

## **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 1 to 10 April 2014**

The Czech Government has requested the publication of this report.

Strasbourg, 31 March 2015

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**Copy of the letter transmitting the CPT's report**

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Strasbourg, 17 December 2014

Dear Mr Machačka,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Czech Government 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 1 to 10 April 2014. The report was adopted by the CPT at its 85<sup>th</sup> meeting, held from 3 to 7 November 2014.

The various recommendations, comments and requests for information formulated by the CPT are highlighted in bold type in the body of the report. As regards more particularly the CPT's recommendations, having regard to Article 10, paragraph 1, 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 their response, reactions to the comments and requests for information formulated in this 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.

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

Yours sincerely,

Latif Hüseyinov  
President of the European Committee  
for the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment

## EXECUTIVE SUMMARY

During the fifth periodic visit to the Czech Republic, the CPT's delegation reviewed the measures taken by the Czech authorities to implement various recommendations made by the Committee after previous visits, notably as regards the treatment of detained persons and conditions of detention in police establishments and several prisons. Particular attention was paid to the situation of juveniles, high-security and life-sentenced prisoners. For the first time in the Czech Republic, the delegation examined the treatment of and legal safeguards offered to persons held under the measure of "security detention" (*zabezpečovací detence*), at Brno Prison. Further, the delegation visited a detention centre for foreigners as well as a psychiatric hospital where it examined the situation of involuntary patients. The report also deals with the issue of surgical castration of sex offenders which was the subject of consultations with representatives of the relevant national authorities.

The co-operation received from the Czech authorities throughout the visit was generally good. That said, in one of the prisons visited, the delegation was initially denied access to a particular ward. Further, in the psychiatric hospital visited, the delegation received misleading information from senior staff about the use of net-beds as a means of restraint.

### Police custody

The majority of persons interviewed by the delegation stated that they had been treated correctly by police officers whilst in police custody. However, several allegations were received from detained persons of excessive use of force at the time of apprehension and/or physical ill-treatment (such as slaps, punches, kicks and blows with a baton) during police questioning. The delegation also heard several accounts of verbal abuse, including of a racist/xenophobic nature, by police officers.

The report concludes that, in general, the practical operation of fundamental safeguards against ill-treatment did not pose major difficulties. However, there are certain issues which give cause for concern. In particular, it remained the case that detained persons could not benefit from free legal aid from the beginning of their deprivation of liberty by the police.

Material conditions of detention were on the whole satisfactory in the police establishments visited. That said, certain shortcomings were found in some detention facilities and the CPT recommends that they be remedied. The Committee also reiterates its recommendation that all persons held in police custody for 24 hours or more be offered the possibility of access to outdoor exercise every day.

Despite a specific recommendation made after previous visits, the practice of handcuffing detained persons to fixed objects in police establishments persisted. The CPT calls upon the Czech authorities to take effective measures to stamp out such practices in all police establishments.

Further, the CPT expresses serious misgivings about the fact that persons detained by the police were routinely subjected to a strip-search, and the Committee formulates specific recommendations regarding the circumstances of and procedures for searching detained persons in police establishments.

### Detention of foreign nationals under aliens legislation

No allegations of ill-treatment by staff or violence amongst inmates were received at the Bělá-Jezová Detention Centre for Foreigners. The material conditions of detention found were generally satisfactory, and foreign nationals were offered a wide range of activities.

The CPT acknowledges the efforts made by the management to accommodate the special needs of children who were held in the Centre together with their parents. At the same time, the Committee stresses that the placement of minors with their parents in a detention centre should only occur as a last resort and for the shortest possible time. The Committee also recommends that the necessary measures be taken to ensure that unaccompanied/separated minors are always accommodated in an open (or semi-open) establishment specialised for juveniles.

The Bělá-Jezová Detention Centre was generally well-staffed. However, most of the staff did not speak any foreign language, and many members of staff, in particular those employed by a private security company, had received no specific training to work in a multi-ethnic environment.

### Prison establishments

The delegation received a few allegations of physical ill-treatment and verbal abuse, including of a racist nature, by custodial staff in the establishments for adults visited. Further, inter-prisoner violence appeared to be a problem at Valdice Prison, despite the efforts made by the management of the establishment.

As regards juveniles, the CPT expresses grave concern about the frequency of allegations of physical ill-treatment (such as slaps and punches) received from juvenile sentenced prisoners at Všehrdy Prison. Following repeated requests by the CPT to carry out a prompt, independent and thorough inquiry into these allegations, the Czech authorities informed the Committee that the Director of the prison had been dismissed and that disciplinary and criminal proceedings had been initiated against a number of prison officers and senior members of staff.

The material conditions of the establishments visited were on the whole acceptable at Litoměřice Remand Prison and Valdice Prison, although access to natural light was insufficient in a number of cells in both establishments.

The delegation gained a generally favourable impression of the regime offered to sentenced prisoners at Valdice Prison. However, the CPT expressed serious concern about the fact that the overwhelming majority of remand prisoners at Litoměřice Remand Prison were not offered any regular out-of-cell activity other than outdoor exercise for one hour per day. The situation was particularly worrying as regards one juvenile remand prisoner at Litoměřice who had *de facto* been held in a solitary-confinement-type regime for some three months.

