

Protection of Prisoners' Human Rights in Croatia: Analysis of Legal Framework and Practice*

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Prisoners represent a specific group in terms of human rights protection. The aim of this paper was to contribute to this topic by analysing the legal framework and practise of the protection of prisoners' rights in Croatia, specifically implementation of European Prison Rules in domestic legislation and the protection of prisoners' human rights from the perspective of national and international monitoring bodies and the European Court of Human Rights. In order to achieve the aim of this paper, four research questions were set up: 1) Is the Croatian legislation harmonised with the European Prison Rules in terms of the selected provisions (basic principles and inspection and monitoring rules) on respect for the human rights of prisoners, 2) What does the protection of prisoners' rights look like in the practise of Croatian monitoring mechanisms, 3) What is the picture of prisoners' rights protection in Croatia from the perspective of Committee for Prevention of Torture (CPT), and 4) What are the most frequent violations of the rights of Croatian prisoners from the practise of the European Court of Human Rights? Results showed that Croatian legislation is harmonized with the European Prison Rules (in analysed topics) (1), and that the main challenges are material conditions, overcrowding and the shortage of the prison staff having a cascading effect on violation of prisoners' rights (2, 3, 4). While significant strides have been made, continuous efforts are necessary to address persistent challenges.

KEYWORDS: human rights / prisoners / Croatia

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Introduction

Prisoners' rights are a very specific topic due to the specific context of their implementation. They can be viewed within the frame of correctional philosophy in modern society. Although prison as a criminal sanction has been widely criticised in terms of its potential to rehabilitate the offender (Mathiesen, 2006) and lead to a positive outcome, it is still dominant criminal sanction in contemporary society.

The development of prisoners' rights reflects a broader societal shift towards recognising the inherent dignity and humanity of all people, regardless of their incarceration status. Incarcerated individuals, despite their confinement, retain certain basic human rights, which are protected by various international legal frameworks and national laws. International treaties and instruments are important sources for prisoners' human rights (Krabbe & van Kempen, 2017), which are implemented in national laws.

At a global level, the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) serve as cornerstones for the global recognition of prisoners' rights. They ensure that even those deprived of their liberty are treated with respect and protected from torture, inhumane treatment and discrimination (United Nations, 1948, 1966). Besides those, there are several instruments that have been created to set a standard for the treatment of prisoners. The main standards are set in the UN Standard Minimum Rules for the Treatment of Prisoners (originally created in 1955 and revised in 2015, currently called the Nelson Mandela Rules). Additional standards for specific prison population or conditions are set in many other documents, e.g. the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (1988)⁴, the Basic Principles for the Treatment of Prisoners (1990)⁵, the Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) (2010)⁶, the Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) (1985)⁷, and the UN Rules for the Protection of Juveniles Deprived of their Liberty (1990)⁸. Beside human rights sources, there are other sources important for the protection of the human rights of prisoners in the context of monitoring prisoners' rights. One of the frequently cited documents is the UN Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (1984)⁹ with the Optional Protocol to the Convention against Torture and Other Cruel,

⁴ <https://digitallibrary.un.org/record/53865?v=pdf>

⁵ <https://digitallibrary.un.org/record/105348?v=pdf>

⁶ https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf

⁷ https://www.unodc.org/pdf/compendium/compendium_2006_part_01_02.pdf

⁸ <https://digitallibrary.un.org/record/105555?v=pdf>

⁹ https://legal.un.org/avl/pdf/ha/catcidtp/catcidtp_e.pdf

Inhuman or Degrading Treatment or Punishment (2002)¹⁰. Article 3 of the Convention prohibits torture or inhuman or degrading treatment or punishment, which is particularly important in the prison context, while the Optional Protocol obliges state parties to establish visiting bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment – national preventive mechanisms (Article 3).

At European level, the main human rights instrument is the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms (1950)¹¹. The European Court of Human Rights was established according to the European Convention (Article 19) and serves as an important instrument for the protection of the prisoners' rights (Article 3 prohibits torture, inhuman and degrading treatment or punishment).

Another important instrument at European level is the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (2002)¹², which is based on Article 3 of the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms. This instrument established the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT: Committee for Prevention of Torture) with a mandate of visiting places of detention and assessing “how persons deprived of their liberty are treated in order to strengthen their protection from torture and inhuman or degrading treatment or punishment” (CPT, 2024).

In terms of standards for the treatment of prisoners, the main standards are set out in the European Minimum Rules for the Treatment of Prisoners¹³ (1973) and the European Prison Rules (1973, 1987, 2006, 2020). Standards developed for the treatment of prisoners, although they are so-called soft instruments (non-legally binding), are important because they are often used as indicators of the protection of prisoners' rights.

Based on all the above mentioned, it can be concluded that prisoners' rights are properly addressed and guaranteed. However, the implementation of prisoners' rights varies significantly across different jurisdictions, leading to major differences in the treatment of incarcerated individuals. Factors such as the political climate, legal framework, socio-economic conditions and cultural attitudes towards punishment and rehabilitation contribute to these variations (Penal Reform International, 2020). In some regions, prisoners' rights continue to be severely violated. These include overcrowded conditions, inadequate access to medical care and a lack of educational and rehabilitative opportunities. These conditions not only contravene international human rights standards, but also

¹⁰ https://treaties.un.org/doc/source/docs/A_RES_57_199-E.pdf

¹¹ <https://rm.coe.int/1680063765>

¹² <https://rm.coe.int/16806dbaa3>

¹³ <https://rm.coe.int/16804fac9a>

hinder the broader objectives of criminal justice systems, which are increasingly recognised as needing to focus on rehabilitation and reintegration, rather than mere retribution (Coyle et al., 2016; Penal Reform International, 2020; WHO, 2023).

The protection of prisoners' human rights in Croatia has not been the subject of a comprehensive analysis in the last 10 years, especially after adoption of a new Law on Enforcement of Prison Sentence and revised European Prison Rules¹⁴. This paper aims to analyse the legal framework and practise of the protection of prisoners' rights in Croatia, in particular implementation of the specific provisions¹⁵ European Prison Rules in domestic legislation and the protection of prisoners' human rights from the perspective of national and international monitoring bodies and the European Court of Human Rights. The main reason for this approach is that in the analysis of the compliance of the prison sentence execution system with European standards, it is not enough for the legislator to adopt the standards; it is necessary to determine whether mechanisms for the effective implementation of these provisions and the protection of prisoners' rights in practice have been established (Pleić, 2012a). The aim of this paper is also to draw more attention to the human rights of this specific group of citizens.

Croatian Prison System

This chapter provides an overview of the Croatian prison system, both in terms of organisational features and some basic characteristics of prisoners.

The Croatian Prison System (together with the Probation System) is one of nine directorates of the Croatian Ministry of Justice, Public Administration and

¹⁴ Several papers have been published on specific rights or specific aspects of certain rights. For example, Pleić (2014) analysed execution of the security measure of compulsory psychiatric treatment and security measure of compulsory treatment of addiction from the aspect of the protection of the rights of prisoners with mental health disorders, Ivičević Karas (2014) analysed specific prisoners' human rights through the judgements of the European Court of Human Rights and the recent practice of the Constitutional court, Pleić (2016) analysed the judgements of the European Court of Human Rights for the violation of Article 3, Zagorec (2018) analysed the right for appropriate accommodation, Novokmet et al. (2019) analysed ineffective investigation into allegations of ill-treatment by police officers and prison staff, Bukovac Puvača & Škorić (2023) published a paper on state liability for damage caused by inadequate conditions in prisons, Marochini Zrinski (2023) analysed the recent developments in the case-law of the European Court of Human Rights on the lack of effective access to the Constitutional Court due to the unpredictable and retroactive application of the admissibility criteria for filling a constitutional complaint, Đuras (2023) analysed a compensation for damages due to conditions in prison through the practice of the Croatian Constitutional court, and Horvat (2023) analysed Croatian experience of cruel, inhuman and degrading treatment of persons deprived of their liberty in the context of international human rights standards.

¹⁵ It is impossible to analyse all the rules in a single paper of limited scope; a more appropriate format for such analysis would be a dedicated publication.

Digital Transformation (Directorate for the Prison System and Probation). It is organised hierarchically with the Central Office for the prison system and correctional facilities. Correctional facilities consist of seven penitentiaries (one of which is the Zagreb Prison Hospital), 14 prisons, two reformatories¹⁶ and two centres (Diagnostic Centre and Training Centre).

