

CPT/Inf (2004) 4

**Report to the Czech Government  
on the visit to the Czech Republic  
carried out by the European Committee  
for the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment (CPT)**

**from 21 to 30 April 2002**

The Czech Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2004) 5.

Strasbourg, 12 March 2004



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Copy of the letter transmitting the CPT's report

Strasbourg, 13 December 2002

Dear Ms Burčíková,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I have the honour to enclose herewith the report to the Government of the Czech Republic drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to the Czech Republic from 21 to 30 April 2002. The report was adopted by the CPT at its 49th meeting, held from 5 to 8 November 2002.

I would like to draw your attention to paragraph 168 of the report, in which the CPT requests the Czech authorities to provide **within six months** a response setting out the measures taken upon its visit report.

The CPT would ask, in the event of the response being forwarded in Czech, that it be accompanied by an English or French translation. It would also be most helpful if the Czech authorities could provide a copy of the response in a computer-readable form.

I am at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

Yours sincerely,

Silvia CASALE  
President of the European Committee for the  
Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment

**Ms Petra BURČÍKOVÁ**  
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Copy: **Ms Vlasta ŠTEPOVA**, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of the Czech Republic to the Council of Europe, Strasbourg



## **I. INTRODUCTION**

### **A. Dates of the visit and composition of the delegation**

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to the Czech Republic from 21 to 30 April 2002. The visit formed part of the CPT's programme of periodic visits for 2002, and was the second periodic visit to the Czech Republic to be carried out by the Committee<sup>1</sup>.

2. The visit was carried out by the following members of the CPT:

- Volodymir YEVIKTOV (Head of Delegation)
- Mario BENEDITTINI
- Aleš BUTALA
- Florin STANESCU
- Pieter Reinhard STOFFELEN.

They were assisted by:

- Odile DIAMANT-BERGER, Senior Lecturer in Forensic Medicine, former Head of the Forensic Medical Emergency Service at the Hôtel-Dieu Hospital in Paris, France (expert)
- Catherine PAULET, Psychiatrist, Regional Medical and Psychological Service, Baumettes Prison, Marseille, France (expert)
- Alena HANUSOVÁ (interpreter)
- Irena KOUTSKÁ (interpreter)
- Dana LANGEROVÁ (interpreter)
- Vladimír OLEXA (interpreter)
- Tomáš OPOCENSKÝ (interpreter)

and were accompanied by the following members of the CPT's Secretariat:

- Edo KORLIJAN
- Michael NEURAUTER.

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<sup>1</sup> The first periodic visit to the Czech Republic took place from 16 to 26 February 1997. The visit report and the responses of the Czech authorities were published on 15 April 1999 (documents CPT/Inf (99) 7 and (99) 8).

**B. Establishments visited**

3. The delegation visited the following places of detention:

**Establishments under the authority of the Ministry of Interior**

**Ostrava region**

- Masná District Police Station, Ostrava
- Masná Municipal Police Station, Ostrava
- Chotebuz Border Police Station, Český Tešín
- Sobering-up Centre of the Opava Municipal Police, Opava Psychiatric Hospital

**Plzen region**

- Regional Police Headquarters, Plzen
- Perlová Police Station, Plzen
- Aliens Police Station, Plzen
- Bálková Detention Centre for Foreign Nationals

**Prague region**

- Reception Centre for Asylum Seekers at Prague-Ruzyně International Airport
- Detention facilities of the Airport Aliens Police, Prague-Ruzyně International Airport
- Hybernská Police Station, Prague
- Vyšehradská Police Station, Prague

**Establishments under the authority of the Ministry of Justice**

- Plzen Prison
- Prague-Pankrác Remand Prison (follow-up visit)
- Valdice Prison

**Establishments under the authority of the Ministry of Health**

- Opava Psychiatric Hospital

**Establishments under the authority of the Ministry of Labour and Social Affairs**

- Ostravice Social Care Home for Mentally Handicapped Juveniles.

Moreover, the delegation went to Prague-Ruzyně Prison, in order to interview foreign nationals held there pending their judicial expulsion from the Czech Republic.

**C. Consultations held by the delegation**

4. The delegation held consultations with the national authorities and with representatives of non-governmental organisations active in areas of concern to the CPT. In addition, numerous meetings were held with local officials in charge of the places visited.

A list of the national authorities and other persons with which the delegation held consultations is set out in Appendix II to this report.

**D. Co-operation between the CPT and the authorities of the Czech Republic**

5. The degree of co-operation received during the visit from the Czech authorities at central level was on the whole good. During the visit, the CPT's delegation met Mr Alois CIHLÁR, Vice-Minister of Justice, Mr Petr IBL, 1<sup>st</sup> Vice-Minister of the Interior, Mr Antonín MALINA, Vice-Minister of Health, and Ms Bela HEJNÁ, Vice-Minister of Labour and Social Affairs. It also held talks with Mr Jan JARAB, the Government's Commissioner for Human Rights.

6. The CPT wishes to express its appreciation for the assistance provided before and during the visit by the CPT's liaison officer, Ms Petra BURCÍKOVÁ (Secretary of the Committee against Torture of the Government's Human Rights Council). However, the Committee regrets the fact that its delegation was not provided with credentials by the Ministry of the Interior at the outset of the visit. As a consequence, the delegation had to wait 50 minutes before it could carry out its first visit to Hybernská Police Station in Prague. In addition, the delegation was refused access to relevant documentation ("book of events") during the visit to this establishment. Such a state of affairs is not in keeping with the principle of co-operation as set out in Article 3 of the Convention, nor with Article 8, paragraph 2. (c) and (d).

After having been issued with credentials from the Ministry of the Interior (two days after the beginning of the visit), the delegation was correctly received in all other police establishments, had rapid access to the premises and was provided with the information required. As regards other places of deprivation of liberty visited, in particular the three prisons, the holding facilities for foreign nationals, the psychiatric hospital and the social care home, the co-operation received was very good.

**E. Immediate observations under Article 8, paragraph 5, of the Convention**

7. At the end of visit, on 30 April 2002, the CPT's delegation held final talks with the Czech authorities, in order to acquaint them with the main facts found during the visit. On this occasion, the delegation made an immediate observation, in pursuance of Article 8, paragraph 5, of the Convention, and requested the Czech authorities to take immediate steps to ensure that all foreign nationals held at the Reception Centre for Asylum Seekers at Prague-Ruzyně International Airport are offered at least one hour of outdoor exercise per day.

This immediate observation was subsequently confirmed by the President of the CPT in a letter of 15 May 2002, in which the Czech authorities were requested to provide, within three months, an account of the measures taken in response.

8. By letter dated 26 July 2002, the Czech authorities informed the CPT of the measures taken in response to the immediate observation. These measures will be assessed later in this report. However, at this stage, the CPT wishes to acknowledge the constructive spirit in which the Czech authorities reacted to the delegation's immediate observation.

## II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

### A. Police establishments

#### 1. Preliminary remarks

9. During its 2002 visit, the CPT's delegation visited twelve establishments falling under the authority of the Ministry of the Interior, including one border police station and two detention facilities for foreign nationals.

In principle, police custody of persons arrested on suspicion of having committed a criminal offence is limited to a maximum of 48 hours; within that period, they must either be brought before a court or be released.<sup>2</sup> The judge has an additional 24 hours to decide on whether to remand the person in custody. To sum up, a person may be held up to 72 hours in police detention facilities.

As regards the maximum period of detention of foreign nationals under aliens legislation, reference is made to paragraph 29 below.

#### 2. Ill-treatment

10. In the course of the visit, the delegation received a number of allegations of ill-treatment by the police. Although most of the allegations concerned brutality at the time of or immediately following apprehension (allegations of being punched, kicked or struck with different objects), a significant proportion of them related to ill-treatment during police questioning and, more particularly, during interrogation by officers of the criminal police. Generally, it would appear that Roma, foreign nationals and juveniles are particularly vulnerable. Most of the allegations received pre-dated the delegation's visit by at least several months and any marks which might have been caused by the kinds of ill-treatment alleged would almost certainly have healed in the meantime. However, in a few cases, medical information gathered revealed injuries which were consistent with the allegations made.

**In the light of the above, the CPT must recommend once again that senior police officers remind their subordinates, through appropriate means and at regular intervals, that ill-treatment is not acceptable and will be the subject of severe sanctions. It is particularly important that such a reminder be given to officers of the criminal police.**

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<sup>2</sup> The amendment to the Charter of Rights and Freedoms (Act No. 162/1998 Coll.) and the subsequent amendment to the Penal Code (Act No. 166/1998 Coll.) extended the time period during which an accused or a suspect has to be presented to the court from 24 to 48 hours.

11. As regards more specifically the allegations of ill-treatment at the time of apprehension, the CPT fully recognises that the apprehension of a suspect may often be hazardous, particularly if the individual concerned resists and/or the police have reason to believe that the person might be armed and dangerous. The circumstances may be such that the apprehended person, and possibly also police officers, suffer injuries, without this being the result of an intention to inflict ill-treatment. However, no more force than is strictly necessary must be used. Furthermore, once apprehended persons have been brought under control, there can never be any justification for them being struck by police officers. **The CPT recommends that police officers be continuously reminded of these precepts.**

12. Prior to its visit, the CPT received a number of credible allegations of ill-treatment by the police inflicted during the mass demonstrations that had taken place on the occasion of the meeting of the International Monetary Fund and the World Bank in September 2000 in Prague. **The CPT would like to receive detailed information on the action taken by the Czech authorities and the outcome of any investigations carried out in respect of these occurrences.**

### **3. Conditions of detention**

13. Material conditions of detention in many of the police establishments visited were on the whole satisfactory for short-term custody. However, this was not the case in certain police stations, in particular in Prague.

14. At the Prague-Hybernská Police Station, up to four persons could be held in a cell measuring a mere 3.5 m<sup>2</sup> and up to six persons in a cell of some 7 m<sup>2</sup>. Similarly, at the Prague-Vyšehradská Police Station, up to nine persons might be held in a cell of some 7 m<sup>2</sup>. Such occupancy levels are excessive even for very short periods of detention, and are totally unacceptable in case of overnight stays. A cell of 7 m<sup>2</sup> should never be used to hold more than two persons overnight; further, a cell of 3.5 m<sup>2</sup> is too small to be used as overnight accommodation. **The CPT recommends that the use of cellular facilities at Prague-Hybernská and Prague-Vyšehradská Police Stations be reviewed, in the light of the above remarks.**

15. As was the case in 1997, the delegation observed that in various police establishments (*e.g.* Hybernská Police Station in Prague, detention rooms for criminal suspects at Prague-Ruzyně International Airport) detained persons who had to stay overnight in police custody were not provided with a mattress. **The CPT calls upon the Czech authorities to take steps to ensure that in all police establishments in the Czech Republic, persons obliged to stay overnight in custody are provided with a clean mattress and clean blankets.**

Further, in certain police stations (*e.g.* Ostrava Municipal Police Station, Plzen Regional Police Headquarters, Prague-Hybernská Police Station) cells were poorly ventilated. **Steps should be taken to remedy this shortcoming.**



16. It is also noteworthy that in almost all police establishments visited, cells were fitted with metal devices which could be used to shackle detained persons to the wall. In the CPT's view, there can be no justification to shackle detained persons to a fixed object within a secured cell. Consequently, **it recommends that the above-mentioned devices be removed.**

17. The delegation received many allegations by persons who had been in police custody shortly before or during the visit that they had not been offered any food during the first 24 hours of their detention. Such a situation would not be acceptable. **Persons detained by the police should be given food at appropriate times, including at least one full meal (i.e. something more substantial than a sandwich) every day.**

#### **4. Fundamental safeguards against ill-treatment**

18. As already pointed out in paragraph 25 of the report on the CPT's 1997 visit, during police custody, whatever its length, three fundamental rights should apply from the outset of a person's deprivation of liberty (the right of those concerned to inform a close relative or another third party of their choice of their situation, the right of access to a lawyer, and the right of access to a doctor). Furthermore, persons taken into police custody should be expressly informed, without delay and in a language they understand, of all their rights, including those referred to above. The above safeguards should apply not only to persons detained by the police in connection with a criminal offence, but also to persons detained under aliens legislation, and to persons who are obliged to remain with the police for identification purposes or to provide an explanation.

The information gathered in the course of the 2002 visit clearly indicates that there is room for improvement in this area.

##### **a. notification of custody**

19. Contrary to the situation observed in 1997, a number of persons interviewed by the CPT's delegation alleged that the right of notification of custody had not been granted to them. Moreover, the right of notification still did not apply to persons brought to a police station "to give an explanation" or "for the purpose of establishing their identity". This was in contrast to the Czech authorities' statement made in their interim response to the report on the 1997 visit (*cf.* page 6 of document CPT/Inf (99) 8) that in the latter circumstances "there is no obstacle for the respective person to exercise this right and it is being done in practice".

**The CPT reiterates its recommendation that all persons deprived of their liberty by the police, for whatever reason, be granted the right to notify a close relative or third party of their choice of their situation as from the very outset of their deprivation of liberty. The exercise of this right could be made subject to certain exceptions designed to protect the legitimate interests of the police investigation, provided those exceptions are clearly circumscribed in law and made subject to appropriate safeguards (e.g. any delay in notification of custody be recorded in writing with the reasons therefor and to require the approval of a senior police officer unconnected with the case at hand or a public prosecutor).**

b. access to a lawyer

20. In their interim response to the CPT's report on the 1997 visit, the Czech authorities stated that "the right to have access to a lawyer, though it is not mentioned explicitly in the Police Act, is enjoyed by any person including those who have been brought in to provide an explanation. This right is granted in the Constitution of the Czech Republic (Act No. 1/1993 Coll.) and the Bill of Fundamental Rights and Freedoms (Act No. 2/1993) and in compliance with the ruling of the Constitutional Court of the Czech Republic of 5 June 1996".

However, as had been the case during the 1997 visit, the delegation found that the right of access to a lawyer on many occasions only became effective some time after the person concerned had been detained. The CPT is particularly concerned that with regard to this right, specific provisions applicable to juveniles were not always respected.

21. The CPT wishes to emphasise once again that in its experience, it is during the period immediately following the deprivation of liberty that the risk of intimidation and ill-treatment is at its greatest (*cf.* also paragraph 10). Consequently, the possibility for persons taken into police custody to have access to a lawyer during that period is a fundamental safeguard against ill-treatment. The existence of that possibility will have a dissuasive effect upon those minded to ill treat detained persons; further, a lawyer is well placed to take appropriate action if ill-treatment actually occurs. No doubt, the presence of a lawyer at the stage of initial police questioning will not always be welcomed by the police officers concerned. However, properly-trained police officers will be able to cope with the application of this fundamental safeguard.

The right of access to a lawyer must include the right to talk to him in private. The person concerned should also, in principle, be entitled to have a lawyer present during any interrogation conducted by the police. However, this should not prevent the police from questioning a detained person on urgent matters, even in the absence of a lawyer (who may not be immediately available), nor rule out the replacement of a lawyer who impedes the proper conduct of an interrogation.

In the light of the preceding remarks, **the CPT recommends that the Czech authorities take steps to ensure that a right of access to a lawyer as defined above is enjoyed by all persons obliged to remain with the police, as from the very outset of their deprivation of liberty. The right of access to a lawyer should be enjoyed not only by criminal suspects but also by anyone who is under a legal obligation to attend - and stay at - a police establishment, e.g. as a person whose identity must be established or who is obliged to provide an explanation.**

For the right of access to a lawyer to be fully effective in practice, appropriate provision should be made for persons who are not in a position to pay for a lawyer. **The CPT would like to be informed about the arrangements made in this respect in the Czech Republic.**

c. access to a doctor

22. The CPT considers that persons taken into police custody should have the right of access to a doctor, including, if they so wish, the right to be examined by a doctor of their own choice, in addition to any medical examination carried out by a doctor called by the police authorities.

The CPT's delegation which carried out the 2002 visit met persons who claimed that they had not been seen by a doctor whilst in police custody, despite their alleged need for medical assistance and their requests for such assistance. In the CPT's view, a doctor should be called without delay whenever a person in police custody requests a medical examination. It should not be for police officers to filter requests made by detained persons to see a doctor.

**The CPT recommends that a right of access to a doctor for persons in police custody, as described above, be formally guaranteed.**

23. At Plzen Regional Police Headquarters, the delegation was informed that police officers were usually present during medical examinations. As already emphasised in paragraph 32 of the report on the CPT's 1997 visit, **steps should be taken to ensure that all medical examinations of persons in police custody are conducted out of the hearing and - unless the doctor concerned expressly requests otherwise in a given case - out of the sight of police officers.**

d. information on rights

24. Despite the firm commitment given in the Czech authorities' interim response to the CPT's report on the 1997 visit (*cf.* page 19 of document CPT/Inf (99) 8), that 'the Police President of the Czech Republic shall arrange in 1998 for issuing a form informing detainees of their rights in major languages', such a form was not being provided to persons held in the police establishments visited.<sup>3</sup> It appeared that a person in police custody was at best orally informed of his/her rights at the time of apprehension. Information was provided in writing only at a later stage; as a rule, it was recorded at the end of the protocol drawn up by the investigator, which would suggest that the person concerned was only informed of his/her rights at the end of questioning.