The report describes a number of improvements regarding the situation of life-sentenced prisoners at Valdice Prison. In particular, all prisoners were in principle offered paid work and had more possibilities for association with other life-sentenced prisoners than before. On the other hand, the CPT stresses that further measures are required to render the regime satisfactory. The CPT once again expresses its misgivings about the fact that life-sentenced prisoners were systematically handcuffed and guarded by a service dog during movements outside the detention unit. The Committee also reiterates its recommendation that the relevant legislation be revised, with a view to integrating life-sentenced prisoners into the general prison population.

Some improvements have also been observed with regard to high-security prisoners at Valdice Prison, although the regime applied to them was still far from satisfactory; almost all prisoners concerned were usually locked up in their cells alone for up to 22 hours per day.

As regards health care, the CPT expresses serious concern that, due to the obligation to pay a “regulatory fee” for medical consultations, a number of indigent prisoners were denied medical treatment other than emergency care and that prison officers continued to be routinely present during medical examinations. Further, the CPT recommends that the vacant posts of prison doctors at Litoměřice Remand Prison and Valdice Prison be filled as a matter of priority and that the number of qualified nurses be significantly increased in both establishments.

As for security-related issues, the CPT recommends that immediate steps be taken to put an end to collective strip-searches as well as to the use of service dogs within detention areas.

### Security detention

Many security detention inmates interviewed by the delegation at Brno Remand Prison made no allegations of ill-treatment by staff. However, the delegation did receive some allegations of inmates being slapped and/or verbally abused by members of the custodial staff. Moreover, several allegations were heard that inmates with a learning disability had been made by custodial staff to dance, bark, eat grass and drink water from a bucket. If confirmed, such actions would, in the CPT’s view, amount to degrading treatment.

Material conditions of detention in the security detention facility were generally very good. That said, the CPT encourages the Czech authorities to further develop the regime provided to inmates in order to ensure that they can spend more time out of their rooms.

As regards health care, the delegation gained a generally positive impression of the range of therapeutic and recreational activities. However, the Committee is concerned that all contact of the psychiatrist and psychologist with inmates was conducted through metal bars.

### Psychiatric establishments

During its visit to Kosmonosy Psychiatric Hospital, the delegation received no allegations of ill-treatment of patients by staff. Living conditions at Kosmonosy Psychiatric Hospital were generally satisfactory. However, recommendations were made to improve access to outdoor exercise for patients.

Staffing levels in the hospital appeared to be generally adequate for the number of patients and care provided. The delegation also gained a positive overall impression of the psychiatric treatment. That said, the CPT recommends that the written consent of patients be obtained prior to the commencement of anti-androgen treatment and that patients be able to withdraw their consent to any anti-androgen treatment and to have their treatment discontinued at any time. Further, the Committee expresses serious misgivings about the imposition of a so-called “pyjama regime” on patients by the treating psychiatrist or psychologist as a punishment and recommends that this practice be discontinued.

The new Law on Medical Services regulates in a comprehensive manner the use of means of restraint in health-care settings, and the delegation observed that the relevant legal requirements were respected in practice. However, several recommendations were made as regards the duration of mechanical restraint, the recording of instances of chemical restraint and the supervision of patients under restraint. Moreover, the CPT once again expresses its serious misgivings about the use of net-beds and in particular as regards the excessive duration of placement of certain patients therein, as well as their use as “ordinary” hospital beds.



*Surgical castration of sex offenders*

The CPT takes note of the new legal framework governing the use of surgical castration in the context of treatment of sex offenders and acknowledges the significant decrease in the resort to this intervention in recent years. However, the Committee emphasises that this in itself cannot remove its fundamental objections to the intervention. Consequently, it urges the Czech authorities to put a definitive end to the use of surgical castration in the context of treatment of sex offenders and to amend the relevant legal provisions accordingly.

## 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 periodic visit to the Czech Republic from 1 to 10 April 2014. It was the Committee’s fifth periodic visit to the Czech Republic.<sup>1</sup>

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

- Lətif HÜSEYNOV, President of the CPT (Head of delegation)
- Marzena KSEL, 1<sup>st</sup> Vice-President of the CPT
- Anna LAMPEROVÁ
- Celso MANATA
- Anna MOLNÁR
- Ilvija PŪCE.

They were supported by Julien ATTUIL-KAYSER and Petr HNÁTÍK of the CPT's Secretariat and assisted by:

- Veronica PIMENOFF, psychiatrist, former Head of Department of Helsinki University Psychiatric Hospital, Finland (expert)
- Renata DRAHOZALOVÁ (interpreter)
- Jana FRANKOVÁ (interpreter)
- Zdeněk HOFMAN (interpreter)
- Tomáš OPOČENSKÝ (interpreter)
- Helena REJHOLCOVÁ (interpreter).

