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**OPEN-ENDED INTERGOVERNMENTAL EXPERT GROUP
ON THE STANDARD MINIMUM RULES FOR THE
TREATMENT OF PRISONERS
VIENNA, AUSTRIA, 25 – 28 March 2014**

**RESPONSE OF THE GOVERNMENT OF GUATEMALA¹
TO NOTE VERBALE CU 2013/129/DO/JS**

¹ This document was received in Spanish language and has been officially translated.

Drafting proposals for revision of the Standard Minimum Rules for the Treatment of Prisoners

Area (b): Medical and health services (rules 22-26; 52; 62; and 71, para. 2)

Rule 22 should include a reference to the principles of equivalence and equality to the effect that the health services provided in prison settings should provide for the distinct health-care needs of prisoners of both sexes, whatever their health problems, for example in the areas of gynaecology, psychology and psychiatry. In compliance with the aforementioned principles, children under the age of four years living with their mothers in prison should be provided with specialized paediatric care. There should also be a reference to the need to establish HIV prevention services for non-infected prisoners. In this regard, the confidentiality requirement for HIV diagnosis should be only partially applicable to the medical service.

Rule 23, paragraph 2, should include text to the effect that in prison institutions in which mothers are living with their children, the State should provide such children with clothing, meals, education and health care in an expeditious, effective and efficient manner.

Guatemala does not support the recommendation to add a rule 26 bis.

Area (c): Disciplinary action and punishment, including the role of medical staff, solitary confinement and reduction of diet (rules 27, 29, 31 and 32)

Procedures and international standards relating to body searches should include special procedures for intimate body searches (vaginal and anal searches) carried out on visitors and prisoners.

With regard to the recommendation to add, in rule 31, the reduction of diet, the suspension of family and intimate visits and collective punishment to the practices completely prohibited as punishments for disciplinary offences, Guatemala cannot agree to that recommendation in view of the provisions of articles 74, 82, 83 and 84 of the Prisons Act (Decree No. 33-96).

In rule 31, it is suggested that the imposition of solitary confinement as a disciplinary punishment should be prohibited in the case of persons with disabilities. Juvenile offenders (members of street gangs or juvenile gangs) should be exempted from that prohibition.

With regard to the deletion, in rule 32, of the reference to reduction of diet as a punishment, Guatemala agrees with that recommendation fully, since such punishment is regarded as a form of torture.

Area (d): Investigations of all deaths in custody, as well as of any signs or allegations of torture or inhuman or degrading treatment or punishment of prisoners (rules 7, 44 bis and 54 bis)

Text should be included in rule 7 to the effect that in the event of the death of a prisoner in a prison institution or a public hospital in circumstances where there are no family members to take care of the formalities required for removing the body from the prison or hospital or to bear the burial costs, the State shall bear the funeral costs and take care of the formalities for removal of the body.

With regard to the proposal to add a new rule 44 bis, Guatemala does not support that recommendation, since the Public Prosecution Service is the body with competence for criminal prosecution.

Guatemala does not support the proposal to add a new paragraph to rule 44 addressing the need for prison administrations to provide for or facilitate culturally appropriate burials in the case of custodial deaths, since it does not have the appropriate infrastructure and would be unable to guarantee collective security.

Area (g): Complaints and independent inspection (rules 36 and 55)

Guatemala does not agree with the proposal to refer, in rule 55, to the implementation of an inspection system involving external inspection bodies, since that function falls within the competence of the penal enforcement judges of the judicial system and the Supreme Court of Justice.

With regard to the proposed addition to rule 55 of a new paragraph addressing the powers of independent inspection mechanisms, Guatemala disagrees with that recommendation for the reasons set out in the preceding paragraph.