**The CPT reiterates the recommendation made in paragraph 33 of its report on the 1997 visit that a form setting out the rights of persons in police custody in a straightforward manner be systematically given to such persons at the very outset of their deprivation of liberty. This form should be available in an appropriate range of languages.**

**Further, the persons concerned should be asked to sign a statement attesting that they have been informed of their rights.**

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<sup>3</sup> The only exception was Český Tešín-Chotebuz Border Police Station, where a form complying with some of the CPT's criteria was available.

e. custody records

25. In their interim response to the report on the 1997 visit (*cf.* page 19 of document CPT/Inf (99) 8), the Czech authorities indicated that "the Police President of the Czech Republic will arrange for introducing a single and comprehensive custody record for each person detained...". The CPT's delegation was pleased that with two exceptions - Plzen-Perlová Police Station and the detention facilities of the Aliens Police (Escort Department) at Prague-Ruzyně International Airport - in all police establishments visited, custody registers were kept in full compliance with the recommendation made in paragraph 35 of the report on the 1997 visit. **The CPT recommends that steps be taken to ensure that custody registers are set up at Plzen-Perlová Police Station and the detention facilities of the Aliens Police (Escort Department) at Prague-Ruzyně International Airport.**

The CPT is concerned that in a number of police stations visited persons had been held by the police for hours "for identification purposes" or "to give an explanation", and that these periods were not recorded at all. **The CPT recommends that this shortcoming be remedied.**

f. complaints and inspection procedures

26. Persons who wish to lodge a complaint against a police officer in the Czech Republic can address themselves to the superior of the police officer concerned or to the Internal Control Division of the Ministry of Interior. These complaints are subsequently dealt with by the Control and Complaints Department of the Police of the Czech Republic and the Inspection of the Minister of the Interior, which may impose a disciplinary punishment.

As regards criminal offences allegedly committed by police officers, these were previously investigated by the Inspection of the Minister of the Interior. However, this system was obviously not perceived as effective and, therefore, the responsibility for the investigation of criminal offences allegedly committed by police officers was transferred to the State Attorney's Prosecuting Office.<sup>4</sup> The CPT welcomes this development; **it would like to receive the 2002 Activity Report of this institution, and, in particular, information on the number and nature of complaints made against police officers, and on the action taken in response thereto.**

27. The CPT considers that the inspection of police detention facilities by an independent authority can make an important contribution towards the prevention of ill-treatment of persons held by the police and, more generally, help to ensure satisfactory conditions of detention. To be fully effective, visits by such an authority should be both frequent and unannounced, and the authority concerned should be empowered to interview detained persons in private.

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<sup>4</sup>

*Cf.* the recent amendment (Act No. 265/2001 Coll., in force since 1 January 2002) to the Czech Penal Code.

In this respect, the above-mentioned amendment to the Czech Penal Code stipulates that "to the extent and under the terms laid down by special law, the State Attorney's Prosecuting Office supervises the compliance with the legislative regulations in establishments where police custody and prison sentences are executed, and in other facilities where one's liberty is restricted or deprived". This confers on the State Attorney's Prosecuting Office the inspection/supervision powers advocated by the CPT. However, it appeared that this supervision mechanism was not yet operational, due to the lack of specific legislative regulations.

**The CPT recommends that all necessary steps be taken to ensure that the inspection of police detention facilities by the State Attorney's Prosecuting Office becomes effective without delay.**

## **B. Detention of foreign nationals under aliens legislation**

### **1. Preliminary remarks**

28. At the time of the CPT's 1997 visit, foreign nationals detained under aliens legislation were being held in police headquarters' detention facilities. In the report on that visit, the CPT strongly criticised the conditions of detention of the persons concerned. Subsequently, the Czech authorities decided to establish specific detention centres for both rejected asylum seekers<sup>5</sup> and illegal immigrants awaiting their removal from the Czech Republic. This is, in principle, a welcome development. However, as from the opening of the detention centre at Bálková in 1998, the CPT began to receive critical reports on the conditions of detention under which foreign nationals were held there.

In the course of the 2002 visit, the CPT's delegation carried out visits to the Bálková Centre, as well as to the newly-opened Reception Centre for Asylum Seekers at Prague-Ruzyně International Airport.

29. The **Bálková Detention Centre for Foreign Nationals** is located in a former police school, some 60 km north of Plzeň, in Western Bohemia, not far from the German border. With an official capacity of 300 persons (which was exceeded on several occasions in the past), it represents the largest detention centre for foreign nationals in the country. On the day of the CPT's visit, the centre was accommodating 288 persons (213 men, 53 women and 22 children and babies, of more than 20 different nationalities). No unaccompanied minors were held at the establishment.

All foreign nationals were detained there for the purpose of their administrative expulsion. Pursuant to the new Law on the Residence of Foreign Nationals on the Territory of the Czech Republic (Act No. 326/1999 Coll.), the maximum period of administrative detention pending removal has been extended from 30 to 180 days. In addition, the legal status of detained foreign nationals is no longer affected by the submission of an asylum application, as was the case previously. As a result, they are not entitled to be transferred to an open reception centre for asylum seekers, but have to stay in the detention centre pending the outcome of the asylum proceedings.

30. It must be pointed out at the outset that the Bálková Centre displayed a number of negative features - a climate of tension; a carceral environment; a quasi-total absence of activities; a lack of regular outdoor exercise; inadequate medical/psychiatric care; the establishment's relative isolation; linguistic barriers and a lack of information for foreign nationals concerning their situation - which for many of the detainees rendered their stay in the centre unbearable. Not surprisingly, cases of self-mutilation, hunger strikes, escapes, suicide attempts, vandalism and violence were relatively common.

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<sup>5</sup> In recent years, there has been a significant increase in the number of foreign nationals seeking asylum in the Czech Republic to some 18,000 in the year 2001, more than double the number in 2000 (8,788).

31. The **Reception Centre for Asylum Seekers at Prague-Ruzyne International Airport**, which was opened in February 2002, accommodates foreign nationals who are subject to the recently introduced airport asylum procedure.<sup>6</sup>

Asylum seekers whose claims have not been rejected as manifestly unfounded within five days are allowed entry into the Czech Republic and are transferred to an open reception centre for asylum seekers. If the asylum application has been rejected as manifestly unfounded, the foreign national concerned can appeal (with suspensive effect) against the decision within seven days before the competent court. During the appeal procedure, asylum seekers are obliged to remain at the airport reception centre.<sup>7</sup> If the court does not take a decision on the appeal within 30 days, the applicant is transferred to a reception centre for asylum seekers within the Czech Republic for the time of the appeal procedure. To sum up, foreign nationals who apply for asylum at the airport may spend up to 42 days there whilst their applications are examined. However, the stay at the airport reception centre can be extended beyond 42 days, if the asylum application has been finally rejected, until the person concerned is removed from the Czech Republic.

The airport reception centre has an official capacity of 16 places; seven male adults and one child were being held there at the time of the visit. When compared to Bálková, it displayed a number of positive features, which will be discussed later in the report.

## **2. Ill-treatment**

32. The CPT's delegation heard a number of allegations of physical ill-treatment of detainees by staff at the Bálková Detention Centre for Foreign Nationals. One such allegation was confirmed by the Director of the establishment and the Czech authorities in their letter of 26 July 2002. Shortly before the CPT's visit, a police officer had hit a woman, who as a result, sustained a nose fracture and a haematoma on her left cheek. The CPT's delegation was informed that the police officer in question had subsequently been dismissed.

Further, many allegations of verbal abuse, frequently of a racist nature, were received at Bálková. The information gathered by the delegation indicated that staff/detainee relations were strained (*cf.* also paragraph 50).

**The CPT recommends that police officers at the Bálková Detention Centre for Foreign Nationals be given the clear message that all forms of ill-treatment, including verbal abuse, are not acceptable and will be the subject of severe sanctions.**

33. By contrast, no allegations of ill-treatment of foreign nationals by staff were heard at the Reception Centre for Asylum Seekers at Prague-Ruzyne International Airport. More generally, the CPT is pleased to note that a positive staff/detainee relationship prevailed within the establishment; this was no doubt in part due to the fact that some staff had a reasonable command of foreign languages such as English, Russian or French.

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<sup>6</sup> Cf. Articles 32 and 73 of the Act on Asylum (Act No. 325/1999).

<sup>7</sup> At the expiry of the five-day deadline, unaccompanied minors under 15 years are transferred to a social welfare institution, and unaccompanied minors between 15 and 18 years are placed in a diagnostic institute.

### 3. Conditions of detention

34. Detention centres for foreign nationals should provide accommodation which is adequately furnished, clean and in a good state of repair, and which offers sufficient living space for the number of persons involved. Further, care should be taken in the design and layout of the premises to avoid as far as possible any impression of a carceral environment. As regards regime activities, they should include outdoor exercise, access to a day room and to radio/television and newspapers/magazines, as well as other appropriate means of recreation (e.g. board games, table tennis). The longer the period for which persons are detained, the more developed should be the activities which are offered to them.

#### a. Bálková Detention Centre for Foreign Nationals

35. The Bálková Detention Centre for Foreign Nationals displayed a number of features which were completely inappropriate for persons who were not suspected of having committed a criminal offence and which, moreover, would not even be acceptable in a prison context. Perhaps the most striking of these features was the detention regime.

36. Current legislation<sup>8</sup> provides for two different types of detention regime, a "lenient" and a "strict" one. In principle, foreign nationals are detained under the "lenient" regime, unless the police consider that there are grounds for them to be placed under the "strict" regime. However, the CPT's delegation found that at the time of the visit, the majority (*i.e.* 152) of foreign nationals held at Bálková were subject to a "strict" regime. In practice, all single men were placed in the "strict" regime. Under this regime, detainees were locked up in their cells for 23 hours per day and were offered nothing which remotely resembled a programme of activities.

The "lenient" regime was mostly reserved for families, elderly detainees and those whose identity had been established. In the "lenient" regime, cell doors were kept unlocked 24 hours per day, and detainees could move freely around the corridor and associate at fixed times with other inmates accommodated in the same section. They were also allowed to take their meals together in a common kitchen.

The CPT does not dispute that special precautions might have to be taken vis-à-vis certain foreign nationals detained under aliens legislation (*e.g.*, for disciplinary, health or security reasons). However, to apply a "strict" regime as described above to the majority of persons held at Bálková has no valid justification and as such is totally unacceptable. Placement under conditions resembling the "strict" detention regime, as currently applied at Bálková, should be highly exceptional.

**The CPT recommends that the Czech authorities review as a matter of urgency the detention regime at Bálková (as well as in other establishments of this kind), in the light of the preceding remarks. Further, when, exceptionally, it is necessary to place a detainee under special conditions of detention, the reasons for such placement should be communicated in writing to the person concerned, who should have a right of appeal against that measure.**

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<sup>8</sup> Articles 130 to 132 of the Act on the Residence of Foreign Nationals on the Territory of the Czech Republic (Act 326/1999 Coll.).



37. The delegation was also struck by the fact that foreign nationals detained at the Centre, except children, were obliged to wear prison-style uniforms. The establishment's Internal Order stipulated that "if the foreigners' dress, clothes and shoes do not fulfil the hygienic and aesthetic standards, the foreigner is obliged to use the dress, clothes and the shoes given to him/her by the facility management". However, this obligation was systematically applied to all foreign nationals, and many of them informed the delegation that they found this highly degrading. It should also be noted that several persons interviewed claimed that they had clean and appropriate clothing among their personal belongings, to which they did not have access.

**The CPT recommends that the current practice concerning clothing of foreign nationals held at Bálková be fundamentally revised; in particular, all detainees arriving at the establishment with clean clothes and appropriate footwear should be entitled to wear them during their stay and, when necessary, to have them cleaned and repaired.**

38. Another anachronistic measure found in the above-mentioned Internal Order was the requirement that "foreign nationals were obliged to keep continuously moving in the recreation area" during their outdoor exercise. This relic of the penitentiary past is all the more indefensible at Bálková, bearing in mind that the outdoor area is surrounded by a high fence, which, in addition, is closely monitored by guards with dogs. **The CPT recommends that the above-mentioned instruction be rescinded. Detainees should be allowed to use their outdoor exercise period in the manner they find most relaxing.**

As regards foreign nationals subject to the "strict" detention regime, the establishment's Internal Order stipulated that the Director of the facility could cancel or reduce the time spent in the "recreation area". Further, the CPT's delegation received numerous complaints that outdoor exercise was on occasion withdrawn or shortened without any explanations. **The CPT recommends that immediate steps be taken to ensure that all foreign nationals at Bálková (as well as in other such establishments throughout the country) are guaranteed at least one hour of outdoor exercise per day. Further, outdoor exercise areas should be fitted with means of protection against inclement weather.**

39. On a more positive note, the material conditions of detention at Bálková were quite satisfactory. All rooms were of a reasonable size, and they enjoyed good access to natural light, artificial lighting and ventilation. A typical room, used to accommodate four inmates, had a surface area of 23 m<sup>2</sup> and was equipped with chairs, tables, an Asian-style toilet and a washbasin. That said, only a few rooms had wardrobes, and no lockable cupboards were provided.

Bedclothes and pyjamas were changed fortnightly. Sanitary facilities were in a good state of repair and hygiene, and a hot shower was provided once per week. However, many detainees complained that they were not being granted access to sanitary facilities at night-time. It would appear that custodial staff were allowing use of the toilets only when several inmates indicated their wish to make use of them or at certain fixed hours. **Steps should be taken without delay to ensure that detainees have ready access to toilet facilities at all times.**

40. Foreign nationals interviewed by the delegation indicated that the quantity of food offered was on the whole satisfactory. Further, the delegation noted that baby milk was provided for young children/babies. However, many Muslim and Hindu detainees alleged that their religious requirements and dietary habits were not taken into account and that, more particularly, pork and beef were often on the menu. As a result, many inmates refused the food, and, as a consequence, apparently had lost weight during their stay at Bálková.

The CPT's delegation visited the establishment's kitchen, and noted that pork and beef were indeed frequently on the menu. **The CPT recommends that the religious requirements and dietary habits of foreign nationals be taken fully into account.**

41. The total lack of activities in the "strict" detention regime has already been referred to in paragraph 36. The situation was only marginally better for those subject to the "lenient" regime. Certainly, the latter detainees could leave their cells and associate with each other in the corridor throughout the day and could take their meals in the common kitchen. However, there were no organised activities of any kind, apart from outdoor exercise, and no access to any reading material. It is of particular concern that minors, including young children, were not offered any activities adapted to their age (*e.g.* sports and education). To sum up, foreign nationals spent practically all of their time in their dormitories in an enforced state of idleness, a state of affairs which could last for months on end.

**The CPT recommends that vigorous steps be taken to provide a range of activities for foreign nationals held at Bálková (as well as in other establishments of this kind), in the light of the remarks made in paragraph 34. Specific measures should be taken to ensure that minors are offered activities suitable to their age.**

42. In their letter of 26 July 2002, the Czech authorities informed the CPT that they had decided to transfer detained foreign nationals with children from Bálková to reconstructed facilities in the centre for asylum seekers at Belá pod Bezdezem-Jezová. **The CPT would like to be informed of the progress made in this respect and of the conditions under which such foreign nationals are held there (*i.e.* accommodation, activities, *etc.*).**

b. Reception Centre for Asylum Seekers at Prague-Ruzyně International Airport

43. The material conditions at the Reception Centre were good. The centre comprised five rooms, all of which were equipped with chairs, tables and individual lockable wardrobes and fitted with call systems. They enjoyed good access to natural light and artificial lighting. The windows could be opened, but detainees refrained from doing so, due to the external noise and pollution. Blankets, sheets and mattresses were clean, and foreign nationals were offered the same food as the airport staff and police officers. According to the foreign nationals met, the food served was in compliance with their dietary habits. Hygienic kits were provided upon arrival, and all foreign nationals had ready access to toilets and showers. The delegation was informed that, whenever female foreign nationals were held at the reception centre, the common corridor was divided by a lockable gate, to allow women to be accommodated separately from men at night.

The regime was rather relaxed at the Reception Centre. Foreign nationals could associate 24 hours per day, cell doors not being locked at any time. They had access to a room, where a television set, board games and newspapers were available. Toys for children were also provided.

44. As already indicated (*cf.* paragraph 7), the CPT's delegation made an immediate observation regarding the total lack of outdoor exercise at the Reception Centre for Asylum Seekers at Prague-Ruzyne International Airport.

In their letter of 26 July 2002, the Czech authorities informed the CPT that they "have managed to solve all technical and administrative issues connected with setting up an outdoor exercise facility at the Ruzyne Reception Centre" and that they planned to set up "rectangular grassy premises about 500 metres from the centre, fenced on all the four sides, with a bench and a shelter, maybe other equipment as well". The CPT welcomes this development and **would like to receive assurances that this outdoor exercise facility is now fully operational.**

#### **4. Health care**

45. The Bálková Detention Centre for Foreign Nationals relied on the services of a retired general practitioner, who was present Monday to Friday for eight hours per day. This doctor often stayed overnight at the establishment. In her absence, a police doctor from Plzen was called in.

The CPT welcomes the fact that the establishment had seven fully qualified nurses, who ensured a 24-hour presence and carried out medical screening on admission. Nurses informed the doctor of new arrivals within 24 to 36 hours of admission and of any medical problems they encountered. Material conditions in the establishment's medical service were of a high standard. The service also had a quarantine unit, which could accommodate up to 15 inmates.