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<sup>1</sup> The CPT has previously carried out four periodic visits (in 1997, 2002, 2006 and 2010) and two ad hoc visits (in 2008 and 2009) to the Czech Republic. All visit reports and related Government responses have been made public and are available on the CPT’s website: <http://www.cpt.coe.int/en/states/cze.htm>

**B. Establishments visited**

3. The CPT's delegation visited the following places of detention:

Establishments under the authority of the Ministry of the Interior

- Brno Emergency and Escort Unit of the Regional Police Directorate
- Jičín Police Headquarters
- Litoměřice Police Headquarters
- Lovosice Police Station
- Mladá Boleslav I Police Station
- Mladá Boleslav II Police Station
- Most Police Headquarters
- Prague-Kongresová Emergency and Escort Unit of the Regional Police Directorate
  
- Bělá pod Bezdězem-Jezová Detention Centre for Foreign Nationals

Establishments under the authority of the Ministry of Justice

- Brno Remand Prison and Security Detention Facility
- Litoměřice Remand Prison
- Prague-Pankrác Remand Prison (remand sections)
- Valdice Prison
- Všehrady Prison (unit for juveniles)

Establishments under the authority of the Ministry of Health

- Kosmonosy Psychiatric Hospital.

**C. Consultations held by the delegation and co-operation encountered**

4. In the course of the visit, the delegation held consultations with Ms Helena VÁLKOVÁ, Minister of Justice, Mr Jiří DIENSTBIER, Minister of Human Rights and Equal Opportunities, Mr Petr JÄGER and Mr Pavel ŠTERN, Deputy Ministers of Justice, Ms Monika PÁLKOVÁ, Deputy Minister of the Interior, Mr Josef VYMAZAL, Deputy Minister of Health, and Mr Ivan BÍLEK, Director of the General Inspection of Security Forces, as well as with senior officials from the ministries and services concerned.

The delegation also met Ms Anna ŠABATOVÁ, Public Defender of Rights (Ombudsperson), and members of her staff, as well as representatives of the UNHCR Office in Prague and non-governmental organisations active in areas of concern to the CPT.

A list of the national authorities, other bodies and organisations met by the delegation is set out in the Appendix to this report.

5. In general, the delegation received a good level of co-operation throughout the visit, both from the national authorities and from staff at the establishments visited apart from the two exceptions mentioned below. It generally enjoyed prompt access to all places (including those not notified in advance), was able to interview in private persons deprived of their liberty and was granted ready access to all documentation it wished to consult, in compliance with the provisions of the Convention establishing the Committee. Further, the delegation was provided in advance with all requested documentation.

The CPT also wishes to express its appreciation for the assistance provided before and during the visit by its liaison officers, Mr Jakub MACHAČKA and Ms Zuzana VANÍČKOVÁ, of the Office of the Government of the Czech Republic.

That being said, in one of the prisons visited, the delegation was initially denied access to a particular ward and was only able to visit it the next day. Such a situation is unacceptable; in this connection, the CPT wishes to recall that under Article 8, paragraph 2 (c), of the Convention "[a] Party shall provide the Committee with [...] unlimited access to any place where persons are deprived of their liberty, including the right to move inside such places without restriction."

Further, it is a matter of concern that, at Kosmonosy Psychiatric Hospital, the delegation received misleading information from senior staff about the use of net-beds as means of restraint.

The CPT trusts that the Czech authorities will take the necessary steps to prevent a repetition of such situations in the future.

**D. Immediate observation under Article 8, paragraph 5, of the Convention**

6. During the end-of-visit talks with the Minister of Justice, the delegation made an immediate observation, in pursuance of Article 8, paragraph 5, of the Convention, and requested the Czech authorities to carry out a prompt, independent and thorough inquiry into allegations of physical ill-treatment of juveniles by prison staff at Všehrdy Prison. Further, it requested the Czech authorities to take appropriate measures to ensure that juveniles are not be subjected to any retaliation for having spoken with the delegation. The Czech authorities were requested to provide, within two months, a detailed account of the concrete measures taken in response to the immediate observation.

The immediate observation was subsequently confirmed in a letter, dated 28 April 2014, by the President of the CPT to the Minister of Justice. By letter of 10 June 2014, the Minister of Justice provided information on the action taken by the Czech authorities in response to the immediate observation. This information was examined by the CPT at its plenary meeting in July 2014. The Committee concluded that no prompt, independent and thorough inquiry had been carried out into the above-mentioned allegations. Consequently, the President of the CPT wrote another letter to the Minister of Justice, on 16 July 2014, urging the Czech authorities to carry out such an inquiry without further delay and requesting them to provide by 15 October 2014 a detailed account of the concrete steps taken in this connection.

By letter dated 15 October 2014, the Czech authorities provided additional information which has been taken into account in the relevant section of the report (see paragraph 52).

**E. National Preventive Mechanism**

7. The Czech Republic ratified the Optional Protocol to the United Nations Convention against Torture (OPCAT) in July 2006 and designated the Public Defender of Rights (Ombudsperson) as the National Preventive Mechanism (NPM). The Ombudsman Act,<sup>2</sup> as amended in this connection, authorises the Ombudsman to carry out visits to places where persons are or may be deprived of their liberty by a public authority or as a result of their dependence on the care being provided, in particular to prisons, police establishments, security detention facilities, detention centres for foreigners as well as to health-care, social welfare or similar establishments, and the NPM's mandate also covers the monitoring of deportations of foreign nationals.