Penitentiaries are established for convicted adult offenders (juveniles are placed in special units), and prisons for pre-trial detention, detention ordered in misdemeanour proceedings, prison sentences or fines that have been replaced by prison sentences imposed in criminal, misdemeanour or other court proceedings. The Prison Hospital is a penitentiary with the status of a healthcare institution. The Diagnostic Centre is a special unit with a task of performing professional medical, social, psychological, socio-pedagogical and criminological treatment of prisoners in order to assess criminogenic risks and treatment needs, classify them, propose an orientation programme for execution and propose a penitentiary or prison where the prisoner will continue to serve his prison sentence (Article 21 of the Law on Enforcement of Prison Sentence). Every convicted offender sentenced to imprisonment for a term longer than six months or whose unserved part of the sentence exceeds six months is referred to the Diagnostic Centre¹⁷. The Training Centre is a training facility for prison system employees.

According to the level of security and the restriction of prisoners' freedom of movement (security conditions), penitentiaries are closed, semi-open or open, while prisons are of the closed type. Nevertheless, penitentiaries, as well as prisons can have closed, semi-open and open wards (Article 26). Male and female prisoners are placed separately¹⁸, as are juvenile¹⁹ and adult prisoners. In prisons (where are pre-trial detainees and sentenced offenders) there are two separate regimes (due to their different legal status) and prisoners are separated.

The Croatian prisoner rate in 2022 was slightly below the European average (the European average rate was 108 and the Croatian 106) (Eurostat, 2024²⁰). In a five-year period (2018–2022), prison sentence was imposed to 17% of sentenced persons in Croatia (Mrčela, 2023). According to the report for the year 2022²¹, the

¹⁶ The correctional measure for juvenile offenders – referral to a reformatory is the only juvenile measure under the jurisdiction of the Ministry of Justice, Public Administration and Digital Transformation. All other correctional measures are under the authority of the Ministry of Labour, Pension System, Family and Social Policy.

¹⁷ Those sentenced to a prison sentence of up to six months or for who the unserved part of the sentence does not exceed six months are sent to the nearest prison according to their place of residence.

¹⁸ The only penitentiary for female prisoners is in Požega.

¹⁹ For female juveniles in special unit in Požega penitentiary, and for male juveniles in Penitentiary in Turopolje.

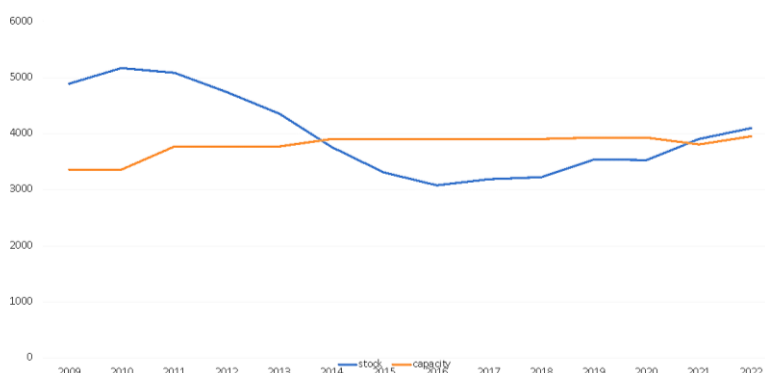
²⁰ https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Prison_statistics

²¹ The report for 2023 has not yet been published.

total capacity of the prison system is 3953 (Vlada RH, 2024a). In 2022, the occupancy level was 76% in closed, 16% in semi-open and 8% in open conditions.

Graph 1

Number of prisoners (on December 31) and capacity (Vlada RH, 2017, 2024a)



The data in Graph 1²² provides a picture of overcrowding in the Croatian prison system. It can be seen that the Croatian prison system was struggling with overcrowding till 2014 and that overcrowding conditions are reemerging. Due to the earthquake, the prison in Sisak was closed and the capacity of Glina penitentiary was reduced. Several adjustments and new capacities were made to prevent overcrowding in close conditions (Vlada RH, 2024a). Since 2010, several efforts have been made to prevent overcrowding in Croatian prison system – a new Criminal Code brought changes regarding alternative sanctions, earlier prisoners' release, changes in Criminal Procedure Law limited duration of the pre-trial detention and a probation system was developed (Vlada RH, 2017). Croatia introduced electronic monitoring with parole, based on the Law on Enforcement of Prison Sentence (Article 169) by passing the Ordinance on Parole with Electronic Monitoring (Pravilnik o uvjetnom otpustu uz elektronički nadzor, NN 78/22). A special office within the probation system was established for implementation of this measure (Vlada RH, 2024b). Electronic monitoring (which can be used in different parts of the criminal justice proceedings and sanctions) is attracting greater interest in the attempt to reduce overcrowding of the prison system²³.

²² The data presented in this chapter cover different time frames due to changes in the reporting format.

²³ Italy, for example, has introduced two decrees: on house arrest for prisoners with a final conviction and for those awaiting trial (Di Vita, 2020).

Table 1 presents data on different status of prisoners for the period 2018–2022. In less than 2/3 of cases, prisoners are serving their prison sentence for criminal offences, in 1/3 of cases they are in pre-trial detention²⁴. The rest of the prisoners are serving a prison sentence for misdemeanours, or the fine (in misdemeanour proceedings) has been replaced by a prison sentence, or they have been detained pursuant to Misdemeanour Law²⁵. The juveniles' share in prison population is very low.

Table 1

Prisoners' status on December 31 (frequencies and percentage)
(Vlada RH, 2020, 2022, 2024a)

	2018	2019	2020	2021	2022	2018–2022
Prison sentence	2080	2125	2128	2461	2492	11286
%	64.6	60.1	60.3	63.0	60.9	61.7
Pre-trial detention	998	1252	1281	1312	1488	6331
%	31.0	35.4	36.3	33.6	36.4	34.6
Misdemeanour	89	91	60	81	58	379
%	2.8	2.6	1.7	2.1	1.4	2.1
Juvenile prison	8	10	11	11	8	48
%	0.2	0.3	0.3	0.3	0.2	0.3
Juvenile reformatory	44	55	51	40	45	235
%	1.4	1.6	1.4	1.0	1.1	1.3
TOTAL	3219	3533	3531	3905	4091	18279
%	100.0	100.0	100.0	100.0	100.0	100.0

As in many other countries, dominant type of criminal offences are property crimes (on average 34.1%), followed by criminal offences against life and limb (on average 14.2%) and crimes against health²⁶ (on average 9.6%) (Vlada RH, 2020, 2021, 2022, 2024a). Share of female prisoners in Croatia is relatively stable (ranging from 4 to 5.5% in the period 2013 – 2022) (Kovčo Vukadin & Pleško, 2024) which is within European average (European average in 2021 and 2022 was 5.3%) (Eurostat, 2024). In 2022 (Vlada RH, 2024a), most prisoners were serving

²⁴ This share is higher than in previous period (Vukota & Žulj (2012) noted the average share of pre-trial detainees to be at about 24% in 2009 and 2010), and higher than the European average (one in five prisoners were untried) (Eurostat, 2024).

²⁵ The share of this group is much lower than in 2010 when their share in total prison population was 32% (Plečić, 2012a).

²⁶ Drug-related crimes belong to the group of criminal offences against health. In previous Criminal Code, they were in the group against values protected by international law. It is therefore not possible to make precise calculations for earlier periods when criminal offences were grouped and not presented individually.

a prison sentence of 1 to 3 years (31.9%) and 6 months to a year (28.8%)²⁷. Most prisoners belong to the age group between 30 and 40 years (29.6%), followed by the age group between 40 and 50 years (25.2%). The majority of prisoners have a secondary education (55.5%), followed by elementary education (25.7%).

Aim and Methods

The aim of this paper is to analyse the protection of human rights of prisoners in Croatia from two perspectives: from the perspective of the legal framework and from the perspective of practise. To achieve this aim, the following research questions were formulated:

1. Is the Croatian legislation harmonised with the European Prison Rules (2020)²⁸ in terms of the selected provisions on respect for the human rights of prisoners (basic principles and inspection and monitoring rules²⁹)?
2. What does the protection of prisoners' rights look like in the practise of Croatian protective and preventive mechanisms (ombudsmen and National Preventive Mechanism)?
3. What is the picture of prisoners' rights protection in Croatia from the perspective of Committee for Prevention of Torture (CPT)?
4. What are the most frequent violations of the rights of Croatian prisoners from the practise of the European Court of Human Rights?

For getting answers to research questions, following analysis are conducted:

1. analysis of the implementation of the European Prison Rules (2020) (provisions on basic principles and inspection and monitoring rules) into Croatian legislation;
2. analysis of the reports of the Ombudsman, the specialised ombudsmen and the National Preventive Mechanism in the period from 2014 to 2023 (parts of the reports regarding prisoners);
3. analysis of the reports of the Committee for the Prevention of Torture (CPT) on visits to Croatia in the period from 2014 to 2023.

²⁷ According to the Croatian Criminal Code, which was in force in the period from 1998 to 2012, there were two types of prison sentence: 1. prison sentence with a duration of 30 days to 15 years and 2. long-term prison sentences with a duration of 20 to 40 years. According to the current Criminal Code, the duration of prison sentences has been changed so that there are now: 1. prison sentence from 3 months to 20 years and 2. long-term prison sentences from 21 to 40 years (in exceptional circumstances up to 50 years). It is interesting to note that there was an attempt to introduce a life sentence in Croatia in 2003.