However, the CPT's delegation was concerned to note that medical consultations/examinations were always carried out in the presence of police officers. **The CPT recommends that all medical examinations be conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of police officers.**

46. Notwithstanding the above, complaints about the health care provided at Bálková were rather frequent; they mainly related to the lack of medicines and the unavailability of appropriate treatment, due to the fact that foreign nationals were not covered by health insurance. **The CPT would like to receive the comments of the Czech authorities on this point.**

47. It should also be stressed that, despite the presence of two psychologists, psychological and psychiatric care was insufficient at Bálková. The psychologists seemed to spend the bulk of their time in interpreting (*cf.* also paragraph 50). The delegation's medical members found that many foreign nationals were suffering from severe psychological problems (anxiety, depression, sleeping problems, *etc.*) or, in some cases, were showing psychiatric symptoms. The situation in this regard was further exacerbated by the fact that the Psychiatric Hospital in Plzen systematically refused to admit foreign nationals in need of psychiatric treatment, because they did not speak Czech.

The CPT is also concerned that women and children/babies did not benefit from the regular availability of the services of a gynaecologist or paediatrician.

**The CPT recommends that steps be taken to ensure that foreign nationals held at Bálková are provided adequate access to the services of a psychiatrist, a gynaecologist, and a paediatrician.**

48. At the Reception Centre for Asylum Seekers at Prague-Ruzyne International Airport, health care was provided by the Airport Medical Service (Meditrans), which *inter alia* examined all newly arrived foreign nationals. Further, foreign nationals received weekly visits by a psychologist employed by an NGO. Information about the medical/psychological services available was displayed in different languages.

The CPT welcomes the fact that police officers were not present during medical examinations. However, it appeared that medical files were accessible to non-medical staff. **The Committee recommends that steps be taken to ensure that medical confidentiality is respected at the establishment.**

## **5. Other issues**

### **a. staff**

49. Staff at detention centres for foreign nationals have a particularly onerous task. Firstly, there will inevitably be communication difficulties caused by language barriers. Secondly, many detained persons will find the fact that they have been deprived of their liberty when they are not suspected of any criminal offence difficult to accept. Thirdly, there is a risk of tension between detainees of different nationalities or ethnic groups. Consequently, the CPT places a premium upon the supervisory staff in such centres being carefully selected and receiving appropriate training. As well as possessing well-developed qualities in the field of interpersonal communication, the staff concerned should be familiar with the different cultures of the detainees and at least some of them should have relevant language skills. Further, they should be taught to recognise possible symptoms of stress reaction displayed by detained persons (whether post-traumatic or induced by socio-cultural changes) and to take appropriate action.

50. At the Bálková Detention Centre for Foreign Nationals, some 162 police officers were employed. Eight employees were assigned to administrative tasks, and some fifty persons worked in the kitchen and assured the maintenance of the establishment.

Police officers assigned to the establishment did not receive any specific training before taking up their duties. Moreover, not a single police officer working in direct contact with detainees possessed a reliable command of a foreign language, which constantly created insurmountable communication difficulties. The staff shouted their orders in an effort to be understood, which only exacerbated the level of tension and mutual frustration. Only the two psychologists were able to communicate in English, German and Russian, but they left the establishment by 15h30 each day, which resulted in serious communication problems for the rest of the time (*cf.* also paragraph 47). No recourse was made to the services of interpreters.

**The CPT recommends that the Czech authorities review the selection and training of staff assigned to Bálková Detention Centre (as well as to other establishments of this kind), in the light of the remarks made in paragraph 49.**

**Further, the CPT invites the Czech authorities to arrange for the regular presence of interpreters at the Bálková Centre.**

51. As already indicated (*cf.* paragraph 33), the situation regarding staff was significantly better at the Reception Centre for Asylum Seekers at Prague-Ruzyne International Airport. Five staff in plain clothes assured a 24-hour presence every day. Additional assistance was provided by the airport security service, which was called in case of need. Foreign nationals also benefited from the presence of a social worker (accompanied by an interpreter).

b. information to foreign nationals

52. Immigration detainees (whether asylum seekers or not) should - in the same way as other categories of persons deprived of their liberty - be entitled, as from the outset of their detention, to inform a person of their choice of their situation and to have access to a lawyer and a medical doctor. Further, they should be expressly informed, without delay and in a language they understand, of all their rights and of the procedure applicable to them.

53. Upon arrival at Bálková, every foreign national was given a copy of the internal rules. The CPT welcomes the fact that this document was available in a variety of frequently spoken languages (English, French, Russian, German, Spanish, Chinese and Albanian).

Nevertheless, the CPT's delegation heard numerous complaints from foreign nationals about the lack of information on their legal situation and rights (including their right of access to a lawyer, the current stage of the procedure concerning them, the reason for their detention and its likely length). Consequently, foreign nationals often found the legal proceedings to which they were subjected extremely difficult to understand.

**The CPT recommends that the Czech authorities take steps to ensure that all foreign nationals held at Bálková are duly informed about the nature and state of the proceedings in their case, as well as of all their rights related thereto.**

54. Similarly, the CPT's delegation received complaints at the Reception Centre for Asylum Seekers at Prague-Ruzyne International Airport about the fact that foreign nationals were not provided with sufficient information on their legal status and rights. The delegation was informed that an information brochure for foreign nationals was being prepared. This is a welcome development. **The CPT trusts that this information brochure will be made available without delay - in the most frequently spoken languages - to all asylum seekers held at Prague-Ruzyne International Airport.**

c. contact with the outside world

55. Foreign nationals held at the Bálková Detention Centre were able to send and receive letters and had daily access to a payphone for three minutes. However, only one payphone was available; at the time of the CPT's visit, a large number of foreign nationals were obliged to queue up to use it, which created considerable tension among them. In addition, calls were usually allowed only in the afternoon; due to time-lags, this created considerable difficulties for the majority of Asian nationals detained there. **The CPT invites the Czech authorities to explore the possibility of installing additional phones.**

56. Foreign nationals were allowed to receive a visit by up to two persons once every three weeks, for a maximum of 30 minutes. This visit entitlement is inferior to that granted to prisoners in the Czech prison system. **The CPT recommends that the visit entitlement for foreign nationals held at Bálková (as well as in other establishments of this kind) be significantly increased.**

57. At the Reception Centre for Asylum Seekers at Prague-Ruzyne International Airport, foreign nationals could correspond freely with the outside world and make and receive phone calls. Visits were in principle possible at any time, except during meal times. However, the fact that the reception centre is located in the transit zone made it difficult for foreign nationals to receive visitors. Therefore, **special arrangements should be made for such persons to be able to see a lawyer, a doctor of their choice, representatives of NGOs and, where appropriate, family members or other persons close to them settled in the Czech Republic.**

## C. Prisons

### 1. Preliminary remarks

58. The CPT's delegation carried out a full visit to Plzen Prison and a targeted visit to Valdice Prison; the principal objective of the latter visit was to explore the conditions of detention of life-sentenced prisoners. In addition, the delegation made a follow-up visit to Prague-Pankrác Remand Prison, in order to review the measures taken by the Czech authorities after the 1997 visit.

59. Important legislative changes have taken place in the field of imprisonment since the last CPT's visit<sup>9</sup>. The new legislation introduced, *inter alia*, a new classification of prisons, according to the level of security, into open prisons, prisons under supervision, specially guarded prisons and maximum-security prisons.

It should also be noted that the Czech prison system has recently been subject to severe disturbances. The main reasons for the prisoners' revolt were reportedly poor conditions of detention caused by overcrowding, inadequate health care and the lack of access to telephones.

60. Recent legislative changes concerning remand imprisonment have resulted in a substantial decrease of prisoners in Czech prisons<sup>10</sup>. However, the delegation's findings during the 2002 visit indicated that there was still a lack of sufficient living space for many prisoners in Czech prisons. In this connection, the CPT was concerned to learn that the already modest standard of 3.5 m<sup>2</sup> per person, which had been criticized by the Committee (*cf.* paragraph 47 of the report on the 1997 visit), had recently been formally abolished. **The CPT recommends that an official standard be re-established in the Czech prison system, guaranteeing at least 4 m<sup>2</sup> per prisoner in multiple-occupancy cells.**

More generally, **the CPT invites the Czech authorities to continue to pursue their efforts to bring about a permanent end to overcrowding; success in this area will require *inter alia* that full use be made of existing possibilities for non-custodial sanctions.**

61. **Plzen Prison**, one of the largest prison establishments in the country, was built in the mid-nineteenth century on the outskirts of the city. The prison has an official capacity of 1,196 places; at the time of the visit, it was holding 1,100 prisoners, of whom 880 were sentenced and 220 on remand (including twelve women and five juveniles). The prison population included some 150 foreign nationals. The establishment also had a "half-way house" for prisoners serving the last six months of their sentence and was the only prison in the country with a "drug-free" unit.

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<sup>9</sup> As regards sentenced prisoners, the Code on the Execution of Incarceration ("ZVOS") was amended by Act No. 359/1999 Coll. and Act No. 169/1999 Coll. on the Execution of Prison Sentences and Changes in Some Connected Acts. In respect of remand prisoners, the Code Governing the Execution of Pre-trial Detention ("ZVV") was amended by Act No. 208/2000 Coll..

<sup>10</sup> The total number of prisoners in the Czech Republic decreased from 21,920 on 31 March 2001 to 17,924 at the time of the visit.

**Prague-Pankrác Remand Prison** has already been described in paragraph 45 of the CPT's report on the 1997 visit. The establishment's official capacity has since been reduced from 1,128 to 1,065 places; at the time of the visit, it was accommodating 936 inmates (including eight women and nine juveniles). Approximately one third of the total prison population were foreign nationals (of 45 different nationalities). With an official capacity of 100 beds, the adjacent Prison Hospital was accommodating 76 patients at the time of the visit.

**Valdice Prison** is located on the premises of a seventeenth-century monastery, which was converted into a prison some 140 years ago. Its official capacity had been more than halved since the 1980s (from 2,700 to 1,280 prisoners); at the time of the visit, the prison was accommodating 1,387 male inmates (an occupancy rate of 108%). A special unit for life-sentenced prisoners, opened in January 2002, housed eight life-sentenced prisoners.<sup>11</sup>

## **2. Ill-treatment**

62. The CPT's delegation heard no allegations of torture of prisoners by staff - and gathered no other evidence of such treatment - in the prisons visited, or in other prisons in the Czech Republic.

However, both before and during the visit, the delegation received from various sources, including from prisoners who had formerly been held at Valdice Prison, a number of serious allegations of physical ill-treatment by the staff of this establishment. Such allegations concerned slaps, kicks, punches, and baton blows inflicted on inmates once they had been restrained, as well as other forms of disproportionate use of force.

In addition, in all the establishments visited, the CPT's delegation received allegations of verbal abuse, including insults of an ethnic and racial character; Russian-speaking and Roma prisoners seemed to be particularly exposed to such treatment.

63. The CPT recognises that prison staff will on occasion have to use force to control violent and/or recalcitrant prisoners. However, the force used should be no more than is strictly necessary; further, once prisoners have been brought under control, there can be no justification for striking them. **The CPT recommends that prison officers at Valdice Prison be reminded of these precepts.**

Further, **the CPT recommends that senior prison officers in all establishments visited remind their subordinates that verbal abuse is not acceptable and will be punished accordingly.**

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<sup>11</sup> The remainder of the life-sentenced prisoners in the Czech Republic were being held at Mírov Prison (13 male prisoners) and Pardubice Prison (one female prisoner).



64. In order to obtain a nationwide view of the current situation concerning the treatment of prisoners, **the CPT would like to receive the following information for 2001 and 2002, in respect of all prisons in the Czech Republic:**

- **the number of complaints lodged concerning ill-treatment by prison staff and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;**
- **an account of disciplinary/criminal sanctions imposed on the grounds of ill-treatment by prison staff.**

65. It should also be emphasised that the CPT has serious concerns about certain aspects of the conditions of detention of life-sentenced prisoners. These issues will be dealt with in the following section.

### **3. Life-sentenced prisoners**

#### **a. introduction**

66. The CPT regrets that the situation of life-sentenced prisoners in the Czech Republic has not improved since its visit to Mírov Prison in 1997, despite the specific recommendations made in the report on that visit. The Committee is particularly concerned about the restrictive approach adopted by the Czech authorities vis-à-vis life-sentenced prisoners in the recently issued Methodological Ordinance No. 13<sup>12</sup> (in particular, as regards the regime, contact with the outside world and the use of means of physical restraint).

67. The above-mentioned ordinance introduced a new detention regime for life-sentenced prisoners.

According to the new system, life-sentenced prisoners are classified in three groups. The most restrictive is the third group, which is designed "for all convicts starting their life sentence and [...] those who have committed serious transgressions against the internal prison rules and whose conduct could not be demonstrably managed by the usual procedure". After *five* years, prisoners "who have mostly fulfilled their duties and accept the actions of the specialists of the section of execution of the prison sentence" may be transferred to the second group. After *another ten* years, prisoners may be placed in the first group (offering the least restrictive regime, within the conditions of a maximum-security prison), if they "have been performing their duties in an exemplary way and have actively involved in the treatment programme".

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<sup>12</sup> Methodological Ordinance No. 13 on the Execution of the Punishment of Prisoners Sentenced to Life-imprisonment and Other Prisoners with Diagnosed Need of Increased Surveillance (issued by the General Directorate of the Prison Service on 16 October 2001).

b. regime

68. At Valdice Prison, seven of the eight life-sentenced prisoners were placed in the third group and the remaining prisoner in the second group. The regime offered to life-sentenced prisoners was *de facto* the same in both categories.

Apart from one hour of outdoor exercise in small outdoor exercise cubicles of some 15 m<sup>2</sup>, the daily out-of-cell activities were limited to one hour of sports (table tennis) in a small gym and one hour of playing board games in the so-called "cultural room". During these activities, life-sentenced prisoners could only associate with one other life-sentenced prisoner at a time. For the rest of the day (*i.e.* during 21 hours), they were locked up alone in their cells, where they could listen to the radio, read (two books could be ordered from the library per week) and watch television (which could be switched on between 17h00 and 22h00). At weekends, prisoners were locked in their cells 23 hours per day.

Educational activities were limited to the video transmission into the cell of pre-recorded TV broadcasts of an "educational value" (one hour per day during the week and several hours on weekends). No work was offered to life-sentenced prisoners at the time of the visit. However, in their letter of 26 July 2002, the Czech authorities stated that work had been found for life-sentenced prisoners and that some 45% of them were active in gluing envelopes. Further, they indicated that plans were afoot to extend the outdoor exercise facilities designated to life-sentenced prisoners and to provide them improved sports activities.

69. As already highlighted in paragraph 53 of the report on the 1997 visit, long-term imprisonment can have a number of desocialising effects upon inmates. In addition to becoming institutionalised, long-term prisoners may experience a range of psychological problems (including loss of self-esteem and impairment of social skills) and have a tendency to become increasingly detached from society, to which almost all of them will eventually return. In the view of the CPT, the regimes which are offered to prisoners serving long sentences should seek to compensate for these effects in a positive and proactive way.

The prisoners concerned should have access to a wide range of purposeful activities of a varied nature (work, preferably with vocational value; education; sport; recreation/association). Moreover, they should be able to exercise a degree of choice over the manner in which their time is spent, thus fostering a sense of autonomy and personal responsibility. Additional steps should be taken to lend meaning to their period of imprisonment; in particular, the provision of individualised custody plans and appropriate psycho-social support are important elements in assisting such prisoners to come to terms with their period of incarceration and, when the time comes, to prepare for release.

70. It is clear that the regime applied to life-sentenced prisoners at Valdice does not meet the above criteria. The Committee is also very concerned about the systematic rule that no more than two life-sentenced prisoners can ever come together. In this connection, the CPT wishes to stress that life-sentenced prisoners are not necessarily more dangerous than other prisoners; many of them have a long-term interest in a stable and conflict-free environment. Therefore, the approach to the management of life-sentenced prisoners (as indeed for all prisoners) should proceed from individual risk/needs assessment to allow decisions concerning security, including degree of contact with others, to be made on a case by case basis.

**The CPT recommends that the regime applicable to life-sentenced prisoners in the Czech Republic be fundamentally revised, in the light of the above remarks.**

Further, **the CPT wishes to emphasise that it can see no justification for keeping life-sentenced prisoners systematically apart from other sentenced prisoners (cf. also paragraph 54 of the report on the 1997 visit).**

71. The negative effects of institutionalisation upon prisoners serving long sentences will be less pronounced, and they will be better equipped for release, if they are able effectively to maintain contact with the outside world.

Life-sentenced prisoners at Valdice could send and receive letters without restriction, although all letters (except letters from/to lawyers) were read by the prison administration. Further, they had the same visit entitlement as other sentenced prisoners in the Czech prison system (*i.e.* up to three hours per month). However, they were systematically denied open visits (even with spouses). This was in accordance with the Methodological Ordinance No. 13, which stipulates that visits of life-sentenced prisoners of the second and the third group are "usually" carried out under closed conditions (open visits would only be granted once the prisoner concerned is placed in the first group; *i.e.* after 15 years). In addition, access to a telephone was only granted "in justified cases" (as was the case for other sentenced prisoners in the prisons visited; *cf.* also paragraph 96).

To systematically deny to life-sentenced prisoners - for years on end - the possibility of having open visits, is indefensible. The granting or withholding of open visits should be based on individual risk assessments. **The CPT recommends that the Methodological Ordinance No. 13 be amended accordingly.**

72. The CPT's delegation observed that at Valdice Prison all life-sentenced prisoners were systematically handcuffed (with a metal chain attached to a belt), whenever they were taken out of their cells.<sup>13</sup> Until shortly before the visit, prisoners had also been handcuffed during outdoor exercise, which was taking place in completely sealed off cubicles covered with roof bars.