The NPM may carry out visits at its own initiative, without prior notification, and has the right to interview persons deprived of their liberty in private. A separate department, responsible for the NPM function and employing ten full-time staff, has been established within the Ombudsman's Office and carries out some 30 to 50 visits per year to various places of deprivation of liberty.

**The CPT would appreciate receiving in due course the NPM's annual activity report for 2014.**

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<sup>2</sup> Law no. 349/1999.

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

### **A. Police custody**

#### **1. Preliminary remarks**

8. The legal framework governing the deprivation of liberty by the police was described in the report on the 2010 visit<sup>3</sup> and, on the whole, remains unchanged.

Persons who are detained by the police on suspicion of having committed a criminal offence must be brought before a judge within 48 hours and then remanded in custody by the judge within 24 hours or released. In total, the persons concerned may be held for up to 72 hours in police detention facilities. Persons who are arrested under an arrest warrant must be brought before a court within 24 hours, and the judge must take a decision on remand detention (or release) within 24 hours.

Persons may also be deprived of their liberty by the police for other reasons (e.g. summoned to present themselves at a police station in order to provide an “explanation” or to establish their identity; commission of an administrative offence, posing a threat to one’s own life or the life or health of others or to property). In all of these cases, the period of police custody shall not last for more than 24 hours.

Foreign nationals may be held in police custody under aliens legislation for up to 24 hours. Under certain circumstances, this period may be extended to a maximum of 48 hours, before the person concerned is transferred to a detention centre for foreigners.

In the course of the 2014 visit, the delegation did not gather any information which would suggest that the statutory time-limits for police custody were not respected in practice.

#### **2. Ill-treatment**

9. The majority of persons interviewed by the delegation who were – or had recently been – detained by the police stated that they had been treated correctly by police officers.

However, several allegations were received from detained persons that they had been subjected to excessive use of force at the time of apprehension (even when the person concerned allegedly displayed no resistance or after he/she had been brought under control). Some persons also complained about unduly tight handcuffing after their apprehension. Further, some allegations were received of physical ill-treatment (such as slaps, punches, kicks and blows with a baton) and threats thereof during questioning, apparently in an attempt to extract a confession.

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<sup>3</sup> See CPT/Inf (2014)3, paragraphs 8-9.

In a few cases, the allegations received were supported by medical evidence. For example, one person interviewed by the delegation alleged that during his apprehension, police officers had made him lie prone on the floor and when handcuffing him, had twisted his arms behind his back to the point that his elbow had been seriously injured. According to his personal medical file, upon admission to the remand prison, the person concerned had had a swollen right elbow with limited movement of the right forearm. He had been transferred to a hospital where a non-displaced epicondylar fracture of the right ulna was diagnosed.

Further, the delegation heard several accounts of verbal abuse, including of a racist/xenophobic nature, by police officers during apprehension and/or in the context of police questioning.

In the light of the above findings, **the CPT must recommend once again that police officers throughout the Czech Republic be reminded regularly and in an appropriate manner that any form of ill-treatment – including threats, verbal abuse and racist/xenophobic remarks – towards detained persons is unprofessional and illegal and will be punished accordingly. Further, it should be made clear to police officers, in particular through ongoing training, that no more force than is strictly necessary should be used when effecting an apprehension and that there can be no justification for striking apprehended persons once they have been brought under control. Where it is deemed essential to handcuff a person at the time of apprehension or at a later stage, the handcuffs should under no circumstances be excessively tight<sup>4</sup> and should be applied only for as long as is strictly necessary.**

10. Another effective means of preventing police ill-treatment lies in the effective investigation by the competent authorities into allegations of police ill-treatment. In this regard, the CPT welcomes the setting-up, on 1 January 2012, of the General Inspection of Security Forces (GISF),<sup>5</sup> as an independent body responsible for the investigation of criminal offences committed by members of the police, the prison and customs services, as well as, in certain cases, of civil employees of the aforementioned services. The director of the GISF reports directly to the Prime Minister (who also has the authority to appoint him and remove him from the office).

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<sup>4</sup> It should be noted that excessively tight handcuffing can have serious health-related consequences (for example, sometimes causing a severe and permanent impairment of the hand(s)).

<sup>5</sup> *Generální inspekce bezpečnostních sborů (GIBS)*. The GISF thus replaced the former Inspection of the Ministry of the Interior.

### 3. Safeguards against ill-treatment

11. The delegation's findings indicate that, in general, the practical operation of fundamental safeguards against ill-treatment (in particular, the right of notification of custody and the rights of having access to a lawyer and a doctor) does not pose major difficulties.

12. As regards the notification of custody, the vast majority of persons interviewed by the delegation who were or recently had been in police custody stated that they had been in a position to contact a relative or a third person to inform them of their situation shortly after apprehension.