²⁸ The European Prison Rules are chosen because the latest revision is harmonised with the Mandela Rules.

²⁹ As mentioned in the introduction, it is impossible to analyse all provisions in a paper of limited scope. The selected provisions are those that describe fundamental rights and those related to the monitoring of prisoners' rights.

4. analysis of the judgements of the European Court of Human Rights in which prisoners sued Croatia for violations of the European Convention on Human Rights and Fundamental Freedoms in the period from 2014 to 2023.

We have focussed our analysis on adult prisoners who have been sentenced to prison sentence.

Results and Discussion

Implementation of the European Prison Rules (2020) into the Croatian Law on Enforcement of Prison Sentence

Human rights and their protection are very important in correctional system. Respectful and fair treatment of prisoners by prison staff has been shown to contribute to better prisoner behaviour, better mental health, less violence in prison and a lower recidivism rate after release (Beijersbergen et al., 2016; Beijersbergen et al., 2015; Beijersbergen et al., 2014; Bieri, 2013). International experts have recognised the need for setting (and constantly developing) standards for the protection of prisoners' human rights.

The first version of the European Prison Rules was adopted in 1973 under the influence of the UN Standard Minimum Rules for the Treatment of Prisoners with the intention of creating a unified framework for the humane treatment of prisoners in the member states (Council of Europe, 1973; Molleman & Van der Laan, 2016). Several revisions were made to this first version as the Council of Europe recognised the need to update the rules in line with contemporary human rights standards and evolving penal practises. The 1987 revision introduced more specific guidelines on prisoners' rights (e.g. access to legal representation, healthcare and educational opportunities) (Council of Europe, 1987) and emphasised the importance of individual treatment and the principle of normality with the intention of minimising the differences between life inside and outside prison (Coyle, 2009). The 2006 revision brought a paradigm shift towards a more rehabilitative approach to incarceration. More detailed provisions related to prison management, staff training and the treatment of vulnerable groups, including juveniles, women and those with mental health needs were included (Council of Europe, 2006). This revision was based on increasing criminological studies showing the importance of maintaining prisoners' ties to their families and communities, providing them with access to meaningful activities and promoting their reintegration into society after release (Liebling & Maruna, 2013). The last update was in 2020, and this revision emphasised the importance of dynamic security that focuses on building positive relationships between staff and prisoners rather than relying solely on physical security measures (Council of Europe,

2020). The European Prison Rules are an important tool for member states to align their penal policies with international standards and to ensure that the treatment of prisoners respects their dignity and fosters their rehabilitation potential. They are regularly used by the European Court of Human Rights and the Committee for the Prevention of Torture (CPT) (PRI & CoE, 2023). The current version of the European Prison Rules consists of nine parts³⁰. The first part contains basic principles and explains the scope and application of the rules, the second part contains rules related to conditions of imprisonment, the third to health, the fourth to good order, the fifth to management and staff, the sixth to inspection and monitoring, the seventh to untried prisoners, the eighth to sentenced prisoners and the ninth to updating the rules. It would be impossible to analyse all the rules in one paper so in this paper we are focusing on the basic principles and monitoring of the human rights of prisoners in Croatian legislation.

The main legal document related to prison sentence is the Law on Enforcement of Prison Sentence (Zakon o izvršavanju kazne zatvora, NN 14/21, 155/23). The original law was adopted in 1999 (in force from 2000 to 2021). It has been amended (changes and amendments) 13 times. Significant changes were made in 2001 and the current legislative reform of the execution of a prison sentence and a prison system due to harmonisation with international conventions and European Prison Rules. In the meantime, the law has been amended due to changes in some other relevant domestic laws (Ministarstvo pravosuđa i uprave, 2020). The law currently in force is in line with the relevant domestic legislation, but also with international standards (Mandela Rules and European Prison Rules) as well as with the judgements of the European Court of Human Rights, the recommendations of the CPT, the National Preventive Mechanism and the Ombudsman. In addition, implementation of new technologies is also defined in this law. In addition to the norms about prisoners, this law also contains norms for employees aimed at improving working conditions and encouraging the employment of young people in the prison system, given the shortage of officers and employees and the difficult working conditions in the prison system (e.g. elevated stress, the possibility of attacks on officers and their family members, exposure to infectious illnesses, etc.) (Ministarstvo pravosuđa i uprave, 2020).

In addition to the law, there are 14 ordinances that define certain aspects of life and work in the Croatian prison system in more detail. Prisoners' rights are listed in the Law on Enforcement of Prison Sentences (Article 16):

- accommodation respecting human dignity and health standards,
- protection of personality and ensuring confidentiality of personal data,
- regular portions of food and water in compliance with medical standards,
- work,
- training,

³⁰ More on revised areas in PRI & CoE (2023).

- expert legal assistance and legal remedies for protection of his or her rights,
- medical care and protection of maternity,
- contacts with the outside world,
- a minimum of two hours a day to be spent outdoors within the prison or penitentiary,
- correspondence and conversation his/her attorney,
- exercise of religion and contacts with authorized religious representatives,
- getting married in prison or penitentiary,
- the right to vote on general elections.

Within the prison system, the protection of prisoners' rights is the responsibility of the enforcement judge (Chapter 7 of the Law on Enforcement of Prison Sentence)³¹.

In order to get an answer to our first question, we have listed the basic principles and Part VI (Inspection and Monitoring) of the European Prison Rules and compared them with the Croatian legislation. As can be seen from Table 2, the Croatian legal framework is harmonised with the compared parts of the European Prison Rules. The main principle of humane and respectful treatment of persons deprived of their liberty is enshrined in the Constitution of the Republic of Croatia, and all others are clearly set in the Law on Enforcement of Prison Sentence. The only European principle that is not set in Croatian legislation is Basic Principle 4, as it is more in line with the political will³². As for the Part VI of the European Prison Rules, all rules are evident in the basic legal document (Law on Enforcement of Prison Sentence) or in legal norms of other independent bodies.

Therefore, we can conclude that Croatian legislation is harmonised with the European Prison Rules (in the analysed topics).

³¹ The enforcement judge was introduced in the 1999 amendments as a mechanism for judicial supervision over the enforcement of prison sentence (more on the enforcement judge in Babić et al., 2006, Josipović et al., 2001, Ljubanović, 2006, Tomašević et al., 2012a, Tomašević et al., 2012b). Apart from other duties, the enforcement judge visits prisoners at least once a year, talks to them and informs them about their legal rights and the possibilities of exercising their rights (Law on Enforcement of Prison Sentences, Article 54).

³² Several previous ministers of justice have announced the construction of new prison capacities in Croatia, but these plans were not realized due to financial constraints and administrative obstacles. The current minister has announced the construction of five new prisons in October 2024 - the first two prisons (in Varaždin and Lipovica) would be modular with a capacity for 150 prisoners, while the remaining three prisons would be in the municipality of Perušić (with a capacity for around 400 prisoners) and in the Sisak-Moslavina and Osijek-Baranja counties (<https://dnevnik.hr/vijesti/hrvatska/ministar-habijan-najavio-da-ce-se-graditi-pet-novih-zatvora---871682.html#lmState=4540021:2>).

Table 2

Comparative overview of basic principles and Part VI of the EPR and Croatian legislation

European Prison Rules	Croatian legislation
Basic principles	
1. All persons deprived of their liberty shall be treated with respect for their human rights.	<p>Every arrestee and convict must be treated humanely, and their dignity must be respected (Ustav RH, Article 25).</p> <p>The prison sentence is carried out in a way that guarantees respect for the prisoner's human dignity. Punishable procedures are also prohibited, including biomedical and other scientific research that subjects a prisoner to any form of torture, abuse or humiliation, as well as medical or scientific experiments (LEPS, Article 11/1).</p>
2. Persons deprived of their liberty retain all rights that are not lawfully taken away by the decision sentencing them or remanding them in custody.	The prisoner enjoys the protection of fundamental rights established by the Constitution of the Republic of Croatia, international treaties and this Law (LEPS, Article 4/1).
3. Restrictions placed on persons deprived of their liberty shall be the minimum necessary and proportionate to the legitimate objective for which they are imposed.	<p>During the execution of the prison sentence, a prisoner may be restricted in his fundamental rights only to the extent necessary to achieve the purpose of the execution of the sentence and in the procedure prescribed by this Law (LEPS, Article 4/2).</p> <p>Restrictions on the fundamental rights of prisoners from this Act must be proportionate to the reasons for which they are applied (LEPS, Article 4/4).</p>
4. Prison conditions that infringe prisoners' human rights are not justified by lack of resources.	Not legally defined, depends on a political will.
5. Life in prison shall approximate as closely as possible to positive aspects of life in the community.	The penitentiary, or prison, does everything to make the life of the prisoner as similar as possible to life in freedom during the execution of the prison sentence (LEPS, Article 14/1).
6. All detention shall be managed so as far to facilitate the reintegration into free society of persons who have been deprived of their liberty.	The main purpose of serving a prison sentence is, along with humane treatment and respect for the dignity of a person serving a prison sentence, training him for life in freedom in accordance with the law and social rules, thus contributing to the protection of the social community (LEPS, Article 3).
7. Co-operation with outside social services and, as far as possible, the involvement of	In the execution of prison sentences, the administrative organization for the prison system cooperates with other state bodies, scientific and other institutions and institutions, professional associations and