In the CPT's view, there can be no justification for routinely handcuffing life-sentenced prisoners outside their cells, all the more so when this measure is applied in an already secure environment. Such a practice can only be seen as disproportionate and punitive. **The CPT recommends that the Czech authorities review the use of handcuffs vis-à-vis life-sentenced prisoners, in the light of the above remarks.**

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<sup>13</sup> One prisoner met by the delegation claimed that he had even been handcuffed when taking out personal belongings from the cupboard located in the area between the cell door and the grilled partition of the cell.

73. Furthermore, the information gathered during the visit indicates that life-sentenced prisoners at Valdice had been handcuffed during consultations with the prison doctor (usually in the presence of a prison officer) or placed behind metal bars (without handcuffs) during consultations with the psychiatrist. **In the CPT's view, these are ethically questionable practices which are inimical to a proper doctor-patient relationship.**

As regards the presence of prison officers during medical examinations, reference is made to paragraph 92.

c. material conditions

74. On a more positive note, the CPT wishes to emphasise that the material conditions of detention were overall quite satisfactory in the section for life-sentenced prisoners at Valdice Prison. All cells were of an adequate size. Further, they benefited from sufficient access to natural light and ventilation, were equipped with artificial lighting and heating, had basic furniture and a toilet, and were clean. However, inmates could only keep an absolute minimum of personal belongings within their cells and were not allowed to decorate them. **The CPT invites the Czech authorities to take steps to allow life-sentenced prisoners to create a more personalised environment in their cells.**

75. Life-sentenced prisoners who became agitated and/or violent could be placed - upon consultation of the doctor - in a security cell (No. 113). The cell was equipped with a wooden platform (surrounded with a metal frame), on which prisoners could be strapped with leather belts. Video surveillance equipment was installed. **The CPT recommends that the security cell be equipped with a mattress and a special register be kept concerning its use.**

Further, **the Committee would like to receive detailed information about the procedures (e.g. medical supervision) in the event of placement of a person in this cell.**

#### **4. Conditions of detention of the general prison population**

a. material conditions

76. Both Plzen Prison and Prague-Pankrác Remand Prison globally offered adequate material conditions of detention to inmates.

Plzen Prison was kept in a good state of repair and cleanliness (*cf.*, however, paragraph 88 as regards the establishment's infirmary). Cells were reasonably furnished, well-lit and ventilated, and access to natural light and artificial lighting was satisfactory. However, although the establishment was not operating at its full capacity, cells in certain units were overcrowded (*e.g.* 14 remand prisoners accommodated in a cell of some 25 m<sup>2</sup>).

The great majority of cells at Prague-Pankrác Remand Prison were also furnished to a reasonable standard, and adequately lit and ventilated. Although the number of inmates had significantly decreased in recent times (*cf.* paragraph 61), the cell occupancy levels in certain parts of the establishment were still rather high. By way of example, up to three remand prisoners were held in cells of 8 m<sup>2</sup> and up to seven sentenced prisoners in cells of 24 m<sup>2</sup>. In this connection, reference should be made to the recommendation already made in paragraph 60.

As regards the escort area in the basement of "E" building, which was criticised in the report on the 1999 visit, the CPT is pleased to note that the cells in question have been taken out of service and a new escort area set up at Jirice Prison.

b. activities

77. The programme of activities offered to prisoners in the establishments visited varied considerably depending on the inmates' category (sentenced or on remand) and their security classification (low, medium, high or maximum-security). As in 1997, efforts were made by the authorities to provide sentenced prisoners with work of vocational value, as well as educational and cultural activities. On the other hand, activities offered to remand prisoners still left a lot to be desired.

78. As regards *sentenced prisoners*, both Plzen Prison and Prague-Pankrác Remand Prison had set up individualised re-socialisation programmes for every prisoner, and work activities formed a significant part of these programmes. Nearly all sentenced prisoners at Prague-Pankrác Remand Prison were engaged in occupational activities. At Plzen Prison, some 60% of convicts worked in a variety of workshops (welding, electrician, drilling, iron monger, locksmiths). In this context, it should be highlighted that two external private companies employed a number of inmates. Other prisoners were offered work as orderlies or in the kitchen.

At Prague-Pankrác Remand Prison, some 32 prisoners were attending literacy classes and 64 were enrolled in English classes. Plzen Prison provided an even better range of educational activities, including elementary and secondary basic education courses, training courses for electricians, painters and varnishers, literacy courses, as well as German and Czech language courses. To sum up, approximately 200 inmates benefited from some kind of educational activity at Plzen.

The CPT's delegation was impressed by the well-stocked central library and the libraries in various units at Plzen Prison, which also included a number of books in foreign languages. More than one hundred inmates were frequently consulting the central library.

79. By contrast, neither establishment visited offered *remand prisoners* anything that remotely resembled a regime. At Prague-Pankrác Remand Prison, the regime offered to some 450 remand prisoners remained inactive to the point of torpor. The situation was very similar at Plzen Prison, where no work or educational activities were offered. As a result, prisoners spent most of their time in a state of enforced idleness.

80. The CPT recognises that the provision of organised activities in the remand section of a prison, where there is likely to be a high turnover of inmates, poses particular challenges. It will not be possible to set up individualised programmes for such prisoners; however, it is not acceptable to leave prisoners to their own devices for months or even years on end. The aim should be to ensure that all prisoners, including those on remand, spend a reasonable part of the day (*i.e.* eight hours or more) outside their cells engaged in purposeful activities of a varied nature: work, preferably with vocational value; education; sport; recreation/association (*cf.* paragraph 56 of the report of the 1997 visit).

The information gathered by the CPT's delegation during the 2002 visit indicates that hardly any progress has been made in this respect. Therefore, **the CPT must recommend once again that the Czech authorities take steps to develop and implement a specific policy in respect of remand prisoners, with a view to offering them adequate programmes of activities, throughout the prison system.**

81. The CPT is also concerned that its previous recommendation - that prisoners be allowed at least one hour of *outdoor exercise* every day - has not been fully implemented (*cf.* paragraph 72 of the report on the 1997 visit). In this context, the CPT's delegation was informed at Plzen Prison and Prague-Pankrác Remand Prison that an insufficient number of staff prevented the full implementation of this fundamental safeguard.

The delegation also received complaints from a number of newly-arrived prisoners at Plzen Prison that they were not offered any outdoor exercise during the first week of their stay. Further, female prisoners in this establishment complained that their outdoor exercise was regularly scheduled for 7h00 in the morning, which had a discouraging effect, in particular during the winter. In addition, the delegation noted that patients at the prison hospital of Prague-Pankrác Remand Prison were still offered no opportunity to go outside, as was the case with the patients of the infirmary at Plzen Prison.

**The CPT calls upon the Czech authorities to take immediate steps to ensure that all inmates, including newly-arrived prisoners and patients whose state of health permits, are offered at least one hour of outdoor exercise per day. Further, the CPT invites the Czech authorities to review the schedule of outdoor exercise for female prisoners at Plzen Prison.**

82. Two praiseworthy pilot-projects carried out at Plzen Prison merit particular mention. The first one is the creation of a "*half-way house*" on the establishment's premises, which was accommodating up to 20 prisoners serving their last six months of imprisonment. Their cells were unlocked during the day, and inmates could associate freely, had access to TV, radio, magazines and a personal computer.

The second project concerns a detached unit in the neighbouring *Hermanova Hut*, where a *semi-open* regime was offered to some 15 prisoners serving light sentences. During the day, inmates could leave the premises in order to work for a private company.

**The CPT invites the Czech authorities to develop similar projects throughout the prison system.**

However, the delegation was informed by local prison staff that only Czech nationals were able to be placed in such units. **The CPT would like to receive the comments of the Czech authorities on this matter.**

83. The CPT also noted that, according to new regulations, all sentenced prisoners in the Czech Republic had to reimburse the costs of their incarceration to the State authorities. This legal requirement seemed to have detrimental effects on the motivation of prisoners to engage in an educational/vocational programme, who opted instead for remunerated work. **The CPT would like to receive the Czech authorities' comments on this point.**

## 5. Health care

### a. introduction

84. Health care services for persons deprived of their liberty is a subject of direct relevance to the CPT's mandate. An inadequate level of health care can lead rapidly to situations falling within the scope of the term "inhuman and degrading treatment". Further, the health care service in a given establishment can potentially play an important role in combating the infliction of ill-treatment, both in that establishment and elsewhere (in particular in police establishments). Moreover, it is well placed to make a positive impact on the overall quality of life in the establishment within which it operates. The CPT wishes to make clear the importance which it attaches to the general principle - already recognised in most, if not all, of the countries visited by the Committee to date - that prisoners are entitled to the same level of medical care as persons living in the community at large. This principle is inherent in the fundamental rights of the individual.

85. The delegation was informed about the Czech authorities' plan to transfer the responsibility for prison health care from the Ministry of Justice to the Ministry of Health. This is a welcome development; the CPT is convinced that it will help to ensure optimum health care for prisoners, as well as to implement the general principle of equivalence of health care in prison with that in the outside community. **The CPT would like to be informed of the progress made in this respect, and in particular on the procedures envisaged to supervise the work of health care staff in Czech prisons.**

### b. staff and facilities

86. The *health care staff* at Prague-Pankrác Remand Prison (including the Prison Hospital) comprised 26 doctors, 40 nurses and 14 auxiliary staff. In addition, some 20 specialists gave regular consultations at the establishment.

The numbers of doctors (including specialists) and nurses were sufficient for the establishment's needs. At the prison health care unit, four doctors were present on working days from 7h00 to 15h45. For the rest of the time, emergency assistance was provided by doctors from the Prison Hospital (one internist, one surgeon and one anaesthesiologist).

87. At Plzen Prison, the medical team included four full-time general practitioners, a psychiatrist and a dentist, as well as 12 nurses. The number of doctors appeared to be adequate; however, the nursing staff level is clearly insufficient for an establishment which accommodated more than 1,000 prisoners and, in addition, had an infirmary with 25 beds.

Further, none of the members of the health care team were present during much of the afternoon, at night and on weekends; consequently, the prison had to rely, if need be, on the intervention of external emergency medical services. Such a state of affairs is totally unacceptable for an establishment of the size of Plzen Prison.

**The CPT recommends that steps be taken as a matter of priority to significantly increase the number of nursing staff at Plzen Prison (this should make it possible, *inter alia*, to ensure the 24-hour presence of a nurse). It would also be preferable for a doctor to be present on weekends.**

88. The *health care facilities* at both Plzen Prison and Prague-Pankrác Remand Prison (including the Prison Hospital) were generally well equipped, bright and clean, and included consultation rooms, infirmaries, X-ray facilities and dentist's rooms. The only exception to this favourable situation was represented by the two rooms of the infirmary at Plzen Prison (accommodating some twelve patients), which were dirty, and equipped with old and filthy furniture and bedding. **The CPT recommends that immediate steps be taken to improve the level of hygiene in the two above-mentioned rooms of the infirmary at Plzen Prison, in accordance with medical standards.**

c. treatment

89. The CPT's delegation heard many complaints by inmates at Plzen Prison and Prague-Pankrác Remand Prison about inadequate supply of medication. The majority of doctors met acknowledged that for financial reasons they were facing difficulties in obtaining all the medicines required. It also appeared that many foreign prisoners were required to pay partially or in full for certain medicines, due to the lack of health insurance coverage.

**The CPT recommends that the Czech authorities ensure that all prisoners are guaranteed the provision of the medication required by their state of health, which implies that funds allocated to prisons should be sufficient to enable medication to be provided free of charge to those prisoners who do not have the necessary financial means to pay for it themselves.**



d. medical screening

90. The CPT welcomes the fact that in the establishments visited, medical screening of newly-arrived prisoners was, in principle, carried out by a member of the prison's health care service on the day of admission. However, the CPT's delegation noted that at Plzen Prison such examinations were not carried out systematically during weekends (from Friday afternoon until Monday morning).

The CPT considers that, save in exceptional circumstances, an initial medical examination should take place on the day of admission. This is of crucial importance for preventing the spread of transmissible diseases, the identification of prisoners who present a suicide risk, and the timely recording of injuries sustained prior to admission to the prison. **The CPT trusts that this requirement will be fulfilled once a nursing (and medical) staff presence on weekends is established at Plzen Prison.**

e. confidentiality/security issues

91. Medical confidentiality was in general observed in a satisfactory manner at Prague-Pankrác Remand Prison (as well as in the adjacent Prison Hospital).

92. By contrast, at Plzen Prison, medical examinations were systematically conducted in the presence of prison officers. In their letter of 26 July 2002, the Czech authorities defended the presence of prison officers during medical consultations by stating that medical staff "are often subjects of verbal attacks and also have been taken hostages". The letter added that the Ministry of Justice was considering asking prison officers present during medical consultations to sign undertakings to keep secret the information to which they were privy during these consultations.

The CPT has serious misgivings about this approach. It acknowledges that special security measures may be required during medical examinations in a particular case, when a threat in terms of security is perceived by the medical staff. However, there can be no justification for prison officers being *systematically* present during such examinations; their presence is detrimental for the establishment of a proper doctor - patient relationship and usually unnecessary from the security standpoint. Further, medical confidentiality is a principle that cannot be discarded by simply obtaining signatures to the effect that prison officers would not reveal the information they gathered during the medical examinations. Alternative solutions can and should be found to reconcile legitimate security requirements with the principle of medical confidentiality. One possibility might be the installation of a call system (as observed in various establishments visited), whereby a doctor would be in a position to rapidly alert prison officers in those exceptional cases when a prisoner becomes agitated or threatening during a medical examination.

**The CPT reiterates its recommendation that steps be taken to ensure that medical confidentiality is fully guaranteed at Plzen Prison (as well as in other prison establishments in the Czech Republic). This implies that all medical examinations of prisoners (whether on arrival or at a later stage) should be conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of prison officers.**

## 6. Other issues

### a. prison staff

93. The genuine professionalism of prison staff requires that they should be able to deal with prisoners in a decent and humane manner while paying attention to matters of security and good order. In this regard, prison management should encourage staff to have a reasonable sense of trust and expectation that prisoners are willing to conduct themselves properly. The development of constructive and positive relations between prison staff and prisoners will not only reduce the risk of ill-treatment, but also enhance control and security. In turn, it will render the work of prison staff more rewarding.

In this context, the CPT's delegation observed that at Plzen Prison prisoners were still required to stand facing a wall whilst waiting for prison staff to attend to them. Such a practice, which has already been criticised by the CPT (*cf.* paragraph 43 of its report on the 1997 visit), is unnecessary from a security standpoint and will do nothing to promote positive relations between staff and prisoners. **The CPT recommends that steps be taken to put an end to this anachronistic practice.**

94. Moreover, ensuring positive staff-inmate relations will also depend greatly on having an adequate number of staff present at any given time in detention areas and in facilities used by prisoners for activities. An overall low staff complement and/or specific staff attendance systems which diminish the possibilities of direct contact with prisoners, will certainly impede the development of positive relations; more generally, they will generate an insecure environment for both staff and prisoners. It should also be noted that, when staff complements are inadequate, significant amounts of overtime can prove necessary in order to maintain a basic level of security and regime delivery in the establishment. This state of affairs can easily result in high levels of stress in staff and their [premature] burnout, a situation which is likely to exacerbate the tension inherent in any prison environment.

The CPT is particularly concerned about the staffing levels observed at Plzen Prison, especially as regards custodial staff working in direct contact with prisoners. In this connection, the Director of the establishment informed the delegation that 26 out of 312 prison officer posts were vacant at the time of the visit. **The CPT recommends that steps be taken as a matter of priority to fill the vacant posts of custodial staff at Plzen Prison.**

b. contact with the outside world

95. The CPT welcomes the recent legislative changes, which, following its recommendations made in the report on the 1997 visit, have increased the *visit entitlement* for sentenced prisoners to a maximum of up to three hours per month and for remand prisoners to one hour every two weeks.

However, the CPT has serious misgivings about the restrictions on visits to sentenced prisoners, set out in the new legislation. Such prisoners may receive visits from persons other than next of kin only "for serious reasons"; in the CPT's view, this restriction could severely jeopardise the beneficial effects of the above-mentioned increase of the visit entitlement. Visits from persons other than next of kin should, as a rule, be authorised, unless specific security requirements dictate otherwise.

Further, the present wording of the relevant legislation leaves a large discretion to prison staff as to the effective duration of visits accorded to a particular detainee. Certain prisoners met by the delegation complained that their three-hour visit entitlement per month was not fully respected.

**The CPT would like to receive the comments of the Czech authorities on these matters.**

96. The CPT notes that the recommendation made in paragraph 71 of the report on the 1997 visit concerning prisoners' *access to a telephone* has not been implemented. The recent legislation does make some provision in this respect; however, according to this legislation, prisoners are allowed to phone their next of kin only "in justified cases" and other persons only "for serious reasons". In addition, payphones were not installed in any of the establishments visited.

**The CPT reiterates its recommendation that both remand and sentenced prisoners be granted regular access to a telephone.** Such access is now guaranteed in many European countries; if there is a perceived risk of collusion, a particular phone call could be monitored.

c. discipline

97. The disciplinary procedures in the Czech penal system remained unchanged since the 1997 visit and do not call for any particular comments. The CPT was also pleased to note that no excessive resort to disciplinary sanctions was found in the establishments visited.