However, a few allegations were heard that the exercise of this right had initially been denied by police officers and that the person concerned had been advised to reiterate his/her request to the police investigator at the time of the first questioning. **The CPT recommends that the Czech authorities take the necessary steps to ensure that all detained persons effectively benefit from the right of notification of custody from the very outset of their deprivation of liberty.**

13. The provision of Section 24 (4) of the Police Act<sup>6</sup> under which a person deprived of his/her liberty by the police has the right to obtain, at his/her own cost, legal assistance and to talk to a lawyer in private, appeared to be generally respected in practice.

That said, some detained persons claimed that they had been questioned by police officers without the presence of a lawyer and that their request to consult a lawyer had only been granted after the first questioning. In the CPT's view, the right of access to a lawyer must be enjoyed by anyone who is under a legal obligation to attend – and stay at – a police establishment, irrespective of his/her precise legal status, as from the outset of the deprivation of liberty. **The CPT recommends that these principles be fully implemented in practice in all police establishments.**

14. As noted in the report on the 2010 visit, the exercise of the right of access to a lawyer can only be considered to be an effective *safeguard against ill-treatment* if persons in police custody who are not in the position to pay for a lawyer benefit from a fully-fledged system of legal aid. If this is not the case, the right of access to a lawyer will remain, in many cases, purely theoretical. In the CPT's experience, it is during the period immediately following the deprivation of liberty that the risk of intimidation and ill-treatment is at its greatest. 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.

According to the information gathered in the course of the 2014 visit, and also as indicated in the response of the Czech authorities to the report on the 2010 visit,<sup>7</sup> detained persons could not benefit from free legal aid from the beginning of their deprivation of liberty by the police but only once they had been formally declared "accused". **The Committee reiterates its recommendation that the Czech authorities take all necessary steps to ensure that the right to free legal aid for persons detained by the police, who are not in a position to pay for a lawyer, is applicable as from the very outset of their deprivation of liberty, irrespective of whether the person concerned has formally been declared "accused".**

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<sup>6</sup> Law no. 273/2008.

<sup>7</sup> See CPT/Inf (2014) 4, paragraphs 13-16.



15. Section 24 (5) of the Police Act guarantees the right of access to a doctor (including to one of the person's own choice) to persons deprived of their liberty by the police.

Further, by virtue of Section 31 of the Police Act, a person who is visibly under the influence of an addictive substance may only be placed in a police cell if a medical doctor, upon the examination of the person concerned, does not find any reason for his/her placement in a health-care facility. In addition, if a person is injured or notifies the police officers of a serious illness or if there is a suspicion that he/she suffers from a serious illness, he/she must be seen by a medical doctor before placement in a police cell.

The findings of the 2014 visit indicate that the above-mentioned provisions were generally respected in practice. However, there are two issues which give rise to particular concern.

16. First, Section 12 (2) of the Binding Guidelines on Escorts, Surveillance of Persons and on Police Cells continues to require that a police officer (of the same sex) remains in visual contact with the detained person whenever the latter is examined by a doctor. Indeed, all persons interviewed by the delegation who had been medically examined during the period of police custody indicated that police officers were present during their medical examination/consultation. Further, according to the information gathered during the visit, persons detained by the police were frequently examined by a doctor while being handcuffed.

The CPT must stress in this respect that the presence of police officers during medical examinations of detained persons could discourage a detained person who has been the subject of ill-treatment from speaking out. Further, handcuffing detained persons during medical examinations is a questionable practice from the point of view of medical ethics and may be prejudicial to the establishment of objective medical observations.

Consequently, **the CPT reiterates its recommendation that the Czech authorities take the necessary steps to ensure that all medical examinations of persons in police custody take place out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of police officers. The relevant legal provisions should be amended accordingly.**

Further, **the Committee recommends that the practice of regularly handcuffing persons in police custody during medical examinations be stopped immediately.**

17. Secondly, although several persons met by the delegation in police custody displayed traumatic injuries, such as clearly visible haematomas and excoriations to the face, in some cases, the medical record drawn up before their placement in a police cell stated that no bodily injuries had been detected during a medical examination.

The CPT must emphasise in this context that health-care services can make a significant contribution to the prevention of ill-treatment of persons deprived of their liberty, through the systematic recording of injuries and, when appropriate, the provision of information to the relevant authorities.

The record drawn up by a doctor after a thorough medical examination of a person in police custody should contain:

- (i) an account of statements made by the person concerned which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment),
- (ii) a full account of objective medical findings based on a thorough examination, and
- (iii) the doctor's observations in the light of (i) and (ii), indicating the consistency between any allegations made and the objective medical findings.

Whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by the detained person (or which, even in the absence of the allegations, are indicative of ill-treatment), the record should be immediately and systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned. Moreover, the results of every examination, including the above-mentioned statements and the doctor's opinions/observations, should be made available to the detained person and, upon request, to his/her lawyer.

Recording of the medical examination in cases of traumatic injuries should be made on a special form provided for this purpose, with body charts for marking traumatic injuries that will be kept in the medical file of the prisoner. Further, it would be desirable for photographs to be taken of the injuries, and the photographs should also be placed in the medical file.

**The CPT recommends that the Czech authorities take the necessary steps to ensure that the practice is brought in line with the above requirements.** This will also help to protect police officers against false allegations of ill-treatment made against them.