civil society in prison life shall be encouraged.	other legal entities in order to improve the conditions of prison sentences and help prisoners after release (LEPS, Article 9/2). Preparation for release, if necessary, also includes taking measures to organize accommodation and food, organize treatment, regulate residence or place of residence, improve family relations, find employment, complete education, provide financial support to meet the most necessary needs, and other forms of support. In order to help the prisoner after his release, the penitentiary or the prison can ask the state authorities, institutions and associations to take measures within their jurisdiction (LEPS, Article 177/3).
8. Prison staff carry out an important public service and their recruitment, training and conditions of work shall enable them to maintain high standards in their care of prisoners.	The tasks of execution of a prison sentence are of particular interest to the Republic of Croatia (LEPS, Article 1/2). For civil servants and employees in penitentiaries, prisons, or centres, continuous professional training is mandatory in accordance with the rulebook on professional training in the prison system (LEPS, Article 38/1).
9. All prisons shall be subject to regular inspection and independent monitoring.	Supervision over respect for the human rights and fundamental freedoms of prisoners is carried out by the Ombudsman and special ombudsmen in accordance with special regulations and international bodies based on international treaties to which the Republic of Croatia is a party (LEPS, Article 20).
Part VI: Inspection and monitoring	
(Inspection) 92. Prisons shall be inspected regularly by a State agency in order to assess whether they are administered in accordance with the requirements of national and international law and the provisions of these rules.	Professional supervision (LEPS, Article 30): The Ministry responsible for judicial affairs, in addition to the authority from the general regulation regarding the performance of supervision, is authorised to cancel or abolish any irregular or illegal act of the penitentiary, prison or center and to order the adoption of a new act or just to pass an act (30/1). The central office monitors, improves and supervises the legality of work and actions in penitentiaries, prisons, or centers, carries out expert supervision over the work of penitentiaries, prisons, or centers, monitors and studies the application of regulations that apply in the prison system, directly undertakes or proposes measures for improvement to competent authorities of the prison system, collects and processes statistical data and performs other tasks prescribed by this Act and other regulations (30/2). Supervision over the provision of health care to persons deprived of liberty in the prison system is carried out by the ministry responsible for health, and over education programs for persons deprived of liberty and their implementation by the ministry responsible for education (30/3). The Ordinance on professional supervision in the prison system (Pravilnik o stručnom nadzoru u zatvorskom sustavu, NN 137/21) contains rules on regular and exceptional supervision.
(Independent monitoring) 93.1. To ensure that the conditions of detention and the treatment of prisoners meet the requirements of national and international law and the provisions of	Croatia has general ombudsman (Zakon o pučkom pravobranitelju, NN 76/12) and specialized ombudsmen: ombudsman for children (Zakon o pravobranitelju za djecu, NN 73/17), ombudsperson for gender equality (Zakon o ravnopravnosti spolova, NN 82/08, 69/17), and ombudsman for persons with disability (Zakon o pravobranitelju za osobe s invaliditetom, NN 107/07).

<p>these rules, and that the rights and dignity of prisoners are upheld at all times, prisons shall be monitored by a designated independent body or bodies, whose findings shall be made public.</p>	<p>The ombudsman and special ombudsmen are obliged to cooperate with each other in the field of promotion and protection of human rights, in accordance with the principles of complementarity, mutual respect and effectiveness in the protection and promotion of human rights (Zakon o pucnom pravobraniteljju, Article 32/1).</p> <p>Besides ombudsmen, Croatia established the National Preventive Mechanism in 2011 (Zakon o nacionalnom preventivnom mehanizmu, NN 18/11, 33/15) with the following activities:</p> <p>visits to premises occupied by or potentially occupied by persons deprived of liberty for the purpose of strengthening their protection against torture and other cruel, inhuman or degrading treatment or punishment, offering recommendations to competent authorities and institutions in order to ensure improvement of treatment of persons deprived of liberty as well as the conditions of their accommodation, for the purpose of preventing torture and other cruel, inhuman or degrading treatment or punishment, offering proposals of and comments about laws and other regulations, as well as draft laws and other regulations, in order to promote protection of persons deprived of liberty cooperation with United Nations Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter: Subcommittee on Prevention of Torture), sending information to and organizing meetings with the Subcommittee on Prevention of Torture.</p>
<p>93.2. Such independent monitoring bodies shall be guaranteed:</p> <p>access to all prisons and parts of prisons, and to prison records, including those relating to requests and complaints, and information on conditions of detention and prisoner treatment, that they require to carry out their monitoring activities;</p> <p>the choice of which prisons to visit, including by making unannounced visits at their own initiative, and which prisoners to interview; and</p> <p>the freedom to conduct private and fully confidential interviews with prisoners and prison staff.</p>	<p>The Ombudsman Act (Article 28/1): The ombudsman can at any time without prior notice inspect places where persons deprived of liberty are located, places where persons whose freedom is restricted are found movements and places where individual groups whose rights and freedoms are located or reside the ombudsman protects. The ombudsman has the right to inspect all premises in bodies where performs an examination. (Article 28/4): The Ombudsman has the right to speak with all persons who can provide information related to the suspected violation of human rights by the conduct of the body or institution being inspected without the presence of officials from bodies or institutions from paragraphs 1 and 2 of this article.</p> <p>The Act on the National Preventive Mechanism (Article 5): Persons who participate in the performance of activities of the National Preventive Mechanism shall have the following powers: perform unannounced visits to bodies or institutions and inspect premises occupied by persons deprived of liberty; freely access information about bodies and institutions where persons deprived of liberty are situated; freely access information on the number of persons deprived of liberty placed in the visited body or institution; freely access all information about the manner in which persons deprived of liberty are treated, in accordance with the law; talk to persons deprived of liberty, having chosen such persons themselves and in the absence of the officers working in the body or institution being visited; talk to other persons that may provide them with necessary information in connection with suspected human rights violation resulting from the treatment received by such people from the body or institution being visited.</p>

93.3. No prisoner, member of the prison staff or any other person, shall be subject to any sanction for providing information to an independent monitoring body.	The Ombudsman Act (Article 20/4): No one may be prevented from submitting complaints to the ombudsman or placed in a disadvantageous position for addressing the ombudsman.
93.4. Independent monitoring bodies shall be encouraged to co-operate with those international agencies that are legally entitled to visit prisons.	National Preventive Mechanism cooperates with UN Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.
93.5. Independent monitoring bodies shall have the authority to make recommendations to the prison administration and other competent bodies.	The Ombudsman Act (Article 15): The Ombudsman gives recommendations, opinions, suggestions and warnings to the bodies referred to in Article 4 hereof the Law. The Act on the National Preventive Mechanism (Article 8/3): If instances of torture and other cruel, inhuman or degrading treatment or punishment are established within a body or institution, the ombudsman shall duly warn the body or institution within which such a violation has been detected and provide related recommendations.
93.6. The national authorities or prison administration shall inform these bodies, within a reasonable time, on the action being taken in respect of such recommendations.	The Ombudsman Act (Article 27/1): The bodies referred to in Article 4 of this Act are obliged to inform the ombudsman within the time limit set by him determines, on the measures taken on the occasion of his recommendation or proposal. (Article 28/2): After the inspection, the ombudsman prepares a report, which he submits if necessary the body from paragraph 1 of this article and the body that supervises it. If there is in the report recommendations or remarks, the body from paragraph 1 of this article and the body that supervises it will notify the ombudsman immediately, and no later than within 30 days, of the action taken measures related to his report. The Act on the National Preventive Mechanism (Article 8/3): The body or institution where such a violation has been established is obligated to undertake measures in response to the ombudsman's warning or recommendations within the time limit specified in the report and notify the ombudsman without delay on the undertaken measures.
93.7. Monitoring reports and the responses thereto shall be made public.	The Ombudsman Act (Article 16/4): Annual and special reports are published on the Ombudsman's website and make it available to the public in another appropriate way. The Act on the National Preventive Mechanism (Article 9): The ombudsman shall prepare and publish the annual report on the performance of activities of the National Preventive Mechanism.