98. The material conditions of the disciplinary cells at Plzen Prison left a lot to be desired. Ventilation was very poor and walls were full of mould. During the day, inmates could only sit on a large concrete platform without adequate protection against the humid surface. Moreover, the sharp edges of the water taps, which were fixed to the wall above an Asian-style toilet, could easily be used for self-mutilation. Further, the sanitary facilities of the disciplinary section were in an advanced state of dilapidation. **The CPT recommends that steps be taken to remedy these shortcomings.**

d. means of coercion

99. In 1997, the CPT noted that means of coercion against prisoners were applied in accordance with Section 17 of Law No. 55/1992. The Committee considered that certain of these means (beating with a butt of a weapon, the use of electric shock devices) should never be used, and the use of others could be justified only very exceptionally within the detention facilities. Therefore, the Committee recommended that the Czech authorities revise the list of authorised means of coercion.

As far as the delegation could ascertain during the 2002 visit, no such revision had been carried out. **The CPT would like to receive the comments of the Czech authorities on this point.**

e. complaints and inspection procedures

100. In paragraphs 42 and 43 of the report on the 1997 visit, the CPT expressed serious misgivings about the manner in which prisoners' *complaints* were processed in the Czech Republic. The Committee therefore recommended that the Czech authorities conduct a review of these procedures, with a view to ensuring that they offer appropriate guarantees of independence and impartiality, and that they do not discourage persons who might have been ill-treated from pursuing their complaints.

It appears that the general framework in this respect remained unchanged. Once a prisoner has lodged a complaint, the prison's Prevention Unit would examine the complaint on the merits and forward its assessment to the Director of the prison, who would then decide on the complaint.

However, the CPT's delegation also noted that a new body for handling complaints had been introduced: prisoners now have the possibility to address their complaints to the recently-created General Inspectorate of the Prison System of the Ministry of Justice. Further, the delegation was informed that in recent times prisoners had been more frequently represented by a lawyer during complaints procedures.

The CPT welcomes these positive developments.

101. As already stressed in paragraph 77 of the report on the 1997 visit, the CPT attaches particular importance to regular *visits* to all prison establishments by an independent body with the authority to receive - and, if necessary, take action on - prisoners' complaints and to visit premises. At the time of the 1997 visit, judges were entitled to visit sentenced prisoners, to speak with them in private and to review their situation. However, no similar provision existed in respect of remand prisoners; the Committee invited the Czech authorities to establish a system of visits by an independent body for both categories of prisoners.

The regional prosecutors and the General Inspectorate of the Prison Service of the Ministry of Justice have now been entrusted with the task of visiting prison establishments at regular intervals. The CPT's delegation was informed that the latter body had carried out hundreds of such visits in the last two years.

102. Frequent visits by the General Inspectorate of the Prison Service will certainly have a beneficial effect. Nevertheless, this system could be further complemented by visits of an institution which is not organisationally and administratively placed under the auspices of the Ministry of Justice. In that respect, the CPT was informed that the Committee against Torture of the Government's Human Rights Council, a consultative body composed of an equal number of government officials and representatives of the civil society, had already carried out visits to prison establishments.

The institution of Ombudsman also exists in the Czech Republic. **The CPT would like to receive detailed information on the Ombudsman's powers and activities as regards visits to prison establishments and the processing of prisoners' complaints.**

Further, the CPT noted with interest that the new legislation referred to in paragraph 59 introduced consultative councils, with a view to involving municipalities in the management of prison-related matters. Apparently, to date, such bodies have only been established in respect of a few prisons. **The CPT encourages the Czech authorities to set up consultative councils throughout the prison system.**

## **D. Psychiatric establishments**

### **1. Preliminary remarks**

103. For the first time in the Czech Republic, the CPT examined the living conditions and treatment of patients/residents with mental and/or behavioural disorders. In this connection, its delegation visited Opava Psychiatric Hospital and Ostravice Social Welfare Home for Mentally Handicapped Juveniles. The first establishment is under the authority of the Ministry of Health, the latter is subordinated to the Ministry of Labour and Social Affairs (through the District Authority of Frýdek-Místek).

104. **Opava Psychiatric Hospital**, which was built some 110 years ago, is currently one of the largest in-patient psychiatric establishments in the Czech Republic, admitting patients from the north-eastern part of the country (covering some 1.35 million inhabitants). It represents an extensive multi-pavilion complex located in the midst of a park, on the periphery of the small town of Opava (some 40 km west of Ostrava). The basement of Pavilion No. 18 contains a sobering-up centre, which is administered under the sole authority of Opava Municipal Police.

Opava Psychiatric Hospital provides in-patient services for a wide variety of patients with different diagnoses and needs (including general psychiatry, child psychiatry, geriatric psychiatry, forensic psychiatry, treatment of persons with drug and alcohol problems). Involuntary and voluntary patients were accommodated together in both open and closed units. The annual number of admissions to the hospital was some 6,500, with an average length of stay of 49 days (without counting those long-term patients who were held at the hospital for lack of alternative accommodation in the outside community). Due to ongoing renovation work in some buildings, the hospital was operating below its official capacity of 1,015 beds. At the time of the visit, it was accommodating 969 in-patients, of whom 113 (45 women and 68 men) were placed there involuntarily.

105. The majority of involuntary patients at Opava were subject to a civil placement. Article 23, paragraph 4, of the Act on the Care for the People's Health (Act No. 20/1966 Coll.) stipulates that persons may be admitted to institutional care if they display mental illness or intoxication and pose a threat to themselves or their surroundings.<sup>14</sup> Detention in a psychiatric hospital may also be imposed by a civil court for a period not exceeding three months in order to examine the mental status of persons against whom proceedings have been initiated to (partially) deprive them of their legal capacity (Article 187, paragraph 3, of the Civil Judicial Regulations).

Among the involuntary patients, 25 were subject to protective treatment, pursuant to Article 72 of the Czech Penal Code. Such treatment may be imposed by a criminal court upon offenders with mental disorders who are not criminally liable and who are considered dangerous. The involuntary admission to a psychiatric hospital may substitute a prison sentence or take place following imprisonment. In the context of criminal proceedings, a suspect may also be placed in a health care institution by the judge for a period not exceeding three months, in order to undergo an assessment of his/her mental status (*cf.* Articles 116, paragraph 2, and 117 of the Criminal Procedure Code).

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<sup>14</sup> *Cf.* also Article 9, paragraph 4, of the Act on the Protection Against Alcoholism and Other Drug Addictions (Act No. 37/1989 Coll.).

106. The **Ostravice Social Welfare Home for Mentally Handicapped Juveniles** comprises two sites in the village of Ostravice and the district town Frýdek-Místek (both located in the south of Ostrava). The delegation visited the establishment's main site at Ostravice, which is accommodated in three buildings on a five-hectare forested area. The establishment was not purpose-built; before its opening in 1974, it was used for the accommodation of construction workers.

At the time of the visit, the establishment was operating at its full capacity with 106 male residents held in Ostravice and 54 residents (including seven female) in the detached unit in Frýdek-Místek. The age of residents ranged from 23 to 49 years. Those with the most severe mental handicaps and/or impaired mobility were accommodated in the establishment's main site at Ostravice. The home admits only persons who are (partially) deprived of their legal capacity.

107. From the outset, the CPT wishes to stress that its delegation heard no allegations of ill-treatment - and gathered no other evidence of such treatment - of patients/residents at the two establishments visited. The atmosphere in the two institutions was relaxed, and staff-patient/resident relations were good. The CPT wishes to place on record the professionalism and commitment demonstrated by the medical and nursing staff towards their patients/residents.

## **2. Patients'/residents' living conditions**

108. In any psychiatric/social welfare establishment, the aim should be to offer material conditions which are conducive to the treatment and well-being of patients/residents; in psychiatric terms, a positive therapeutic environment. Creating such an environment involves, first of all, providing sufficient living space per person as well as adequate lighting, heating and ventilation, maintaining the establishment in a satisfactory state of repair and meeting hospital hygiene requirements. Particular attention should also be given to the decoration of both patients'/residents' rooms and recreation areas, in order to offer patients/residents visual stimulation.

109. The living conditions in Opava Psychiatric Hospital were overall of a good standard. Patients were accommodated in 22 pavilions (32 units) in rooms with four to ten beds. Throughout the establishment, patient accommodation was impeccably clean, well-lit and ventilated. Most rooms were pleasantly decorated and equipped with beds, bedside tables and lockers/wardrobes. Further, patients had ready access to sanitary facilities, which were in a good state of repair and cleanliness and were suitably equipped, where necessary, for persons with impaired mobility.

However, in some pavilions, patients' rooms were austere and impersonal with no furniture, except beds, and without any lockable space available. Moreover, certain pavilions (especially No. 6, 11 and 20) were overcrowded. By way of example, there were four beds in a room of 10 m<sup>2</sup> and ten beds in a room of 20 m<sup>2</sup>. **The CPT trusts that the Czech authorities will take steps to improve the living conditions in the pavilions concerned, in the light of the above remarks.**

110. Throughout the establishment patients had access to well-decorated common rooms, which were equipped with tables, chairs, a television set and board-games. In certain units, patients' rooms were locked during the day, and patients were required to stay in the communal room or corridor. In the CPT's view, patients who so wish should be allowed to have access to their room during the day, rather than being obliged to remain assembled together with other patients in communal areas. **The CPT invites the Czech authorities to provide for such a possibility.**

111. Patients accommodated in open units could move freely within their wards and the hospital grounds (which offered a very pleasant and well-maintained environment). Patients accommodated in closed units could take their *outdoor exercise* in large grass yards secured with high fences. However, the delegation was concerned that a number of patients from closed units did not benefit from outdoor exercise on a daily basis. For instance, in Unit 20b patients were taken out for exercise in the fresh air at best three times per week. According to the staff present, this was mainly due to the lack of staff available to accompany patients. **The CPT recommends that steps be taken to offer a minimum of one hour of outdoor exercise per day to all patients whose state of health so permits.**

112. In a number of units (*e.g.* geriatric psychiatric unit, admission unit), the delegation found that patients were continuously dressed in hospital pyjamas/track suits. In this connection, the CPT wishes to stress that for patients to be dressed in uniform hospital clothes at all times is not conducive to strengthening their personal identity and self-esteem; individualisation of clothing should form part of the therapeutic process. **The CPT therefore recommends that all non-bedridden patients be allowed and, if necessary, encouraged to wear their own clothes during the day or be provided with appropriate non-uniform garments.**

113. At the Ostravice Social Welfare Home, the majority of residents were accommodated in rooms which had between three and five beds, and the living space per person could be considered as globally satisfactory. Throughout the establishment, residents' rooms were clean and well lit. Sanitary facilities were in a good state of repair, and hygienic conditions were very good.

In Unit 2, which accommodated in an educational environment residents with less severe mental disorders, rooms were adequately equipped - with beds, bedside tables, tables, chairs and lockable cupboards - and pleasantly decorated.

On the other hand, rooms in Units 1 and 3, which accommodated residents with the most severe mental disorders and impaired mobility (including four bedridden residents in Unit 1), were rather austere and impersonal, with little or no decoration and few pieces of furniture. **The CPT invites the Czech authorities to take steps to provide residents in Units 1 and 3 with a more personalised environment.**

114. Each unit had a large communal/dining room which was tastefully decorated and used for occupational and social activities (*e.g.* games, television set, *etc.*). Further, all residents whose physical condition permitted were taken out every day for walks in the forested surroundings or to do some gardening. Outdoor sports facilities and an indoor gymnasium were also available.



115. The delegation was informed by the director of the establishment that plans were afoot to construct by 2004 new facilities for the Ostravice Social Welfare Home in Frýdek-Místek, with a view to accommodating residents in pavilions with family-type living units. This is a welcome development. **The CPT would like to be informed of the progress made in the implementation of the above-mentioned plans.**

### **3. Staff and treatment**

116. Opava Psychiatric Hospital had 49 full-time posts of doctors, which were filled by 72 doctors (including 55 psychiatrists and five physicians) and one full-time post of an anaesthetist, 1 ½ posts of a neurologist and a half-time post of a radiologist. The hospital's *health care staff* also included 282 qualified nurses (including 90 psychiatric nurses) and 69 nursing assistants. In addition, 25 psychologists, 12 social workers and one educator were employed at the hospital. Consultations with a dermatologist and other specialists were arranged if needed.

In certain units visited by the delegation (e.g. Unit 20b) the number of nursing staff appeared to be clearly insufficient (*cf.* also paragraphs 111 and 127). **The CPT recommends that the nursing staff levels at Opava Psychiatric Hospital be reviewed.**

117. The delegation's discussions with patients and staff, as well as the consultation of medical records, showed that patients received individualised, mainly pharmacotherapy-based, *treatment* appropriate to their condition. Modern psychotropic drugs were available, and no particular signs of overmedication of patients were observed. The establishment generally offered a range of rehabilitative and therapeutic activities, including occupational therapy, work, art, music, yoga and sports. However, access to such activities appeared to be rather limited in some closed units (e.g. Unit 20b), where patients spent the bulk of their day in a state of inactivity. Further, only limited use was made of psychotherapy at Opava.

**The CPT invites the Czech authorities to strive to further develop psychotherapy and psychosocial rehabilitative activities at Opava Psychiatric Hospital.**

118. *Electroconvulsive therapy* (ECT) was practised regularly, always in modified form (*i.e.* with anaesthetic and muscle relaxants), in seven pavilions of Opava Psychiatric Hospital, in the presence of qualified staff and an anaesthetist. However, only minimal resuscitation equipment was available in these pavilions. According to the Medical Director's internal instructions, the written consent of the patient (and of the guardian if the persons concerned was deprived of his/her legal capacity) had to be sought and kept in the patient's file. However, the examination of medical files revealed that in several cases no written consent was recorded. Further, the hospital had no specific register concerning the use of ECT.

Electroconvulsive therapy is a recognised form of treatment for psychiatric patients suffering from some particular disorders. However, care should be taken that ECT fits into the patient's treatment plan, and its administration must be accompanied by appropriate safeguards. ECT must be administered out of the view of other patients (preferably in a room which has been set aside and equipped for this purpose), by staff who have been specifically trained to provide this treatment. Further, recourse to ECT should be recorded in a specific register. Only in this way can any undesirable practices be clearly identified by hospital management and discussed with staff.

These requirements were on the whole being met at Opava. However, in the CPT's view, it would be preferable if ECT was administered in close proximity to the hospital's reanimation service. **The Committee recommends that recourse to ECT be recorded in detail in a specific register.**

119. The delegation was informed by the Medical Director that Czech legislation did not contain specific provisions concerning *biomedical research projects*, but that research activities were carried out at Opava in accordance with international standards. In practice, no biomedical research was being carried out on involuntary patients. Voluntary patients were required to give their written consent. If a patient was deprived of his/her legal capacity, the consent of the patient's guardian was sought. The delegation was informed that research activities had to be approved by the National Health Institute. No information was available on the number of patients subject to research projects at Opava. In this context, **the CPT would like to be informed of the precise procedures concerning biomedical research projects followed at Opava Psychiatric Hospital and in other mental health care institutions in the Czech Republic.**

120. The *staff* at the Ostravice Social Welfare Home included 49 persons involved in residents' care or treatment (21 qualified nurses, five nursing assistants, eight auxiliaries, one social worker, eight educators and six assistant educators). The establishment was visited by a general practitioner (twice per week for one to two hours), a psychiatrist (twice per month), a dentist (once per week) and a dermatologist (once per month). If other specialised care was required, residents were referred to the hospital in Frýdek-Místek or to Opava Psychiatric Hospital. However, there was no attendance by a psychologist or a physiotherapist at Ostravice.

During night-shifts (between 20h00 and 6h00), there were only three nurses and one auxiliary present at Ostravice to supervise three buildings, each accommodating some 35 residents on two floors. Bearing in mind that the majority of residents suffered from serious mental disorders and that a considerable number of them tended to become frequently agitated, the provision of adequate care for residents and the safety of staff was seriously compromised with such a limited staff presence. Further, the time spent by the general practitioner and the psychiatrist in the establishment appeared to be insufficient. The presence of a psychologist and a physiotherapist could also be beneficial for the care of residents and the supervision of staff.

In the light of the preceding remarks, **the CPT recommends that steps be taken at the Ostravice Social Welfare Home to ensure that:**

- **the number of nursing staff present during night-shifts is increased;**
- **the presence of the general practitioner and the psychiatrist is enhanced;**
- **rehabilitative services (psychology, physiotherapy, etc.) are provided.**

121. As soon as possible after admission, every resident was medically examined by the general practitioner and the psychiatrist, and personal files were opened for every resident concerning his/her somatic and mental state. Medical records were well kept and medical confidentiality was fully respected. There were no indications of excessive use of psychotropic drugs.

The establishment had a small infirmary and a dental care room, both of which were well equipped and in a good state of repair and hygiene.

122. In the basement of Unit 2, accommodation rooms had been converted into activity rooms (*e.g.* ceramics and candle manufacture, painting, music, *etc.*) and one relaxation room. However, these facilities had only very basic equipment and were rather cramped and austere.

The delegation noted that *de facto* only residents in Unit 2 and some more autonomous residents in Unit 3 were able to participate in the above-mentioned activities. The remainder of the residents (*i.e.* more than 50%) could not do much more than play board games, watch TV or loiter in the communal/dining room or corridors (the residents' rooms being locked throughout the day).

**The CPT recommends that steps be taken as a matter of priority to ensure that all residents at Ostravice are provided adequate psychosocial and occupational therapeutic activities, according to their mental capacity and physical mobility.**

#### **4. Restraint of agitated and/or violent patients/residents**

123. In any psychiatric/social welfare establishment, the restraint of agitated and/or violent patients/residents may on occasion be necessary. However, this is an area of particular concern to the CPT, given the potential for abuse and ill-treatment.

It is essential that the restraint of patients/residents be the subject of a clearly-defined policy. That policy should make clear that initial attempts to restrain agitated or violent patients should, as far as possible, be non-physical (*e.g.* verbal instruction) and that where physical restraint is necessary, it should in principle be limited to manual control.