18. The overwhelming majority of persons interviewed by the delegation who were – or recently had been – in police custody confirmed that they had received information on their rights in writing upon arrival at a police station and had been asked to attest to this fact by signature. Further, the CPT welcomes the fact that comprehensive information sheets were available in several languages in all the police stations visited, in compliance with a specific recommendation made by the Committee in the report on the 2010 visit.

However, a few persons claimed that they had only been informed of their rights at the beginning of questioning by a criminal police officer or when being placed in a police cell. A few allegations were also heard that the information on rights was only conveyed to the detained person orally.

In the CPT's view, all persons detained by the police, for whatever reason, should be fully informed of their fundamental rights as from the very outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with the police). This should be ensured by provision of clear verbal information at the very outset, to be supplemented at the earliest opportunity (that is, immediately upon their arrival at police premises) by provision of a written form setting out their rights in a straightforward manner. **The CPT recommends that the Czech authorities make further efforts to ensure that these requirements are fully respected in practice.**

#### 4. Conditions of detention

19. As was the case at the time of the 2010 visit, material conditions in most police establishments visited were on the whole satisfactory. The cells were sufficient in size, in a good state of repair and clean, had acceptable artificial lighting and ventilation and were adequately equipped (with beds/plinths, mattresses, blankets, tables and chairs, toilets and sinks, as well as call bells). Detained persons staying overnight were, as a rule, provided with clean bedding and personal hygiene items.

That said, it is regrettable that the majority of police custody cells seen by the delegation had no access to natural light. Further, at Most Police Headquarters cells were poorly ventilated and the artificial lighting in cells could not be dimmed during the night. Moreover, at Prague-Kongresová, some of the double-occupancy cells only had a semi-partitioned toilet. The delegation's findings further suggest that in the two aforementioned police establishments, persons detained overnight were not systematically provided with personal hygiene items.

**The CPT recommends that the above-mentioned shortcomings be remedied.**

20. As regards outdoor exercise for persons in police custody, the situation has remained unchanged since the previous visit; namely, persons held in police detention facilities were not offered any outdoor exercise, irrespective of the length of the police custody (with the exception of Brno Emergency and Escort Unit where detained persons reportedly benefited from 20 minutes of outdoor exercise per day). It should be emphasised in this context that the information gathered through interviews with detained persons and by consulting relevant registers clearly indicates that a significant number of detained persons had remained in police custody for more than 24 hours.<sup>8</sup>

**The CPT reiterates its recommendation that all persons held in police custody for 24 hours or more be offered the possibility of access to outdoor exercise every day. Particular attention should in this respect be paid to Prague-Kongresová Emergency and Escort Unit of the Regional Police Directorate, the largest detention facility in the country.**

21. The findings of the 2014 visit indicate that, despite the specific recommendations repeatedly made by the Committee in the past,<sup>9</sup> the practice of handcuffing detained persons to wall fixtures or like objects in police establishments persists. According to the information provided by the authorities (including police officers in the establishments visited), persons in police custody may be shackled whilst seated, for up to two hours at a time, to a bench located in a police cell if they physically attack police officers or other persons, endanger their own life, damage property or attempt to escape.<sup>10</sup>

Moreover, it became clear during the visit that in some police establishments which were not equipped with a police custody cell, persons deprived of their liberty may be handcuffed to a bench/wall fixture located in the corridor while waiting, e.g., for questioning.

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<sup>8</sup> It is recalled that the maximum duration in police custody in the Czech Republic is 72 hours (see paragraph 8).

<sup>9</sup> See, most recently, the report on the 2010 visit (CPT/Inf (2014)3, paragraph 25).

<sup>10</sup> See Section 25 of the Police Act.

**The CPT once again calls upon the Czech authorities to remove wall fixtures for attaching persons from all police establishments and, more generally, to take effective measures to stamp out the practice of persons held by the police being attached to fixed objects. Every police facility where persons may be deprived of their liberty should be equipped with one or more rooms designated for detention purposes and offering appropriate security arrangements. Corridors should not be used as *ad hoc* detention facilities.**

**In the event of a person in custody acting in a violent manner, the use of handcuffs may be justified. However, the person concerned should not be shackled to fixed objects but instead be kept under close supervision in a secure setting and, if necessary, medical assistance should be sought.**

## **5. Other issues**

22. In the police establishments visited, persons detained by the police were routinely subjected to a strip-search, by police officers of the same sex, before placement in a police cell. The persons concerned were asked to fully undress and to squat.

A strip-search is a very invasive and potentially degrading measure. To apply it in every case is, in the CPT's view, excessive and unnecessary. Of course, detained persons should always be searched in order to ensure their own safety and the safety of police officers. However, a strip-search should be carried out only when there are reasonable grounds to suspect that a detained person may have hidden on him/her items that may be used to harm him-/herself or others or that may be evidence of a crime and such a search is necessary in order to detect these, an ordinary search being unlikely to result in their discovery. Carrying out such a search should require the authority of a senior officer and should be the subject of a written policy, setting out in clear terms the circumstances in which it is permissible to resort to it. Every reasonable effort should be made to minimise embarrassment; detained persons who are searched should not normally be required to remove all their clothes at the same time, e.g. a person should be allowed to remove clothing above the waist and get dressed before removing further clothing. In addition, more than one officer should, as a rule, be present during any strip-search as a protection for detained persons and staff alike.