Protection and Supervision of Respect for the Human Rights of Prisoners from the Perspective of the Ombudsman and the National Preventive Mechanism

According to the Ombudsman Act, the Ombudsman is the representative of the Croatian Parliament for the promotion and protection of human rights and freedoms established by the Constitution, laws and other international legal acts on human rights and freedoms accepted by the Republic of Croatia. The Ombudsman also performs other tasks determined by special laws (the Anti-Discrimination Act, the Act on the National Preventive Mechanism for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Act for the Protection of Persons Reporting Irregularities).

The Ombudsman in the Republic of Croatia has five mandates: 1) Ombudsman – protection against illegal and inappropriate actions of public authorities; 2) national institution for human rights; 3) central body for combating discrimination; 4) national preventive mechanism for the prevention of torture and other cruel, inhuman or degrading treatment or punishment; 5) external body for reporting irregularities – protection of the so-called “whistleblower”.³⁸

In accordance with the 2002 Optional Protocol to the UN Convention against Torture (OPCAT), in 2012 the Parliament of the Republic of Croatia authorised the Ombudsman to perform the tasks of the National Preventive Mechanism for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The Service for Persons Deprived of their Liberty and the National Preventive Mechanism within the Ombudsman office fulfil tasks related to the protection of the human rights of all persons deprived of their liberty, including prisoners, and it is important to emphasise their dual role. The first is protective, i.e. reactive, which refers to actions based on the Constitution of the Republic of Croatia and the Ombudsman Act, actions based on individual complaints of persons deprived of their liberty regarding violations of their constitutional, convention and legal rights. The second role is preventive and refers to actions based on the OPCAT and the Law on the National Preventive Mechanism for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The preventive role is carried out by unannounced visits to places where persons deprived of their liberty are or may be present and aims to prevent future violations and avoid torture. Representatives of the National Preventive Mechanism make recommendations to the facilities and/or competent authorities based on the observations made during the visits in order to improve the treatment of these persons and the conditions in which they are held.

³⁸ <https://www.ombudsman.hr/hr/>

According to Article 131, paragraph 4 of the Law on Enforcement of Prison Sentence, prisoners have the right to correspond with a lawyer, state authorities and organisations for the protection of human rights without restriction or control of the content of the correspondence. According to Article 20 of the Ombudsman Act, anyone who believes that their constitutional or legal rights and freedoms have been threatened or violated by the illegal or improper activities of the authority may file a complaint to the Ombudsman to initiate proceedings. Persons deprived of their liberty submit a complaint and receive a reply from the Ombudsman in a sealed envelope, without restrictions or monitoring of the contents.

Prisoners address individual and sometimes collective complaints to the ombudsman, in which they describe situations and circumstances in which they believe their rights have been violated. Table 3 shows the number of cases/complaints from prisoners submitted to the Ombudsman in the period from 2014 to 2023. To get an idea of the extent of prisoner complaints, a percentage has been calculated in relation to the number of prisoners in the prison system in each year.

Table 3

*Number of cases/complaints from prisoners submitted to the Ombudsman
(Source: annual reports of the Ombudsman)*

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Number of prisoners complaints	178	165	156	136	169	203	183	210	176	156
%	4.73	4.99	5.06	4.26	5.25	5.74	5.18	5.37	4.3	3.5
The number of prisoners on 31.12.	3763	3306	3079	3190	3217	3533	3531	3905	4091	4445

The most complaints were submitted in 2019 (203), the fewest in 2017 (136)³⁹, while the largest share of complaints submitted in relation to the number of prisoners was in 2019 (5.74%) and the smallest in 2023 (3.5%).

As regards the content of the complaints lodged, most of the prisoners' complaints concerned the insufficient availability and quality of medical care, the behaviour of the staff of the Security Department, the accommodation conditions

³⁹ The presented data differ from those cited by Pleić (2012b) based on the analysis of the Ombudsman's reports for the period from 2002 to 2010. According to the data on complaints from persons deprived of liberty, after an initially small number of complaints (39 in 2002 and 33 in 2003), there was a significant increase in the number of complaints from 2005 (85 complaints) to 2010 (217 complaints). The author explains this by the frequent visits to prison system institutions and the increasing awareness of prisoners about the Ombudsman's powers.

(overcapacity), the inadequate legal protection (ineffective legal remedies), the violation of the right to contact with the outside world, insufficient and too little available treatment programmes, the behaviour of the staff of the Treatment Department, the impossibility, i.e. disapproval of transfer to another institution to serve the sentence, disapproval of benefits, violence between prisoners, inconsistencies and contradictions in treatment between different institutions based on the same legal regulations, shortcomings and contradictions of existing legal regulations⁴⁰.

The preventive role of the Ombudsman within the National Preventive Mechanism is performed through regular visits to places where persons deprived of their liberty are or may be present. He makes recommendations to the competent authorities and institutions in order to improve the conditions in which persons deprived of their liberty are found and to improve the treatment of these persons in order to prevent them from being treated illegally. The Ombudsman is authorised to make unannounced visits to facilities, inspect premises, have free access to data and conduct confidential interviews with prisoners.

Table 4 shows the visits to penal institutions (prisons and penitentiaries) as part of the NPM's work in the period from 2014 to 2023.

Table 4

Visits of the National Preventive Mechanism to penal authorities

	2014*	2015	2016	2017	2018	2019	2020*	2021	2022	2023
Number of visits	/	11	8	9	7	4	/	1	3	3

*In 2014, the NPM's activities focussed on visits to psychiatric institutions for the purpose of preparing the Special Report on the Human Rights of Persons with Mental Disorders in Psychiatric Institutions; 2020/2021 – no visits – so-called “Covid” measures.

Based on the data collected and observations made during the visits, recommendations were made to penal authorities and/or the Ministry to address the deficiencies identified.

⁴⁰ Pleić (2012b) finds similar content in prisoners' complaints during the period from 2002 to 2010: accommodation conditions and healthcare, denial of privileges, work engagement, transfers, etc. Tomašević et al. (2012b), based on a survey of execution judges, also cite poor and inadequate accommodation and hygiene conditions as the main content of prisoners' complaints during prison visits.

The recommendations indicated:

- the need to quickly and thoroughly investigate all reported cases of possible cruel, inhuman or degrading treatment;
- the enactment of the new Law on Enforcement of Prison Sentences (until the adoption of the new law) and changes and additions of the new law from 2021;
- the provision of additional health insurance for all prisoners who do not have a regular income;
- the necessary space adaptation and equipping of the health departments in prison institutions in accordance with the prescribed minimum standards;
- adoption of a protocol for dealing with persons on hunger strike;
- the adoption of a national plan to combat violence in prisons, which seeks to address the widespread problem of inter-prison violence, which is increasing and is not sufficiently recognised;
- insufficient numbers of employees⁴¹ and exhaustion of existing ones, inadequate work equipment, heavy administrative workload;
- the overcapacity of accommodation capacities as a permanent problem that is not sufficiently addressed;
- the insufficiency of the regulations with regard to the implementation of special regulatory and security measures, which leads to inconsistent treatment of persons deprived of their liberty.

The quote from the Report of the National Preventive Mechanism for the year 2022 best describes the extent to which the recommendations made are observed and implemented (but also gives a clear picture of the prisoners' human rights protection): "Insufficient accessibility of health care and the quality of the accommodation conditions are still the biggest problems in the prison system. Overcrowding is increased, and the situation is further aggravated by the insufficient number of the prison officers. Despite the fact that we have been warning about them for years, the normative deficiencies, particularly of the Criminal Procedure Act and the Law on Enforcement of Prison Sentence, which result in varying treatment, have still not been eliminated."⁴² It is important to highlight that chronic overcrowding is a significant problem recognized by the European Court of Human Rights. The Court has changed its stance from considering overcrowding as an "undesirable" condition, but not a violation of

⁴¹ According to the last report for the prison system (Vlada RH, 2024a, p. 57) as of December 31, 2022, there are a total of 3 562 systematized workplaces in penitentiaries, prisons, correctional institutions and centres, and 2 558 are filled, which is 71.8% occupancy (the lowest occupancy level is in healthcare workplaces – 41.5%, then in treatment positions – 67.7% and then in security positions – 77.4%). There is a drop in number of employees from 2611 in 2018 to 2558 in 2022, although the number of prisoners is slightly higher (from 3558 in 2018 to 3562 in 2022).

⁴² <https://www.ombudsman.hr/hr/download/izvje-e-nacionalnog-preventivnog-mehanizma-za-2022-godinu/?wpdmdl=19765&refresh=66ddab667e2cc1725803366>

Article 3 of the European Convention on Human Rights, to the position that overcrowding in itself can create prison conditions that constitute inhuman and degrading treatment within the meaning of Article 3 (Van Zyl Smit & Snacken, 2009, as cited in Pleić, 2012b).