Resort to instruments of physical restraint (straps, straight jackets, *etc.*) shall only very rarely be justified and must always be either expressly ordered by a doctor or immediately brought to the attention of a doctor with a view to seeking his approval. If, exceptionally, recourse is had to instruments of physical restraint, they should be removed at the earliest opportunity; they should never be applied, or their application prolonged, as a punishment.

Further, every instance of the physical restraint of a patient/resident (manual control, use of instruments of physical restraint, seclusion) should be recorded in a specific register established for this purpose (as well as in the patient's file). The entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by patients or staff. This will greatly facilitate both the management of such incidents and the oversight of the extent of their occurrence.

124. At Opava Psychiatric Hospital, staff had at their disposal a variety of instruments of physical restraint, such as soft fixation to the bed with straps, the use of straight jackets and placement in a net-bed. There were no seclusion rooms. According to the internal guidelines issued by the Director and consulted by the delegation, such instruments of physical restraint were used in the case of patients displaying disturbed or aggressive behaviour, and only if initial non-physical attempts to restrain and manual control had failed. Decisions to apply instruments of physical restraint were taken by a doctor. In case of emergency, a doctor was informed immediately after instruments of restraint had been used. Every instance of restraint of a patient was recorded in the patient's medical file; however, there was no specific register for this purpose.

125. The Ostravice Social Welfare Home had no written policy on the management of agitated/violent residents. In practice, the initiative of applying means of restraint was taken by the nurse on duty. Depending on the level of agitation, resort was had to the following means: forced injection of sedatives (prescribed by the doctor in advance), placement in a net-bed, straight-jacket, fixation, placement in a cage-bed, and seclusion. The general practitioner or psychiatrist was not systematically informed of the measures taken. For some residents, the use of specific means of restraint had been ordered by the doctor in advance in the event of them becoming agitated. Medical documentation on the use of means of restraint appeared to be random and incomplete. In a number of cases, no information was available on the prescription, reason and duration of the use of means of restraint.

**The CPT recommends that steps be taken to ensure that the procedures followed at the Ostravice Social Welfare Home regarding the use of means of restraint are brought into line with the requirements set out in paragraph 123.**

**Further, it recommends that specific registers of the use of means of physical restraint be set up at Opava Psychiatric Hospital and the Ostravice Social Welfare Home.**

126. The Ostravice Social Welfare Home had two seclusion rooms (each measuring some 16 m<sup>2</sup>) on the ground floor of Unit 3 for agitated/aggressive residents. According to staff, both rooms had continuously been used by the same two residents for several years. The first room accommodated a resident who persistently displayed compulsive behaviour of ingestion (including of textiles and mattresses). As a consequence, he was usually kept undressed in the room. The delegation was told that he received a new bed sheet every night. The only activity offered outside the room was occasional walks accompanied by staff. The room was devoid of any furniture and only equipped with a metal bedstead (which was fixed to the floor and covered with a wooden surface) and a bucket. The CPT wishes to stress that the very design of the room renders it unsuitable for the accommodation of any agitated person (*i.e.* large metal bars with sharp edges in front of the door to the outside garden and a metal radiator fixed to the wall).

The second room accommodated an inmate who became aggressive whenever confronted with other residents. The room was adequately equipped (bed, mattress, table, chair, games) and well-decorated. The delegation was informed that the resident was taken out of the room every day for some ten minutes, in order to walk in the corridor. However, it appeared that he was only rarely brought out into the open air.

It should also be added that neither seclusion room could be supervised by staff from outside (*i.e.* there was no observation hatch in the doors or other means of supervision).

In the light of the preceding remarks, **the CPT recommends that steps be taken at the Ostravice Social Welfare Home to ensure that:**

- **the material conditions in both seclusion rooms are reviewed;**
- **all residents placed in seclusion, whose state of health permits, are offered at least one hour of outdoor exercise every day;**
- **a special effort is made that residents who are subject to long-term seclusion benefit from appropriate human contact.**

**The CPT would also like to be informed of the long-term care plans vis-à-vis the two residents held in the seclusion rooms.**

127. Particular mention should be made of the frequent use of net- and cage-beds at the two establishments visited (26 net-beds at Opava; 11 net-beds and two cage-beds at Ostravice). Staff in both establishments indicated that, apart from their use to restrain agitated or aggressive patients/residents, the net-beds were being used to prevent falls/injuries or nocturnal disorientation/sleepwalking (in some cases for years on end). At Ostravice, heavily agitated residents were placed in a cage-bed, usually until the injected sedative medication became effective. One resident, who suffered from a contagious mouth-infection, had been placed in a cage-bed for one week, due to the lack of alternative facilities to segregate him temporarily from other residents. At both establishments, the delegation was told that it would often be possible to avoid the use of net/cage-beds if there were more staff present (especially during night shifts).

Patients/residents placed in net/cage-beds were usually accommodated in rooms together with other patients/residents. As a consequence, they were exposed to the view not only of their roommates but also of outside visitors. Such a situation could be described as degrading for the person concerned and could also affect the psychological state of the other residents/patients.

128. The CPT is of the opinion that net- and cage-beds are not an appropriate means of dealing with patients/residents in a state of agitation. **It recommends that cage-beds be immediately withdrawn from service and that net-beds cease to be used as a tool for managing such persons as soon as possible.**

For as long as net-beds remain in use, **the CPT recommends that measures be taken to ensure that persons placed in such facilities are not exposed to the view of other patients/residents and are subject to appropriate supervision by staff; this recommendation applies *mutatis mutandis* to other means of restraint, such as straight-jackets or fixation. This should not preclude persons subject to means of restraint being visited by fellow patients/residents, if this is advisable from a medical standpoint.**

Similarly, more suitable means than net-beds can also be found to ensure the safety of persons with impaired mobility or nocturnal disorders (*e.g.* disorientation/sleepwalking).

129. In their letter of 26 July 2002, the Czech authorities stated that they were fully aware of the problems of excessive use of net- and cage-beds and the lack of records concerning instances of physical restraint in social welfare homes. As a consequence, the Ministry of Labour and Social Affairs would introduce guidelines on the quality of social services as well as an obligatory registration and inspections of social care institutions. Further, the Ministry of Health had requested the Czech Psychiatric Society to draft standards on the use of means of restraint applicable in in-patient psychiatric institutions in the Czech Republic. The CPT welcomes these developments and **trusts that its recommendations made in paragraphs 125 and 128 will be taken into account in this context. The Committee would also like to be informed of the progress made in the implementation of the above-mentioned plans.**

## 5. Safeguards

130. On account of their vulnerability, the mentally ill and mentally handicapped warrant particular attention in order to prevent any form of conduct - or avoid any omission - contrary to their well-being. It follows that involuntary placement in a psychiatric establishment should always be surrounded by appropriate safeguards.

### a. initial placement and discharge procedures

131. The procedure by which involuntary placement in a psychiatric/social welfare establishment is decided should offer guarantees of independence and impartiality as well as of objective psychiatric expertise. Further, such placement should cease as soon as it is no longer required by the patient's/resident's mental state. Consequently, the need for placement should be reviewed by an appropriate authority at regular intervals. In addition, the patient/resident himself/herself should be able to request at reasonable intervals that the necessity for placement be considered by a judicial authority.

132. Current Czech legislation concerning *involuntary placement* of a civil nature (*cf.* paragraph 105) deals only with the emergency admission of mental patients to an "institution executing health care". A procedure outside emergency situations, whereby a patient could be hospitalised against his/her will after a court decision has been taken, is apparently not provided for. **The CPT would like to know whether it is intended to make provision for such a procedure in the context of the ongoing reform of the Czech mental health legislation.**

133. The existing legislation does not specify the persons/organs who are entitled to request the involuntary placement of a person. According to the relevant provisions of the Civil Judicial Regulations<sup>15</sup>, the establishment concerned is under an obligation to notify the competent court of every case of involuntary placement within 24 hours of admission of the patient. Within seven days, the court has to take a decision on the lawfulness of the involuntary placement. For this purpose, the judge is obliged to interview the patient (if the patient's health condition permits). Unless the patient has another representative, the court appoints a guardian for the judicial proceedings.

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<sup>15</sup> *Cf.* Articles 191a to 191g.

If the court has declared the involuntary admission lawful, it pursues judicial proceedings to examine the admissibility of continued detention in the health care institution. During these proceedings, the court has to appoint an expert who is independent from the institution and interview the patient (unless there are medical reasons against it). In its decision, which has to be taken within three months, the court has to determine the duration of involuntary placement (maximum period of one year). If it is considered necessary to extend the detention beyond the period fixed by the court, new judicial proceedings have to be initiated. In this context, a new opinion of an independent expert is required.

The person concerned (or his/her legal representative or guardian) can request at any time that the involuntary placement (or the continuation of the latter) be reviewed by the competent court.

134. At Opava Psychiatric Hospital, involuntary placement procedures were carried out in compliance with the above-mentioned requirements. Upon admission, every patient was first examined by a psychiatrist in the admission unit, and, once transferred to the specialised unit, by another psychiatrist and a senior psychiatrist. A judge visited the establishment on a regular basis (at least one day per week).

However, the delegation noted that the three-month deadline for the court to pronounce itself on the admissibility of continued detention was not always respected. In some cases, this deadline was missed by several months. The competent judge explained these delays to the delegation by the fact that only one psychiatrist who did not have professional links with Opava Psychiatric Hospital was available in the whole region of Opava, as well as by the heavy workload of the court. **The CPT trusts that appropriate steps will be taken to ensure that the three-month deadline fixed by law is respected in the future.**

135. Under the Civil Judicial Regulations, court decisions concerning involuntary admissions and/or the review of the latter have to be delivered to the person concerned unless a doctor certifies that the he/she is unable to understand the contents of the decision (in which case the decision is notified to the representative or court-appointed guardian). The CPT's delegation noted that, at Opava, such court decisions were frequently not notified to the person concerned, by making use of the above-mentioned exception. The CPT wishes to stress that, save for exceptional circumstances, all patients should be given a copy of the court decisions concerning their involuntary placement. **The CPT recommends that steps be taken to review the current practice at Opava Psychiatric Hospital accordingly.**

136. Further, the delegation observed that in the context of involuntary admission procedures, whenever a patient did not have a legal representative, the secretary of the court was appointed as a guardian. Given the large number of such cases (*i.e.* several hundred per year), the secretary was supposed to act as guardian without being able to effectively deal with cases of involuntary placement, let alone to get into contact with the patients concerned. It goes without saying that such a practice seriously jeopardises the very aim of having a court-appointed guardian. The CPT wishes to stress that the exercise of patients' rights both in the context of their initial placement and, subsequently, during review procedures, could be enhanced if provision was made for the designation of an independent adviser to assist the persons concerned in these procedures. **The CPT wishes to receive the Czech authorities' views on this subject.**

137. Specific reference should be made to the situation of persons who are deprived of their legal capacity. Such persons could be admitted to the hospital solely with the written consent of their guardian. However, they were considered as voluntary patients, and, thus, the court was not notified of their admission. In the CPT's view, detaining incapacitated persons in a psychiatric hospital, without benefiting from the procedural safeguards otherwise provided for by law (including from the judicial review of their cases) is a highly questionable practice. **The CPT would like to receive the Czech authorities' comments on this point.**

138. It should also be noted that, according to the information gathered by the delegation (including the examination of a series of patients' files), a *judicial review procedure* was carried out only in respect of patients who had been admitted to the hospital after the entry into force of the 1991 amendment to the Civil Judicial Regulations. As a consequence, those patients who had been committed to the hospital before 1991, had been held there ever since without having been seen by a judge (in some cases, for several decades); **the CPT recommends that immediate steps be taken to ensure that a judicial review is carried out, at regular intervals, of the involuntary placement of all patients present who had been admitted to the hospital prior to 1991.**

139. As regards patients who had been admitted to Opava Psychiatric Hospital by a criminal court for the purpose of protective treatment (*cf.* also paragraph 105), their placement was usually ordered for an indefinite period of time. It could be terminated by court decision upon request of the person concerned, the hospital or *ex officio*. However, Czech legislation does not provide for a regular review of involuntary admissions for the purpose of protective treatment.

**The CPT recommends that steps be taken to provide an automatic review at regular intervals of placement measures ordering protective treatment in all psychiatric establishments in the Czech Republic. This review procedure should offer guarantees of independence and impartiality as well as of objective medical expertise.**

140. Finally, the CPT's delegation was informed that a considerable number of involuntary patients whose mental state no longer required them to be held in hospital nevertheless remained at Opava, due to a lack of adequate care/accommodation in the outside community (*e.g.* in social welfare homes). For persons to remain deprived of their liberty as a result of the absence of appropriate external facilities is a highly questionable state of affairs. **The CPT would like to receive the Czech authorities' comments on this matter.**

141. As regards the Ostravice Social Welfare Home, all *admissions* were carried out in accordance with the Act on Social Security (Act No. 100/1988 Coll.). Placement decisions were always taken by the Department of Social Affairs of the District Authority, with the formal approval of the legal representative or guardian. In one exceptional case, a resident had been in possession of his full legal capacity when admitted to Ostravice, but immediately afterwards proceedings were initiated to deprive him of his legal capacity. There is no involvement of courts in admissions to social welfare homes.



142. The procedure for depriving a person of his/her legal capacity is set out in Articles 186 to 191 of the Civil Judicial Regulations. A guardian may be appointed upon request of the person concerned or the health care institution as well as *ex officio*. The court hearing to decide whether the person concerned was competent or incompetent and whether guardianship should be limited or total has to be held in the presence of the person concerned (if the health condition permits). The court is also obliged to consult an expert. **The CPT would like to know whether in this context, according to Czech legislation, the involvement of an independent doctor with professional qualifications in psychiatry is required.**

143. It would appear that Czech legislation does not provide for a *regular review* of the placement in a social welfare institution. **The CPT recommends that steps be taken to ensure that the need for such placement is reviewed by an appropriate authority at regular intervals.**

144. Finally, the delegation noted that, at the Ostravice Social Welfare Home, the Director or other members of staff acted as court-appointed guardians for some 50 residents. From the very fact that it is also the role of a guardian to defend the rights of incapacitated persons vis-à-vis the hosting social welfare institution, such a practice may easily lead to a conflict of interests and, eventually, compromise the independence and impartiality of the guardian. Therefore, **the CPT recommends that the Czech authorities strive to find alternative solutions which would better guarantee the independence and impartiality of guardians.**

b. safeguards during placement

145. An *introductory brochure* setting out the establishment's routine and patients'/residents' rights should be issued to each patient/resident on admission, as well as to their families. Any patients/residents unable to understand this brochure should receive appropriate assistance.

At the Opava Psychiatric Hospital, patients only received oral information upon admission. The internal rules setting out patients' rights and duties were displayed in the pavilions. The delegation was told that a brochure describing the hospital's routine and explaining the patients' rights was in preparation. The CPT welcomes this development and **recommends that introductory brochures for newly-admitted patients be issued without delay at the hospital.**

At Ostravice Social Welfare Home, no written information was provided upon admission of a resident. Parents usually had information meetings with the Director and the chief-nurse. Nonetheless, **the CPT recommends that an introductory leaflet/brochure be issued to each resident at Ostravice and his/her legal representative/parents.**

146. An effective *complaints procedure* is another basic safeguard against ill-treatment in psychiatric establishments. Specific arrangements should exist enabling patients/residents to lodge formal complaints with a clearly-designated body, and to communicate on a confidential basis with an appropriate authority outside the establishment.

At Opava, the patients' right to lodge a complaint was set out in the establishment's internal rules, and complaints boxes were available in the pavilions. However, the way in which internal complaints were processed was not formalised. Patients could also lodge a complaint with the Ministry of Health, the District Medical Chamber and the Ombudsman of the Czech Republic.

At Ostravice, complaints by residents were handled informally by the social worker or Director. External complaints could be lodged by residents and their parents/legal representatives with the competent District Authority in Frýdek-Místek or with the Ombudsman of the Czech Republic.

In the light of the preceding remarks, **the CPT recommends that at both establishments patients/residents be informed in the introductory leaflet/brochure issued upon admission of their right as well as of the modalities to lodge complaints. Further, complaints addressed to the establishment's administration should be recorded in a specific register.**

**The CPT would also like to receive detailed information on the Ombudsman's powers and activities in respect of the processing of patients'/residents' complaints.**

147. As regards *external supervision*, Opava Psychiatric Hospital was inspected by the Ministry of Health in October 2001 (the first inspection of this kind since 1991). The inspection focused on the treatment of geriatric psychiatric patients.

The Ostravice Social Welfare Home was regularly visited by the Head of the Department of Social Affairs of the District Authority Frýdek-Místek (once or twice per year) and by the district head nurse (at least once every two months). However, in neither establishment were inspections carried out by an independent outside body.

**The CPT recommends that steps be taken to ensure that all psychiatric establishments in the Czech Republic - including social welfare homes - are visited on a regular basis by an independent outside body (e.g. a judge or supervisory committee) which is responsible for the inspection of patients'/residents' care. This body should be authorised, in particular, to talk privately with patients/residents, receive directly any complaints which they might have and make any necessary recommendations.**

148. At both establishments visited, the existing arrangements for *contact with the outside world* were satisfactory. Patients/residents were able to send and receive correspondence, to have access to the telephone, and to receive visits from their family and friends.