**The CPT recommends that the Czech authorities take the necessary measures to ensure that the circumstances of and procedures for searching detained persons are revised and set out in written form in all police establishments, in the light of the preceding remarks.**

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

### **1. Preliminary remarks**

23. The delegation visited, for the first time, the Bělá-Jezová Detention Centre for Foreigners, the only establishment of its kind in the Czech Republic. The Centre was opened in 2006<sup>11</sup> and is located in a forest, some five kilometres away from the nearest municipality. It comprises three accommodation buildings (A, B and D<sup>12</sup>) for foreign nationals held under the “open regime” as well as one building (Building 10) for inmates subject to the “strict regime”<sup>13</sup>. With an official capacity of 273 places, the Centre was accommodating at the time of the visit 36 foreign nationals (including 17 asylum-seekers, two women and one father with two young children).<sup>14</sup> The Centre considered immigration detainees as “clients” as they had in principle to pay for their stay.<sup>15</sup>

**The CPT would like to receive the comments of the Czech authorities regarding the appropriateness of requesting such payment.**

24. According to Section 125 of the Law on the Residence of Foreigners, irregular migrants can be detained for up to 180 days. The detention period can be extended to a maximum of 545 days if a foreign national obstructs the procedure or has provided false information. Unaccompanied minors (aged 15 years or more) and families with minors can only be detained for a maximum of 90 days.

The delegation was informed that the average duration of detention in the Centre was approximately 80 days. At the time of the visit, 28 foreign nationals had been held there for less than 60 days, the longest period being six months.

25. The Administration of Refugee Facilities (“ARF”) is responsible for the overall management of the Centre, while the police secure the perimeter of the Centre, and conduct body searches of newly-arrived foreign nationals as well as regular searches within the Centre. The police may intervene inside the Centre in the case of incidents or whenever requested to do so by the ARF. In addition, the police are responsible for the placement of foreign nationals in the strict regime unit. For the maintenance of internal order, staff of a private security company were present in the Centre around the clock, on the basis of a private-law contract with the ARF (see also paragraph 37).

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<sup>11</sup> The premises had previously been used as an open reception centre for asylum-seekers. The Centre replaced the Bálková Detention Centre for Foreigners which had been visited by the CPT in 2002.

<sup>12</sup> Building A accommodated exclusively women and families. Due to the low number of male inmates, Building D was not in use at the time of the visit.

<sup>13</sup> For further details, see paragraphs 29 to 31.

<sup>14</sup> According to the management, a total of 770 foreign nationals had been detained in the Centre in 2013.

<sup>15</sup> For every foreign national (including minors) a daily fee of CZK 112 for accommodation and CZK 120 for meals (totalling an equivalent of € 8.5 per day) was charged.

## 2. Ill-treatment

26. The delegation did not receive any allegations of ill-treatment by police officers, ARF officials or private security staff. Further, the delegation received no allegations and found no other indications of violence amongst foreign nationals. Most of the foreign nationals interviewed by the delegation indicated that the overall atmosphere in the Centre was relaxed.

## 3. Conditions of detention

27. Material conditions in the Bělá-Jezová Detention Centre were generally satisfactory. All accommodation buildings were in a good state of repair and had good access to natural light, artificial lighting and ventilation. Most of the foreign nationals were accommodated in three-bed rooms which were of a sufficient size (some 17 m<sup>2</sup>) and well-equipped (including with fully-partitioned sanitary facilities).<sup>16</sup> Some rooms also had a balcony.

28. At the time of the visit, all foreign nationals were being held under an open regime in Buildings A and B. They could move around freely throughout the day within their accommodation building (from 7 am to 11 pm) and had unrestricted access to a large open area around the building from 7 am to 7 pm.

The delegation gained a very positive impression of the activities offered to foreign nationals. In both buildings, an educator was present five days a week for five hours and organised language classes and various recreational and sports activities. Foreign nationals could also play table tennis and basketball in the outdoor area all day.

In addition, several well-equipped activity rooms were available in the basement of both buildings. In Building B, there was a large communal room equipped with a television set, a library, a piano and a table football, a large cinema room, a room used for handicrafts (accessible twice a week) and a well-equipped fitness room (usually accessible three times per week for two hours). The infrastructure of Building A was similar to that of Building B, the only difference being that it comprised a large and well-equipped handicrafts room (ceramics, knitting, sewing, etc.) instead of a fitness room.

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<sup>16</sup> The centre also had a number of single rooms which were not in use at the time of the visit.

29. According to Section 135, paragraph 1, of the Law on the Residence of Foreigners, a foreign national may be placed in the strict regime for a maximum of 30 days – with a possible prolongation to a maximum of 60 days – if he/she behaves aggressively or repeatedly seriously violates the internal rules. The decision on the placement is taken by the police at their own initiative or following a request by the ARF. The police must present a reasoned decision in writing and indicate the possibility to lodge an appeal to the Ministry of the Interior.<sup>17</sup> The decision must be counter-signed by the foreign national concerned and kept in his/her personal file. Moreover, the Ombudsperson should be informed of all such decisions.