In addition to the institution of the ombudsman, there are three special ombudsman institutions in the Republic of Croatia. These are the Ombudsman for Persons with Disabilities, the Ombudsman for Children and the Ombudsman for Gender Equality. As part of their activities, these institutions also deal, among other things, with the protection of the human rights of persons deprived of their liberty, each in relation to the content and specificity of the mandate they fulfil. In view of possible overlaps in their activities, the Ombudsman and the specialised ombudsmen have concluded a Cooperation Agreement setting out the modalities of their cooperation.⁴³ In accordance with this Agreement, the institutions shall, when acting in individual cases where responsibilities may overlap or where two or more institutions are simultaneously responsible, exchange available information and, where appropriate, cooperate in the resolution of individual cases. In connection with the implementation of NPM visits, the ombudsman informs special ombudsman institutions about the annual plan of visits, and after the completion of individual visits, if necessary, he informs special ombudsmen about the situation found in the institutions for mutual exchange of information and coordination on possible further actions.

The areas of activity of special ombudsman institutions in relation to the rights of persons deprived of their liberty and the penal system are:

- the Ombudsman for Children – rights of children whose parents are in prison/visiting facilities; the conditions in which minors are held during pre-trial detention; conditions in institutions where minors are held while serving their sanctions (correctional institution, juvenile prison, Prison Hospital)⁴⁴
- the Ombudsman for Persons with Disabilities – accessibility of physical conditions/adapted treatment – taking measures to make penal institutions accessible to persons with disabilities, in particular through architectural adaptations of the premises where they are held; ensuring adequate support for persons with disabilities deprived of their liberty, taking into account the specificities of each type of disability, with a particular focus on persons with intellectual and psychosocial disabilities⁴⁵

⁴³ <https://www.ombudsman.hr/wp-content/uploads/2021/09/Sporazum-o-meduinstitucionalnoj-suradnji-pravobraniteljskih-institucija.pdf>

⁴⁴ <https://dijete.hr/hr/>

⁴⁵ <https://posi.hr/>

- the Ombudsman for Gender Equality – discrimination – gender equality; position of women in the penal system⁴⁶.

Respect for the Human Rights of Prisoners in Croatia from the Perspective of the Committee for Prevention of Torture (CPT)

To date, the CPT has visited the Republic of Croatia a total of seven times. The regular visits took place in 1998, 2003, 2007, 2012, 2017 and 2022, while the *ad hoc* visit was carried out in 2020. During this *ad hoc* visit, no institutions under the jurisdiction of the Ministry of Justice, Public Administration and Digital Transformation of the Republic of Croatia (hereinafter: Ministry of Justice) were visited⁴⁷ (The Council of Europe, n.d.). The following is a summary of the main information, conclusions and recommendations of the CPT regarding the respect for the human rights of prisoners in the penal institutions visited by the delegation in the period from 2014 to 2023⁴⁸.

During the fifth regular visit of the CPT delegation in 2017, visits were made to county prisons in Osijek, Split and Zagreb, the Turopolje Juvenile Correctional Facility⁴⁹ and the Prison Hospital (Council of Europe, 2018). During the last visit to Croatia in 2022, the delegation again visited the Prison in Zagreb and the Prison Hospital, as well as the penitentiary in Lepoglava and, for the first time, the only women's penitentiary in Croatia, Požega Penitentiary (Council of Europe, 2023).

The right to adequate accommodation is one of the fundamental rights of prisoners, which is regulated in the Mandela Rules (UNODC, n.d.) and is often violated due to overcrowding in penal institutions (Zagorec, 2018). Since the CPT's visit in 2012 until the visit in 2017, the number of prisoners in Croatia has decreased. Nevertheless, in 2017, the number of prisoners in the visited prisons in Zagreb and Osijek still exceeded the available accommodation capacity (Council of Europe, 2018). At the time of the CPT's last visit in 2022, the number of prisoners in Croatia had increased significantly, while the available accommodation capacity of the penal institutions had decreased somewhat due to the 2020 earthquake (Council of Europe, 2023). This has led to overcrowding in certain penal institutions (particularly in Zagreb Prison). According to the “stock”

⁴⁶ <https://www.prs.hr/cms>

⁴⁷ More about the types of visits and how CPT works can be found on the official website: <https://www.coe.int/en/web/cpt>.

⁴⁸ Reports for each State Party to the Convention are available on the CPT website (<https://www.coe.int/en/web/cpt>). For the purposes of this study, the CPT reports on the Republic of Croatia from 2014 to 2023 were analysed. The analysis focused on the sections of the reports that relate to adult persons (both male and female) serving prison sentences in penal institutions in Croatia as regards the protection of their rights.

⁴⁹ When analysing the CPT report, the Turopolje Juvenile Correctional Facility was excluded, as it is a facility of the Ministry of Justice, Public Administration and Digital Transformation of the Republic of Croatia intended for the detention of juvenile offenders.

data of the Council of Europe Annual Penal Statistics (SPACE I) for 2022, Croatia falls into the “high” category in terms of prison density in relation to available accommodation capacity, which means that prison overcrowding is 5.1% to 25% higher than the European average. In Croatia, the density of penal institutions per 100 places is 102.6, while the European average is 88.2 (Aebi et al., 2023). The problem of overcrowding is also sustained by the fact that not all prisoners in multi-occupancy cells have the required 4 square metres of personal space, which is the minimum standard for the accommodation of prisoners according to the CPT⁵⁰ (Vijeće Europe, 2015). Overcrowding in Zagreb Prison is even higher in the wards where female prisoners are held (Council of Europe, 2018, 2023). In the period between the CPT's analysed visits, the Law on Enforcement of Prison Sentence was amended and the requirement of a minimum living space of 4 m² is no longer included in the legal framework (Kos, 2021). According to the delegation, this amendment brings the Croatian authorities to “the cusp of subjecting prisoners to conditions which may be considered as inhuman and degrading” (Council of Europe, 2023, p. 24). The CPT therefore recommends that the minimum standard of 4 m² of living space per person be respected, even this is no longer required by law (Council of Europe, 2023). The delegation also warned against the placement of prisoners in large-capacity cells (Council of Europe, 2018), as such dormitories imply a lack of privacy and are associated with a high risk of intimidation and violence among prisoners (Council of Europe, 2018; López & Maiello-Reidy, 2017). It is to be expected that the right of prisoners to accommodation respecting human dignity and health standards will be violated as long as the existing problem of overcrowding is not solved (Zagorec, 2018). Regarding the problem of overcrowding in Croatian penal institutions, it is worth mentioning the initiative of the Ministry of Justice to upgrade the existing infrastructure in the prisons in Varaždin and the penitentiary in Lipovica-Popovača, as well as to build a new penitentiary in Perušić (Ministarstvo pravosuđa, uprave i digitalne transformacije, 2024). In its response to the latest CPT report, the Government states that it will adhere to the minimum living space of 4 m² when building new accommodation capacity, even this is no longer required by law (CPT, 2023).

Overcrowding in penal institutions is reflected in the material conditions in the facilities (Darkwa Baffour et al., 2024; Pleić, 2014), which the CPT considers when assessing the treatment of prisoners. Keeping prisoners in inappropriate conditions can lead, among other things, to a violation of their rights to health and healthcare and consequently to degrading and inhuman treatment (Pleić, 2014). During the 2017 visit, it was noted that the material conditions in the penal institutions visited in Croatia varied depending on whether the premises had been

⁵⁰ The CPT has also warned of the problem of overcrowding in Croatian prisons in previous reports (Zagorec, 2018).

renovated. The renovated cells provide mostly satisfactory conditions, while some cells still offer unfavourable conditions (e.g. dilapidated walls, half-closed sanitary facilities in the cells, defective showers, etc.) (Council of Europe, 2018, 2023). The Croatian authorities are continuously endeavouring to comply with the CPT's recommendations and are making efforts to improve the material conditions in prisons, which the delegation assesses positively (Council of Europe, 2023). For example, during its last visit, the CPT delegation noted inadequate conditions at Požega Penitentiary (Council of Europe, 2023), but during 2023 the Penitentiary was completely renovated in accordance with legal and international standards (Pučka pravobraniteljica, 2024). On the other hand, the CPT has already suggested to the Croatian authorities in 2017 what needs to be improved in terms of material conditions in the Prison Hospital. However, as noted in the 2022 visit report, the living conditions in this facility have not improved since the last visit and they neither meet the minimum standards of a healthcare facility nor can they provide a suitable therapeutic environment (Council of Europe, 2023). In its response to the last CPT report, the Government states that measures have been taken in the Prison Hospital to improve the material conditions in the facility (e.g. new mattresses have been purchased, certain rooms have been repainted, etc.) (CPT, 2023). It is possible that the CPT's next visit to Croatia will show whether these changes have contributed to making the Prison Hospital an environment in which prisoners can be provided with adequate care.