### III. RECAPITULATION AND CONCLUSIONS

#### A. Police establishments

149. The CPT's delegation received a number of allegations of ill-treatment by the police. Although most of the allegations concerned brutality at the time of or immediately following apprehension (allegations of being punched, kicked or struck with different objects), a significant proportion of them related to ill-treatment during police questioning, and, more particularly, during interrogation by officers of the criminal police. Generally, it appeared that Roma, foreign nationals and juveniles were particularly vulnerable. In a few cases, medical information gathered revealed injuries which were consistent with the allegations made.

The CPT has therefore recommended once again that senior police officers make clear at regular intervals to their subordinates, and in particular officers of the criminal police, that ill-treatment is not acceptable and will be the subject of severe sanctions. Further, police officers should be reminded that no more force than is strictly necessary should be used when effecting an apprehension.

In this context, the CPT has requested the Czech authorities to provide detailed information on the action taken and the outcome of any investigations carried out in respect of allegations of ill-treatment by the police on the occasion of the meeting of the International Monetary Fund and the World Bank in September 2000.

150. In many of the police establishments visited, conditions of detention were on the whole satisfactory, at least for short-term custody. However, certain police stations, especially in Prague, displayed a number of deficiencies (excessive occupancy rates, lack of mattresses and blankets, poor ventilation). The CPT has recommended that these shortcomings be remedied.

In the light of allegations received, the CPT has also stressed that persons detained by the police should be given food at appropriate times, including at least one full meal every day.

151. The information gathered during the visit clearly indicated that there was still room for improvement as regards fundamental safeguards against ill-treatment.

The situation in respect of *notification of custody* to a close relative or another third party had, if anything, deteriorated since the 1997 visit. The CPT has reiterated its recommendation that all persons deprived of their liberty by the police, for whatever reason, be granted the right to notify a close relative or third party of their choice of their situation, as from the very outset of their deprivation of liberty (it being understood that the exercise of this right could be made subject to certain exceptions designed to protect the legitimate interests of the police investigation).

Further, the delegation noted that detained persons were on many occasions allowed *access to a lawyer* only some time after they had been taken into custody. The CPT is particularly concerned that, with regard to this right, specific provisions applicable to juveniles were not always respected. The Committee has recommended that the Czech authorities take steps to ensure that the right of access to a lawyer is enjoyed by all persons obliged to remain with the police, as from the outset of their deprivation of liberty. The right of access to a lawyer should be enjoyed not only by criminal suspects but also by anyone who is under a legal obligation to attend - and stay at - a police establishment, *e.g.* as a person whose identity must be established or who is obliged to provide an explanation.

The CPT's delegation also met persons who claimed that they had not been seen by a doctor while in police custody, despite their alleged need for medical assistance and their requests for such assistance. In the CPT's view, a doctor should be called without delay whenever a person in police custody requests a medical examination. The Committee has recommended that the *right of access to a doctor* for persons in police custody be formally guaranteed. Moreover, it has emphasised that medical examinations of persons in police custody should be conducted out of the hearing and - unless the doctor concerned expressly requests otherwise in a given case - out of the sight of police officers.

152. In the light of the information gathered during the visit, the CPT has also recommended that detained persons be systematically given, at the very outset of their deprivation of liberty, *a form setting out their rights*. Further, recommendations and remarks have been made concerning *custody records* and *complaints/inspection procedures*.

## **B. Detention of foreign nationals under aliens legislation**

153. The CPT's delegation heard a number of allegations of physical ill-treatment by staff at the *Bálková Detention Centre for Foreign Nationals*. Further, many allegations of verbal abuse by staff at Bálková, frequently of a racist nature, were received. By contrast, no allegations of ill-treatment by staff were heard at the *Reception Centre for Asylum Seekers at Prague-Ruzyně International Airport*, and it was observed that staff/detainee relations were positive in this establishment.

The CPT has recommended that police officers working at the Bálková Centre be given the clear message that all forms of ill-treatment, including verbal abuse, are not acceptable and will be the subject of severe sanctions.

154. Conditions of detention at the *Bálková Centre* were quite satisfactory from a material standpoint; however, the detention regime applied there was completely inappropriate. Most of the foreign nationals were held in a "strict" regime and therefore obliged to spend 23 hours per day locked up in their cells, with nothing to occupy their time. The situation was only marginally better for foreign nationals subject to the "lenient" regime (no activities apart from outdoor exercise, no provision of reading material). It is of particular concern that minors, including young children, were not offered any activities adapted to their age (*e.g.* sports and education). The CPT has recommended that the Czech authorities review as a matter of urgency the detention regime at Bálková. Placement under conditions resembling the strict regime currently applied at Bálková should be highly exceptional. Further, vigorous steps are required to provide a range of activities for foreign nationals held at the Centre.

Improvements to outdoor exercise arrangements and the rules concerning the clothing of persons detained at Bálková have also been recommended.

155. Conditions of detention were on the whole good at the *Prague-Ruzyne International Airport Reception Centre*. Further, the CPT has welcomed recent steps to provide outdoor exercise for persons held at the Centre.

156. Various aspects of the health care arrangements at the two centres have been the subject of recommendations, including as concerns access to specialist care.

### C. Prisons

157. Both before and during the visit, the CPT's delegation received from various sources a number of serious allegations of physical ill-treatment by staff at Valdice Prison. Such allegations concerned slaps, kicks, punches and baton blows inflicted on inmates once they had been restrained, as well as other forms of disproportionate use of force. In addition, in all the establishments visited, the delegation received allegations of verbal abuse; Russian-speaking and Roma prisoners seemed to be particularly exposed to such treatment.

The CPT has recommended that prison officers at Valdice Prison be reminded that on those occasions when they have to use force to control violent and/or recalcitrant prisoners, the force should be no more than is strictly necessary; once such prisoners have been brought under control, there can be no justification for striking them. Further, senior prison officers in all establishments visited should remind their subordinates that verbal abuse is not acceptable and will be punished accordingly.

158. The situation of life-sentenced prisoners in the Czech Republic had not improved since the 1997 visit, despite the specific recommendations made by the CPT on this subject. The Committee is particularly concerned by the restrictive approach adopted vis-à-vis such prisoners in the recently-issued Methodological Ordinance No. 13. At Valdice Prison, life-sentenced prisoners were offered only limited out-of-cell activities and spent most of their time (*i.e.* 21 hours per day) locked up alone in their cells. The CPT has recommended that the regime applicable to life-sentenced prisoners be fundamentally revised, taking into account criteria identified by the Committee. The CPT has also made clear that there can be no justification for routinely handcuffing life-sentenced prisoners when taken outside their cells or for denying them - for years on end - the possibility of having open visits.

159. The prisons visited globally offered adequate material conditions of detention to inmates, although the cell occupancy levels in certain parts of Plzen Prison and Prague-Pankrác Remand Prison were still rather high.

More generally, the CPT has noted that recent legislative changes concerning remand imprisonment have resulted in a substantial decrease of prisoners in Czech prisons since the 1997 visit. However, the delegation's findings during the 2002 visit indicated that there was still a lack of sufficient living space for many prisoners in the Czech Republic. The CPT has invited the Czech authorities to continue to pursue their efforts to bring about a permanent end to prison overcrowding. In addition, the Committee has recommended that an official standard be re-established in the Czech prison system, guaranteeing at least 4 m<sup>2</sup> per prisoner in multiple-occupancy cells.

160. As regards activities, the CPT has noted that efforts had been made, both at Plzen Prison and Prague-Pankrác Remand Prison, to provide sentenced prisoners with work of a vocational value, as well as educational and cultural activities. However, neither of the establishments offered remand prisoners anything that resembled a regime; as a result, such prisoners spent most of their time in a state of enforced idleness. The Committee has recommended once again that the Czech authorities develop and implement a specific policy in respect of remand prisoners, with a view to offering them adequate programmes of activities, throughout the prison system.

Further, the CPT has called upon the Czech authorities to take immediate steps to ensure that all inmates, including newly-arrived prisoners and patients whose state of health permits, are offered at least one hour of outdoor exercise per day.

The CPT has welcomed the setting-up of two pilot projects at Plzen Prison (including a detached unit in the neighbouring *Hermanova Hut* and a "half-way house") and has invited the Czech authorities to develop similar projects throughout the prison system.

161. The delegation formed on the whole a favourable impression of the health care facilities in the establishments visited. The only exception concerned the two rooms of the infirmary at Plzen Prison, which were dirty and ill-equipped. The CPT has recommended that steps be taken as a matter of priority to significantly increase the number of nursing staff at Plzen Prison. Further, in the light of the information gathered at Plzen Prison and Prague-Pankrác Remand Prison, the CPT has emphasised that all prisoners must be guaranteed the provision of the medication required by their state of health.

The CPT has also expressed serious misgivings about the systematic practice at Plzen Prison of conducting medical examinations in the presence of prison officers. It has recommended once again that all medical examinations of prisoners be conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of prison officers.

On a more positive note, the CPT has welcomed plans to transfer the responsibility for prison health care from the Ministry of Justice to the Ministry of Health; this should help to ensure optimum health care for prisoners.

162. The CPT has made several recommendations and comments concerning various other issues (prison staff, contact with the outside world, discipline, means of coercion, complaints and inspection procedures). Of these, particular reference might be made to the recommendations that the vacant posts of custodial staff be filled as a matter of priority at Plzen Prison and that both remand and sentenced prisoners in Czech prisons be granted regular access to a telephone.

#### **D. Psychiatric establishments**

163. The delegation heard no allegations of ill-treatment of patients/residents by staff at Opava Psychiatric Hospital and the Ostravice Social Welfare Home for Mentally Handicapped Juveniles. The atmosphere in both establishments was relaxed, and the CPT wishes to place on record the professionalism and commitment demonstrated by the medical and nursing staff towards their patients/residents.

164. The delegation formed a generally favourable impression of patients' living conditions and treatment at *Opava Psychiatric Hospital*. However, the CPT has recommended that steps be taken to offer a minimum of one hour of outdoor exercise per day to all patients whose state of health so permits. Further, the nursing staff levels should be increased at the hospital. The Committee has also invited the Czech authorities to strive to further develop psychotherapy and psychosocial rehabilitative activities.

At the *Ostravice Social Welfare Home*, the living conditions in the unit for more autonomous residents (Unit 2) were of a good standard, while rooms accommodating residents with the most severe mental disorders (Units 1 and 3) were rather austere and impersonal. The CPT has recommended that the number of nursing staff present during night-shifts be increased and that the presence of the general practitioner and the psychiatrist be enhanced. Further, the Committee has recommended that steps be taken as a matter of priority to ensure that all residents at Ostravice are provided adequate psychosocial and occupational therapeutic activities, according to their mental capacity and physical mobility.

165. As regards the use of means of physical restraint, the CPT has recommended that a clear written policy on how to deal with agitated and/or violent residents be established at the Ostravice Social Welfare Home, taking into account criteria identified by the Committee. Such a policy already existed at Opava.

Particular concern has been expressed about the frequent use of net- and cage-beds at Opava Psychiatric Hospital and the Ostravice Social Welfare Home. The CPT has made clear that they are not an appropriate means of dealing with patients or residents in a state of agitation; it has recommended that cage-beds be immediately withdrawn from service and that net-beds cease to be used as a tool for managing such persons as soon as possible. Similarly, more suitable means than net-beds can be found to ensure the safety of persons with impaired mobility or nocturnal disorders.

166. The CPT has also made a number of observations concerning the safeguards surrounding the involuntary placement of persons in psychiatric hospitals and social welfare homes, *e.g.* regular review of the need for such placements; information on patients'/residents' rights; complaints procedures; external supervision. In particular, the Committee has recommended that all psychiatric establishments in the Czech Republic - including social welfare homes - be visited on a regular basis by an independent outside body.

**E. Action on the CPT's recommendations, comments and requests for information**

167. The various recommendations, comments and requests for information formulated by the CPT are summarised in Appendix I.

168. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the Czech authorities to provide within **six months** a response giving a full account of action taken to implement them.

The CPT trusts that it will also be possible for the Czech authorities to provide in the above-mentioned response, reactions to the comments formulated in this report as well as replies to the requests for information made.



## **APPENDIX I**

### **LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION**

#### **A. Police establishments**

##### **Ill-treatment**

###### **recommendations**

- senior police officers to remind their subordinates, through appropriate means and at regular intervals, that ill-treatment is not acceptable and will be the subject of severe sanctions. It is particularly important that such a reminder be given to officers of the criminal police (paragraph 10);
- police officers to be continuously reminded that no more force than is strictly necessary must be used when persons are apprehended by the police and that, once they have been brought under control, there can never be any justification for them being struck (paragraph 11).

###### **requests for information**

- the action taken by the Czech authorities and the outcome of any investigations carried out in respect of allegations of ill-treatment inflicted by the police on the occasion of the September 2000 meeting of the International Monetary Fund and the World Bank in Prague (paragraph 12).

##### **Conditions of detention**

###### **recommendations**

- the use of cellular facilities at Prague-Hybernská and Prague-Vyšehradská Police Stations to be reviewed, in the light of the remarks in paragraph 14 (paragraph 14);
- steps to be taken to ensure that in all police establishments in the Czech Republic, persons obliged to stay overnight in custody are provided with a clean mattress and clean blankets (paragraph 15);
- steps to be taken to improve the ventilation in cells at Ostrava Municipal Police Station, Plzen Regional Police Headquarters and Prague-Hybernská Police Station (paragraph 15);
- metal devices to shackle detained persons to the wall to be removed from police cells (paragraph 16).

###### **comments**

- persons detained by the police should be given food at appropriate times, including at least one full meal (*i.e.* something more substantial than a sandwich) every day (paragraph 17).

## **Fundamental safeguards against ill-treatment**

### recommendations

- all persons deprived of their liberty by the police, for whatever reason, to be granted the right to notify a close relative or third party of their choice of their situation as from the very outset of their deprivation of liberty. The exercise of this right could be made subject to certain exceptions designed to protect the legitimate interests of the police investigation, provided those exceptions are clearly circumscribed in law and made subject to appropriate safeguards (*e.g.* any delay in notification of custody be recorded in writing with the reasons therefor and to require the approval of a senior police officer unconnected with the case at hand or a public prosecutor) (paragraph 19);
- steps to be taken to ensure that a right of access to a lawyer as defined in paragraph 21 is enjoyed by all persons obliged to remain with police, as from the very outset of their deprivation of liberty. The right of access to a lawyer should be enjoyed not only by criminal suspects but also by anyone who is under a legal obligation to attend - and stay at - a police establishment, *e.g.* as a person whose identity must be established or who is obliged to provide an explanation (paragraph 21);
- a right of access to a doctor for persons in police custody, as described in paragraph 22, to be formally guaranteed (paragraph 22);
- steps to be taken to ensure that all medical examinations of persons in police custody are conducted out of the hearing and - unless the doctor concerned expressly requests otherwise in a given case - out of the sight of police officers (paragraph 23);
- a form setting out the rights of persons in police custody in a straightforward manner to be systematically given to such persons at the very outset of their deprivation of liberty. The form should be available in an appropriate range of languages, and the persons concerned should be asked to sign a statement attesting that they have been informed of their rights (paragraph 24);
- steps to be taken to ensure that custody registers are set up at Plzen-Perlová Police Station and the detention facilities of the Aliens Police (Escort Department) at Prague-Ruzyně International Airport (paragraph 25);
- steps to be taken to ensure that the time persons are held by the police "for identification purposes" or "to give an explanation" is recorded in a register (paragraph 25);
- all necessary steps to be taken to ensure that the inspection of police detention facilities by the State Attorney's Prosecuting Office becomes effective without delay (paragraph 27).

### requests for information

- the arrangements made in the Czech Republic to provide access to a lawyer for persons who are not in a position to pay for one (paragraph 21);
- the 2002 Activity Report of the State Attorney's Prosecuting Office, and, in particular, information on the number and nature of complaints made against police officers, and the action taken in response thereto (paragraph 26).

**B. Detention of foreign nationals under aliens legislation**

**Ill-treatment**

recommendations

- police officers at the Bálková Detention Centre for Foreign Nationals to be given the clear message that all forms of ill-treatment, including verbal abuse, are not acceptable and will be the subject of severe sanctions (paragraph 32).

**Conditions of detention**

recommendations

- the detention regime at the Bálková Detention Centre for Foreign Nationals (as well as in other establishments of this kind) to be reviewed as a matter of urgency, in the light of the remarks made in paragraph 36. When, exceptionally, it is necessary to place a detainee under special conditions of detention, the reasons for such placement should be communicated in writing to the person concerned, who should have a right of appeal against that measure (paragraph 36);
- the current practice concerning clothing of foreign nationals held at Bálková to be fundamentally revised; in particular, all detainees arriving at the establishment with clean clothes and appropriate footwear should be entitled to wear them during their stay and, when necessary, to have them cleaned and repaired (paragraph 37);
- the internal instruction obliging foreign nationals held at Bálková to keep continuously moving in the recreation area during their outdoor exercise to be rescinded; detainees should be allowed to use their outdoor exercise period in the manner they find most relaxing (paragraph 38);
- immediate steps to be taken to ensure that all foreign nationals at Bálková (as well as in other such establishments throughout the country) are guaranteed at least one hour of outdoor exercise per day. Outdoor exercise areas should be fitted with means of protection against inclement weather (paragraph 38);
- the religious requirements and dietary habits of foreign nationals held at Bálková to be taken fully into account (paragraph 40);
- vigorous steps to be taken to provide a range of activities for foreign nationals held at Bálková (as well as in other establishments of this kind), in the light of remarks made in paragraph 34; specific measures should be taken to ensure that minors are offered activities suitable to their age (paragraph 41).

comments

- steps should be taken without delay to ensure that detainees at Bálková have ready access to toilet facilities at all times (paragraph 39).

requests for information

- the progress made in transferring detained foreign nationals with children from Bálková to the centre for asylum seekers at Belá pod Bezdezem-Jezová and the conditions under which they are held there (*i.e.* accommodation, activities, *etc.*) (paragraph 42);
- confirmation that the outdoor exercise facility at the Reception Centre for Asylum Seekers at Prague-Ruzyne International Airport is fully operational (paragraph 44).

