training of officials and it will make further efforts to grant the carrying out of the mentioned education as soon as possible. Medical staff (doctors, nurses and technicians) are members of professional associations within the prison system that systematically organize educations and the Directorate for Prison System will encourage the organization, within the ordinary work of the associations, of gender-specific educations dealing with persons deprived of liberty, particularly in the investigative procedure in relation to the identification of signs of torture and abuse.