The great majority of prisoners, both male and female, reported to the CPT delegation during the 2017 and 2022 visits that the prison staff treated them in a correct and professional manner. However, the delegation also received some allegations of physical abuse and excessive use of force by prison staff against prisoners (Council of Europe, 2018, 2023). In the report on the 2022 visit, the CPT points out that the majority of the alleged victims of physical abuse in the penal institutions visited were of Roma nationality (Council of Europe, 2023). Furthermore, during both visits, the delegation received several allegations about the informal and disproportionate use of coercive measures and security measures against prisoners (Council of Europe, 2018, 2023). Given that any form of abuse constitutes a violation of individual human rights (Bjelogrlić, 2013), the CPT repeatedly emphasises in its recommendations that physical ill-treatment, excessive use of force and unjustified use of coercive means are unacceptable. These CPT recommendations correspond to the European Prison Rules (Council of Europe, 2020), which state that such measures should only be applied in exceptional circumstances and considering the immediate risk posed by an individual prisoner at a given time. Among other things, CPT considers it necessary to take appropriate measures to improve the skills of prison staff in dealing with high-risk situations without using unnecessary force (Council of Europe, 2018, 2023). In its latest report, the CPT emphasises the importance of adequate training of prison staff to work with prisoners of Roma ethnicity and female prisoners (Council of Europe, 2023). These groups are among the most

vulnerable groups in the prison system, i.e. those in need of special attention from penal authorities (Penal Reform International, 2004). Furthermore, according to some prisoners, prison authorities did not take adequate measures after prisoners complained about physical abuse by staff (Council of Europe, 2018). Considering that conducting an effective official investigation in the case of a prisoner's complaint of ill-treatment by prison staff is the duty of the state (Novokmet et al., 2019; Pleić, 2010), the delegation emphasised the importance of conducting independent, prompt but thorough investigations and the importance of appropriately sanctioning such behaviour (Council of Europe, 2018, 2023), which is in line with the European Prison Rules, which state that complaints from prisoners should be resolved as quickly as possible (Council of Europe, 2020).

In addition to allegations of ill-treatment by prison staff, in 2017 the CPT delegation also received complaints from prisoners (including female prisoners and patients in the Prison Hospital) about physical violence by other prisoners (Council of Europe, 2018). During the 2022 visit, it was noted that incidents of violence between prisoners had decreased despite the overcapacity of penal institutions (Council of Europe, 2023). Despite the positive information, violent incidents between prisoners can still occur. As penal authorities are responsible for maintaining security within the institution and protecting prisoners from other prisoners who could harm them (Wulf-Ludden, 2013), the CPT in both reports recommended the establishment of an effective strategy to combat violence among prisoners at national level. In the CPT's view, an essential component of such strategy must be the introduction of an appropriate assessment of the risks and needs of each prisoner on entry to the penal institution before they are placed in a cell (Council of Europe, 2018, 2023). In its response, the Government of the Republic of Croatia stated that “risk assessment forms and instruments will be developed in the coming period, in cooperation with academic experts, in order to improve the system of assessment and classification of prisoners, including with a view to reducing the incidence of inter-prisoner violence” (CPT, 2023, p. 14).

Involvement of prisoners in work and education while serving a prison sentence can have a positive impact on their emotional well-being (Alós et al., 2014) and increase their knowledge and self-esteem (Tønseth & Bergsland, 2019). During the CPT delegation's visits, it was observed that a certain number of prisoners are engaged in paid work and participate in various programmes offered in penal institution. However, it is noticeable that some prisoners spend up to 22 hours a day in their cells without engaging in any meaningful activity (Council of Europe, 2018, 2023). The delegation therefore recommended that the Croatian authorities increase the necessary efforts to improve the programme of activities, work and vocational training for male and female prisoners, while emphasising that every prisoner must be offered at least two hours of outdoor time per day in appropriate conditions (Council of Europe, 2018, 2023). This recommendation is consistent with the European Prison Rules (Council of Europe, 2020), which

emphasise the importance of providing balanced activity programmes and ensuring that prisoners have sufficient time outside their cells to engage in meaningful social activities.

In the report on the 2022 visit, the delegation expressed dissatisfaction with the modest range of activities offered to prisoners (patients) in the Prison Hospital, but commended the Croatian authorities for introducing the concept of the so-called “module of respect” (UZOR community⁵¹) in certain penal establishments, in which positive relationships of prisoners with prison staff are encouraged, as well as involvement of prisoners in meaningful activities during the day (Council of Europe, 2023). The CPT considers it necessary to consider the development of treatment programmes for prisoners sentenced to long prison terms. The delegation cites a significant shortage of treatment staff as a noticeable challenge in the area of treatment of prisoners in general (Council of Europe, 2023).

The right to health care applies regardless of a person's legal status (Roscam Abbing, 2013), and the state is obliged not only to avoid physical abuse and inhuman and degrading treatment of prisoners, but also to protect their health by providing them with the necessary medical assistance (Pleić, 2010). During the CPT's visit in 2017, certain irregularities and difficulties in the provision of medical care to prisoners were noted, such as the insufficient number of medical staff⁵² in certain penal institutions. The delegation therefore recommended increasing the number of medical staff in penal institutions (Council of Europe, 2018), which is in line with the European Prison Rules, which require that each penal institution must have at least one qualified general practitioner and staff trained in healthcare (Council of Europe, 2020). The CPT also recommends that prison clinics be better equipped and that an effective mechanism be established to monitor the quality of healthcare in prisons and penitentiaries (Council of Europe, 2018). The numerical situation of the medical staff was not desirable even during the last visit and is quite worrying at Lepoglava Penitentiary, where the post of general practitioner has been vacant since 2020, and at the Prison Hospital, where the number of psychiatrists does not correspond to the needs of the institution. Accordingly, the CPT instructed the Croatian authorities to take all necessary steps to make the work of medical staff in prisons more attractive and, consequently, to increase the medical staff in penal institutions (Council of Europe, 2023). It seems that the recruitment of medical staff in penal institutions has improved somewhat (CPT, 2023), but it remains to be seen whether this is

⁵¹ More about the UZOR community in penal institutions in the Republic of Croatia can be found on the website of the Ministry of Justice, Public Administration and Digital Transformation.

⁵² There is a general shortage of prison staff (not only medical staff) in Croatian penal institutions. According to the SPACE I report for 2022, Croatia falls into the “high” category in terms of the ratio of inmates to staff compared to other Council of Europe member states, which means that this ratio is 5.1% to 25% higher than the European average (Aebi et al., 2023).

enough. Furthermore, the CPT expressed its concern about the superficial medical examinations of newly admitted prisoners, the lack of a protocol for reporting injuries, the failure to screen for infectious diseases, etc. (Council of Europe, 2018, 2023). As regards respect for prisoners' right to medical care, but also the protection of privacy and confidentiality of personal data, the delegation emphasised during both visits analysed the importance of respecting the confidentiality of prisoners' medical examinations, which, as noted during the visits, was not respected due to the systematic presence of a member of the prison staff during the medical examination of prisoners (with the exception of the Prison Hospital) (Council of Europe, 2018, 2023). The presence of prison staff during a prisoner's medical examination threatens medical confidentiality and the autonomy of medical staff (Edge et al., 2020) and can potentially discourage the prisoner from making a complaint about the violence they have experienced (Council of Europe, 2018, 2023).

Contact with the outside world is one of the fundamental human rights of prisoners enshrined in the Constitution of the Republic of Croatia, international legal acts and the Law on the Enforcement of Prison Sentences (Ministry of Justice, Public Administration and Digital Transformation, n.d.). Establishing and maintaining contact with the outside world is important to reduce the negative effects of institutionalisation (Barrios et al., 2023; Council of Europe, 2001), i.e. for the most successful rehabilitation and social integration of prisoners (Coyle, 2002; cites as, Maloić et al., 2015). According to the CPT's opinion, all prisoners should have the right to at least one hour of visiting time per week (Council of Europe, 2018, 2023). During both visits, the delegation gained a positive impression of the suitability of the penal authorities' premises to accommodate prisoner visits, which is not the case for prisoner-patients in the Prison Hospital (Council of Europe, 2018, 2023).