**Health care**

recommendations

- all medical examinations at the Bálková Detention Centre for Foreign Nationals to be conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of police officers (paragraph 45);
- steps to be taken to ensure that foreign nationals held at Bálková are provided adequate access to the services of a psychiatrist, gynaecologist, and a paediatrician (paragraph 47);
- steps to be taken to ensure that medical confidentiality is respected at the Reception Centre for Asylum Seekers at Prague-Ruzyne International Airport (paragraph 48).

requests for information

- comments on complaints about the lack of medicines and the unavailability of appropriate treatment at Bálková, due to the fact that foreign nationals are not covered by health insurance (paragraph 46).

## **Other issues**

### recommendations

- the selection and training of staff assigned to the Bálková Detention Centre for Foreign Nationals (as well as to other establishments of this kind) to be reviewed, in the light of the remarks made in paragraph 49 (paragraph 50);
- steps to be taken to ensure that all foreign nationals held at Bálková are duly informed about the nature and state of the proceedings in their case, as well as of all their rights related thereto (paragraph 53);
- the visit entitlement for foreign nationals held at Bálková (as well as in other establishments of this kind) to be significantly increased (paragraph 56).

### comments

- the Czech authorities are invited to arrange for the regular presence of interpreters at Bálková (paragraph 50);
- the CPT trusts that an information brochure providing information on their legal status and rights will be made available without delay - in the most frequently spoken languages - to all asylum seekers held at Prague-Ruzyně International Airport (paragraph 54);
- the Czech authorities are invited to explore the possibility of installing additional phones for foreign nationals at Bálková (paragraph 55);
- special arrangements should be made to enable foreign nationals held at the airport reception centre to see a lawyer, a doctor of their choice, representatives of NGOs and, where appropriate, family members or other persons close to them settled in the Czech Republic (paragraph 57).

## C. Prisons

### **Preliminary remarks**

#### recommendations

- an official standard to be re-established in the Czech prison system, guaranteeing at least 4 m<sup>2</sup> per prisoner in multiple-occupancy cells (paragraph 60).

#### comments

- the Czech authorities are invited to continue to pursue their efforts to bring about a permanent end to overcrowding; success in this area will require *inter alia* that full use be made of existing possibilities for non-custodial sanctions (paragraph 60).

### **III-treatment**

#### recommendations

- prison officers at Valdice Prison to be reminded that the force used to control violent and/or recalcitrant prisoners should be no more than is strictly necessary and that, once prisoners have been brought under control, there can be no justification for striking them (paragraph 63);
- senior prison officers in all establishments visited to remind their subordinates that verbal abuse is not acceptable and will be punished accordingly (paragraph 63).

#### requests for information

- the following information for 2001 and 2002, in respect of all prisons in the Czech Republic:
  - the number of complaints lodged concerning ill-treatment by prison staff and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;
  - an account of disciplinary/criminal sanctions imposed on the grounds of ill-treatment by prison staff (paragraph 64).

## **Life-sentenced prisoners**

### recommendations

- the regime applicable to life-sentenced prisoners in the Czech Republic to be fundamentally revised, in the light of the remarks made in paragraphs 69 and 70 (paragraph 70);
- the Methodological Ordinance No. 13 to be amended with a view to allowing life-sentenced prisoners to have open visits, subject to individual risk assessments (paragraph 71);
- use of handcuffs vis-à-vis life-sentenced prisoners to be reviewed at Valdice Prison, in the light of the remarks made in paragraph 72 (paragraph 72);
- the security cell No. 113 at Valdice Prison to be equipped with a mattress and a special register to be kept concerning its use (paragraph 75).

### comments

- the CPT can see no justification for keeping life-sentenced prisoners systematically apart from other sentenced prisoners (paragraph 70);
- obliging life-sentenced prisoners to remain handcuffed during consultations with the prison doctor or placing them behind metal bars (without handcuffs) during consultations with the psychiatrist are ethically questionable practices which are inimical to a proper doctor-patient relationship (paragraph 73);
- the Czech authorities are invited to take steps to allow life-sentenced prisoners to create a more personalised environment in their cells at Valdice Prison (paragraph 74).

### requests of information

- the procedures (e.g. medical supervision) in the event of placement of a person in the security cell No. 113 at Valdice Prison (paragraph 75).

## **Conditions of detention of the general prison population**

### recommendations

- steps to be taken to develop and implement a specific policy in respect of remand prisoners, with a view to offering them adequate programmes of activities, throughout the prison system (paragraph 80);
- immediate steps to be taken to ensure that all inmates, including newly-arrived prisoners and patients whose state of health permits, are offered at least one hour of outdoor exercise per day (paragraph 81).

comments

- the Czech authorities are invited to review the schedule of outdoor exercise for female prisoners at Plzen Prison (paragraph 81);
- the Czech authorities are invited to develop projects similar to those referred to in paragraph 82 throughout the prison system (paragraph 82).

requests for information

- comments on the fact that only Czech nationals are able to be placed in units such as those referred to in paragraph 82 (paragraph 82);
- comments on the delegation's observation that the legal requirement that all sentenced prisoners in the Czech Republic had to reimburse the costs of their incarceration to the State authorities seemed to have detrimental effects on the motivation of prisoners to engage in an educational/vocational programme (paragraph 83).

**Health care**

recommendations

- steps to be taken as a matter of priority to significantly increase the number of nursing staff at Plzen Prison; this should make it possible, *inter alia*, to ensure the 24-hour presence of a nurse (paragraph 87);
- immediate steps to be taken to improve the level of hygiene in the two rooms of the infirmary at Plzen Prison, in accordance with medical standards (paragraph 88);
- steps to be taken to ensure that all prisoners are guaranteed the provision of the medication required by their state of health, which implies that funds allocated to prisons should be sufficient to enable medication to be provided free of charge to those prisoners who do not have the necessary financial means to pay for it themselves (paragraph 89);
- steps to be taken to ensure that medical confidentiality is fully guaranteed at Plzen Prison (as well as in other prison establishments in the Czech Republic); all medical examinations of prisoners (whether on arrival or at a later stage) to be conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of prison officers (paragraph 92).



comments

- it would be preferable for a doctor to be present on weekends at Plzen Prison (paragraph 87);
- the CPT trusts that the requirement that, save in exceptional circumstances, an initial medical examination of newly-arrived prisoners should take place on the day of admission will be fulfilled once a nursing (and medical) staff presence on weekends is established at Plzen Prison (paragraph 90).

requests for information

- the progress made in the transfer of the responsibility for prison health care from the Ministry of Justice to the Ministry of Health and, in particular, the procedures envisaged to supervise the work of health care staff in Czech prisons (paragraph 85).

**Other issues**

recommendations

- steps to be taken at Plzen Prison to put an end to the practice of requiring prisoners to stand facing a wall whilst waiting for prison staff to attend to them (paragraph 93);
- steps to be taken as a matter of priority to fill the vacant posts of custodial staff at Plzen Prison (paragraph 94);
- both remand and sentenced prisoners in Czech prisons to be granted regular access to a telephone (paragraph 96);
- steps to be taken to remedy the shortcomings of the disciplinary cells at Plzen Prison, in the lights of the remarks made in paragraph 98 (paragraph 98).

comments

- the Czech authorities are encouraged to set up consultative councils throughout the prison system (paragraph 102).

requests for information

- comments on the remarks made in paragraph 95 about restrictions on visits to sentenced prisoners (paragraph 95);
- comments on the delegation's observation that no revision of the list of authorised means of coercion has been carried out, as recommended by the CPT in its report on the 1997 visit (paragraph 99);
- the Ombudsman's powers and activities as regards visits to prison establishments and the processing of prisoners' complaints (paragraph 102).

## **D. Psychiatric establishments**

### **Patients'/residents' living conditions**

#### recommendations

- steps to be taken to offer a minimum of one hour of outdoor exercise per day to all patients at Opava Psychiatric Hospital whose state of health so permits (paragraph 111);
- all non-bedridden patients at Opava to be allowed and, if necessary, to be encouraged to wear their own clothes during the day or to be provided with appropriate non-uniform garments (paragraph 112).

#### comments

- the CPT trusts that the Czech authorities will take steps to improve the living conditions in certain pavilions (especially No. 6, 11 and 20) at Opava Psychiatric Hospital, in the light of the remarks made in paragraph 109 (paragraph 109);
- the Czech authorities are invited to provide at Opava the possibility for patients who so wish to have access to their room during the day (paragraph 110);
- the Czech authorities are invited to take steps to provide residents in Units 1 and 3 of the Ostravice Social Welfare Home with a more personalised environment (paragraph 113).

#### requests for information

- the progress made in the implementation of the plans to construct by 2004 new facilities for the Ostravice Social Welfare Home in Frýdek-Místek (paragraph 115).

### **Staff and treatment**

#### recommendations

- the nursing staff levels at Opava Psychiatric Hospital to be reviewed (paragraph 116);
- recourse to electroconvulsive therapy (ECT) to be recorded in detail in a specific register (paragraph 118);
- steps to be taken at the Ostravice Social Welfare Home to ensure that:
  - the number of nursing staff present during night-shifts is increased;
  - the presence of the general practitioner and the psychiatrist is enhanced;
  - rehabilitative services (psychology, physiotherapy, *etc.*) are provided (paragraph 120);
- steps to be taken as a matter of priority to ensure that all residents at Ostravice are provided adequate psychosocial and occupational therapeutic activities, according to their mental capacity and physical mobility (paragraph 122).

comments

- the Czech authorities are invited to strive to further develop psychotherapy and psychosocial rehabilitative activities at Opava (paragraph 117).

requests for information

- the precise procedures concerning biomedical research projects followed at Opava Psychiatric Hospital and in other mental health care institutions in the Czech Republic (paragraph 119).

**Restraint of agitated and/or violent patients/residents**

recommendations

- steps to be taken to ensure that the procedures followed at the Ostravice Social Welfare Home regarding the use of means of restraint are brought into line with the requirements set out in paragraph 123 (paragraph 125);
- specific registers of the use of means of physical restraint to be set up at Opava Psychiatric Hospital and the Ostravice Social Welfare Home (paragraph 125);
- steps to be taken at the Ostravice Social Welfare Home to ensure that:
  - the material conditions in both seclusion rooms are reviewed;
  - all residents placed in seclusion, whose state of health permits, are offered at least one hour of outdoor exercise every day;
  - a special effort is made that residents who are subject to long-term seclusion benefit from appropriate human contact (paragraph 126);
- cage-beds to be immediately withdrawn from service and net-beds to cease to be used as a tool for managing patients/residents in a state of agitation as soon as possible (paragraph 128);
- measures to be taken, for as long as net-beds remain in use, to ensure that persons placed in such facilities are not exposed to the view of other patients/residents and are subject to appropriate supervision by staff; this recommendation to be applied *mutatis mutandis* to other means of restraint, such as straight-jackets or fixation; this should not preclude persons subject to means of restraint being visited by fellow patients/residents, if this is advisable from a medical standpoint (paragraph 128).

comments

- more suitable means than net-beds can be found to ensure the safety of persons with impaired mobility or nocturnal disorders (*e.g.* disorientation/sleepwalking) (paragraph 128);
- the CPT trusts that its recommendations made in paragraphs 125 and 128 will be taken into account in the preparation of draft standards on the use of means of restraint applicable in in-patient psychiatric institutions in the Czech Republic (paragraph 129).

requests for information

- the long-term care plans vis-à-vis the two residents held in the seclusion rooms at the Ostravice Social Welfare Home (paragraph 126);
- the progress made in the introduction of guidelines on the quality of social services and an obligatory registration and inspections of social care institutions as well as of standards on the use of means of restraint applicable in in-patient psychiatric institutions in the Czech Republic (paragraph 129).

**Safeguards**

recommendations

- steps to be taken to review the current practice at Opava Psychiatric Hospital as regards the delivery of court decisions to the patients concerned (paragraph 135);
- immediate steps to be taken to ensure that a judicial review is carried out, at regular intervals, of the involuntary placement of all patients present at Opava who had been admitted to the hospital prior to 1991 (paragraph 138);
- steps to be taken to provide an automatic review at regular intervals of placement measures ordering protective treatment in all psychiatric establishments in the Czech Republic; this review procedure should offer guarantees of independence and impartiality as well as of objective medical expertise (paragraph 139);
- steps to be taken to ensure that the need for placement in a social welfare institution is reviewed by an appropriate authority at regular intervals (paragraph 143);
- the Czech authorities to strive to find alternative solutions which would better guarantee the independence and impartiality of guardians (paragraph 144);
- introductory brochures for newly-admitted patients to be issued without delay at Opava Psychiatric Hospital (paragraph 145);
- an introductory leaflet/brochure to be issued to each resident at the Ostravice Social Welfare Home and his/her legal representative/parents (paragraph 145);

- patients/residents at Opava and Ostravice to be informed in the introductory leaflet/brochure issued upon admission of their right as well as of the modalities to lodge complaints; complaints addressed to the establishment's administration to be recorded in a specific register (paragraph 146);
- steps to be taken to ensure that all psychiatric establishments in the Czech Republic - including social welfare homes - are visited on a regular basis by an independent outside body (e.g. a judge or supervisory committee) which is responsible for the inspection of patients'/residents' care. This body should be authorised, in particular, to talk privately with patients/residents, receive directly any complaints which they might have and make any necessary recommendations (paragraph 147).

#### comments

- the CPT trusts that the three-month deadline fixed by law for the court to pronounce itself on the admissibility of continued detention will be respected in the future at Opava (paragraph 134).

#### requests for information

- whether it is intended to make provision for a procedure outside emergency situations, whereby a patient could be hospitalised against his/her will after a court decision has been taken, in the context of the ongoing reform of the Czech mental health legislation (paragraph 132);
- views on the CPT's remark that the exercise of patients' rights could be enhanced if provision was made for the designation of an independent adviser to assist the persons concerned in involuntary admission procedures (paragraph 136);
- comments on the CPT's remark that it is a highly questionable practice that incapacitated persons are detained in psychiatric hospitals, without benefiting from the procedural safeguards otherwise provided for by law (paragraph 137);
- comments on the CPT's remark that it is a highly questionable state of affairs for persons to remain deprived of their liberty in psychiatric hospitals as a result of the absence of appropriate external facilities (paragraph 140);
- whether, according to Czech legislation, the involvement of an independent doctor with professional qualifications in psychiatry is required in the context of the procedure for depriving a person of his/her legal capacity (paragraph 142);
- the Ombudsman's powers and activities in respect of the processing of patients'/residents' complaints (paragraph 146).



## **APPENDIX II**

### **LIST OF THE NATIONAL AUTHORITIES AND NON-GOVERNMENTAL ORGANISATIONS WITH WHICH THE CPT'S DELEGATION HELD CONSULTATIONS**

#### **A. National authorities**

##### **Ministry of Justice**

JUDr. Alois CIHLÁR	Vice-Minister of Justice
JUDr. Pavel ROTYKA	Advisor to the Vice-Minister of Justice
Ing. Michal REHÁČEK	Director of the Custody and Sentence Service Unit of the Prison Service
plk. Bc. Stanislav PRCHAL	Director of the Control Unit of the Prison Service
plk. JUDr. Miloslav MÁDLE	Director of the Prison and Justice Guards Unit of the Prison Service
MUDr. Ladislav BRIGANT	Deputy Director of the Health Care Unit of the Prison Service
PaedDr. Bohuslav BURKIEWICZ	1st Deputy Director General of the Prison Service

##### **Ministry of the Interior**

JUDr. Petr IBL	1st Vice-Minister of the Interior
genpor. JUDr. Jirí KOLÁR	Police President
Mgr. Miloslav KOUDELNÝ	Director of the Secretariat of the 1st Vice-Minister of the Interior
plk. JUDr. Jindrich URBAN	Director of the Alien and Border Police
plk. JUDr. Václav VOSECKÝ	Deputy Director of the Alien and Border Police
Miluše DOHNALOVÁ	Director of the Refugee Facilities Administration
PhDr. Radim BUREŠ	Deputy Director of the Crime Prevention Unit
plk. JUDr. Milan GREGOR	Deputy Director of the Patrolling Police
Mgr. Andrea FÁBEROVÁ	Lawyer at the Asylum and Migration Policy Unit

##### **Ministry of Labour and Social Affairs**

PhDr. Bela HEJNÁ	Vice-Minister of Labour and Social Affairs
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##### **Ministry of Health**

MUDr. Antonín MALINA	Vice-Minister of Health
MUDr. Pavel BREZOVSKÝ	Director of the Health Care Unit
MUDr. Mirek RADIMSKÝ	Director of the Brno Psychiatric Hospital
MUDr. Vladislav ŽIŽKA	Director of the Dobruška Psychiatric Hospital

**Other persons**

MUDr. Jan JARAB  
Petra BURCÍKOVÁ

Government's Commissioner for Human Rights  
Secretary of the Committee against Torture of  
the Government's Human Rights Council

**B. Non-governmental organisations**

Czech Centre for Mental Health Care Development  
Czech Helsinki Committee  
Counselling Centre for Citizenship, Civil and Human Rights