Violations of the Human Rights of Prisoners – Judgements of the European Court of Human Rights

The practise of the ECtHR in cases concerning the protection of prisoners' rights has become an important source of penitentiary law for Croatia through judgements confirming violations of prisoners' Convention rights (Pleić, 2010). An analysis of the judgements of the ECHR in which prisoners sued the Republic of Croatia for violations of the Convention rights in the period from 2014 to 2023⁵³

⁵³ The judgements of the ECtHR are available on the official website of the ECtHR (<https://www.echr.coe.int/>). For the purposes of this study, a key criterion for further analysis of ECtHR judgments was whether the case concerned a possible violation of a Convention right of a person (male or female) during their prison sentence in a penal institution in Croatia. Furthermore, the analysis focused on judgements from the period between 2014 and 2023. To ensure that all relevant judgements were considered for the purposes of this study, the official website of the Constitutional Court of the Republic of Croatia (<https://www.usud.hr/hr/pregled-prakse-esljp>),

shows that the most common violation of prisoners' human rights is related to the (inadequate) conditions in the penal institutions in which they are serving their sentences⁵⁴. Specifically, out of the 23 ECHR judgments analysed that concerned complaints from prisoners, 20 related to complaints about inadequate living conditions during imprisonment, including one complaint from a female prisoner. The penal institutions mentioned in these judgements are the penitentiaries in Glina, Lepoglava and Požega, as well as the prisons in Bjelovar, Osijek, Pula, Split, Varaždin, Zadar and Zagreb and the Hospital for Persons deprived of their Liberty. The inadequate conditions in these facilities generally relate to insufficient personal space for prisoners (overcrowding), poor sanitary and hygienic conditions, poor food quality, lack of or insufficient physical exercise in the fresh air and lack of or limited access to recreational and educational activities, etc. In those cases, the Court found 13 violations of Article 3 of the Convention, while in six cases no violation of the same article was found⁵⁵. In one case (*Pavlović v. Croatia*), an amicable settlement was reached between the applicant and Croatia as the respondent state, while one case (*Cerančević v. Croatia*) was removed from the list as the applicant did not pursue the complaint. When analysing ECHR judgments on the conditions for the accommodation of prisoners in penal institutions in Croatia, Zagorec (2018) concludes that there are serious problems in our penal system because the conditions for serving a prison sentence do not comply with the standards proclaimed by the Convention for the Protection of Human Rights and Fundamental Freedoms.

Two prisoners have lodged complaints with the ECHR regarding the ill-treatment by prison staff. In one case (*Vukušić v. Croatia*), the prisoner's complaint was declared unfounded and dismissed as there was no concrete evidence of the alleged ill-treatment by prison officers. Another prisoner (*Perkov v. Croatia*) stated that he had been beaten by prison guards and that no effective investigation had been carried out in this regard⁵⁶. In this case, the Court found that there had been a violation of the procedural aspect of Article 3 of the Convention, but no violation of the substantive aspect of the same article.

The analysis of judgements during the observed period revealed that some prisoners lodged complaints about the excessive length of civil proceedings related to their claims for compensation for inadequate prison conditions (cases: *Balicki v. Croatia*, *Jungić v. Croatia*, *Ladan v. Croatia*, *Jurić v. Croatia*). In these

which also contains ECtHR judgements related to Croatia, was consulted in addition to the official website of the ECtHR.

⁵⁴ In her article, Zagorec analysed the right to adequate accommodation of prisoners with particular reference to the judgement of the ECtHR in the *Muršić v. Croatia* case (Zagorec, 2018).

⁵⁵ In some cases (e.g. *Hanževački v. Croatia*), a violation of Article 3 of the Convention was found regarding inadequate conditions of accommodation while serving a prison sentence only for part of the claim.

⁵⁶ More details on previous ECHR judgements on ineffective investigations into ill-treatment by prison staff can be found in Novokmet et al. (2019).

cases, the applicants invoked Article 6, paragraph 1 of the Convention, which states: “In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.”. In a recent judgement from 2023 (*Mafalani v. Croatia*), a prisoner complained about the legal costs he had to pay to the state, which exceeded the compensation he was awarded for the injuries he suffered while being transported in a police van – an incident that led to the civil proceedings in question. The Court ruled in favour of the prisoner.

All judgements and decisions of the Court in cases against a particular state are binding for that state, and the state is obliged to take all necessary measures to enforce the respective judgement and to ensure that such violations do not occur in the future (Konforta, 2017; Zagorec, 2018). The payment of financial compensation to the applicant is, along with the adoption of general measures (e.g. legislative amendments) and the adoption of individual measures (e.g. repetition of the proceedings before the national authority), one of the possible obligations of the member state that has caused a violation of the Convention (Zagorec, 2018). When analysing the ECHR's judgments regarding prisoners in the period from 2014 to 2023 alone, the Republic of Croatia had to pay more than 155.000 euros for violating the human rights of prisoners.

Summarising the CPT reports and ECtHR judgments analysed, it appears that the main violations of the European Prison Rules in Croatian penal institutions concern the accommodation of prisoners. Most complaints concern the unsatisfactory living conditions, which, as stated in the European Prison Rules (Council of Europe, 2020, p. 5), “shall respect human dignity and, as far as possible, privacy”. These problems are also related to Article 3 of the European Convention on Human Rights, which prohibits torture and inhuman or degrading treatment, thus emphasising the importance of humane conditions (Konvencija za zaštitu ljudskih prava i temeljnih sloboda, MU 18/97, 13/17). In addition, the European Prison Rules have been violated in certain areas, namely through a disproportionate use of security measures, a shortage of prison staff (especially medical staff) and limited meaningful activities for prisoners. These problems highlight the ongoing challenges in the Croatian penal system in maintaining humane conditions that are in line with international standards such as the European Prison Rules and recommendations from bodies such as the CPT. Despite the efforts made, it is clear that Croatia still has room for improvement when it comes to respecting prisoners' rights.

Conclusion

The aim of this paper was to analyse the protection of human rights of prisoners in Croatia from two perspectives: existing legal framework and its practical implementation through monitoring and preventive mechanisms. According to conducted analysis we can conclude that Croatian legislation is harmonized with the analysed provisions (basic principles and inspection and monitoring rules) of the European Prison Rules (research question 1). However, the main challenges (research questions 2, 3, and 4) in respecting prisoners' human rights in Croatia include the material conditions of penal facilities and overcrowding, which result in inadequate accommodation and limited rehabilitation activities. Additionally, there is a shortage of prison staff, particularly medical staff, leading to inadequate access to medical care and potential ill-treatment of prisoners. Other challenges identified in the analysed practices include prison staff behavior towards some prisoners, incidences of violence between prisoners, and the exercise of prisoners' legal rights.

Overall, the evolution of the Croatian Law on Enforcement of Prison Sentences reflects a progressive alignment with international human rights standards and a growing emphasis on rehabilitation and social reintegration. While significant strides have been made (on legislative⁵⁷ and practical level⁵⁸), continuous efforts are necessary to address persistent challenges. The priorities in addressing these challenges are certainly the problem of overcrowding and the lack of staff. In the context of overcrowding, it would be important to address the issue of the high participation of detainees and solve the problem of prison system capacity (by building new capacities that would be appropriate to the time we live in and the human rights of prisoners in all their physical and technological characteristics). An even more significant issue would be changing the societal attitude towards imprisonment. Namely, at the 12th Conference of Heads of Prison Systems held in 2002 (Coyle, 2006), it was discussed how prisons do not exist in a vacuum but largely reflect the values that each society upholds. It was recognized that the imprisonment rate is usually more influenced by political decisions than by the actual level of crime or its detection rate. It is the result of stricter legislation and

⁵⁷ The 1999 law introduced the execution judge into the Croatian prison sentence execution system as a significant step in protecting prisoners' rights (Josipović et al., 2001). The 2009 amendments aligned the penal execution legislation with the European Union's legal framework and strengthened judicial protection for prisoners (Tomašević et al., 2012b). The new 2021 law (among other things) expanded the range of complainants, and strengthened judicial protection for prisoners (Kos, 2021).

⁵⁸ For example, in 2009 the Ministry of justice published a document: Information about current situation in Croatian prison system and action plan for the enhancement of the Croatian prison system (Ministarstvo pravosuđa, 2009) and Action plan for the enhancement of the Croatian prison system from 2009 till 2014 (Ministarstvo pravosuđa, 2010). Also, several adaptations of prison facilities were made to improve accommodation conditions (evident from the annual reports of the Directorate for prison system).

political and media encouragement of the judiciary to send more people to prison for longer periods. An example of possible change is Finland and its reforms from the 1950s to 2000, which were the result of deliberate, long-term, and systematic political decisions. Perhaps the key to the success of the reform was the fact that crime control is not a partisan political issue in election campaigns. Such a context seems necessary for the development of an effective imprisonment policy based on the human rights of prisoners. In the context of staff shortages, it is important to first solve the problem of overcrowding because otherwise, the question of motivation for young people who want to build a career in the correctional system to work in overcrowded conditions arises. It is known that the development of technology leads to the development of new jobs and occupations. Work in the correctional system (especially if it does not implement modern technological solutions) falls into traditional jobs. An important question for Croatia is how to attract young people for employment and career development in the correctional system in the context of employment opportunities across the European area in less stressful and dangerous jobs and in the context of comparative advantages (especially for those with higher education) compared to possible jobs and positions outside the correctional system. This implies a significant step that needs to be taken if the Croatian penal system wants to develop. Only after addressing these priorities can we talk about the quality of the resocialization purpose of serving a prison sentence (in terms of permanent training and improvement of employees for the quality performance of their duties, the development of new treatment programs, policies, and procedures aimed at the resocialization of prisoners and the evaluation of the rehabilitative potential of a prison sentence).

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