Contrary to the situation found during the 2002 visit to the Bálková Detention Centre for Foreigners (where the majority of foreign nationals had been held under the strict regime)<sup>18</sup>, no foreign nationals were being held under the strict regime at the Bělá-Jezová Detention Centre at the time of the 2014 visit.<sup>19</sup>

30. According to the management, foreign nationals subjected to the strict regime were entitled to one hour of outdoor exercise per day<sup>20</sup> and, for the rest of the day, they were usually confined to their room (together with one or two fellow inmates) where they were provided with reading material. However, they were not allowed to have a television set or radio in the room.

Pursuant to Section 134, paragraph 3, of the Law on the Residence of Foreigners, outdoor exercise may be restricted or cancelled by the police on “serious grounds”. The CPT must stress that the requirement that foreign nationals be allowed at least one hour of outdoor exercise per day is a fundamental right for all immigration detainees, whatever the circumstances. Therefore, **the Committee recommends that the aforementioned legal restrictions be abolished.**

31. As indicated above, the imposition of the strict regime does not in itself entail a solitary-confinement regime. In practice, however, it may well be the case that only one foreign national is placed in the strict regime unit at a time. According to the information provided, such a situation had occurred six times in 2013 and once in 2014, the longest period being twelve days. In this regard, **the CPT trusts that the Czech authorities will take the necessary measures to ensure that foreign nationals who are *de facto* held in a solitary-confinement-type regime are provided with appropriate human contact on a daily basis.**

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<sup>17</sup> A formal decision must be delivered to the foreign national if the placement lasts for more than 48 hours.

<sup>18</sup> CPT/Inf (2004) 4, paragraph 36.

<sup>19</sup> There was only one placement under the strict regime in 2014 (for two days) and 19 placements in 2013 (at least two of them lasting 30 days and one 27 days).

<sup>20</sup> The delegation was told that, depending on the behaviour of the foreign national concerned, the duration of daily outdoor exercise might be extended.

#### 4. Detention of minors

32. At the time of the visit, two young children (aged three and six years) were held with their father in Building A of the Bělá-Jezová Detention Centre, together with two single unrelated women. The management indicated that under Czech legislation these children were not considered formally detained but were only “accompanying” their parent.<sup>21</sup>

Efforts were clearly being made by the management to accommodate the special needs of the children and to offer them activities and access to education. In Building 09, a large “kindergarten-type room” was equipped with toys, games, drawing, painting and sewing equipment, a television set, a CD-player and a piano. An outdoor playground (with a sandbox, a slide and a seesaw), adjacent to the building and surrounded by a wire fence, was accessible for two to four hours every weekday in the presence of an educator. Some toys and a sandbox were also available in the courtyard of Building A. Nappies were provided by the Centre for the youngest child and NGOs had donated children’s clothes and toys. Further, the Director indicated that any school-age child should be enrolled in the school located in the nearest municipality – 5 km away from the Centre. If necessary, the child would be accompanied by an educator.

Notwithstanding the above, **the CPT considers that the accommodation of children accompanying their parent(s) together with other adults in a detention centre can have a negative psychological effect on the child’s development and well-being, particularly when the child is young. The placement of minors with their parents in a detention centre should only occur as a last resort, and if, in exceptional circumstances, such placement cannot be avoided, its duration should be as short as possible. Every possible effort should be made to avoid separation of children from their parent(s).**

33. As already indicated, unaccompanied minors aged 15 years or more may be detained for a maximum of 90 days in the Bělá-Jezová Detention Centre.<sup>22</sup> Whilst acknowledging that no unaccompanied minor had been held in the establishment in recent times, the CPT has misgivings about the very existence of such a possibility, especially because unaccompanied minors would be held together with adults in an establishment which is primarily designed to accommodate adult inmates.

The CPT concurs with the United Nations Committee on the Rights of the Child which considers that “[i]n application of article 37 of the Convention [on the Rights of the Child] and the principle of the best interest of the child, unaccompanied or separated children should not, as a general rule, be detained. Detention cannot be justified solely on the basis of the child being unaccompanied or separated, or on their migratory or residence status, or lack thereof”.<sup>23</sup> Further, other Council of Europe bodies, such as the Parliamentary Assembly<sup>24</sup> or the Commissioner for Human Rights,<sup>25</sup> have stated that unaccompanied minors should not be detained.

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<sup>21</sup> In 2013, up to 22 accompanied minors had been held in the Centre together with their parents, due to the simultaneous arrival of several families.

<sup>22</sup> According to Section 124, paragraph 4, of the Law on the Residence of Foreigners, the police must appoint a guardian whenever an unaccompanied minor foreign national is detained.

<sup>23</sup> Committee on the Rights of the Child, General Comment no. 6 (2005) on the Treatment of unaccompanied and separated children outside their country of origin, CRC/GC/2005/6, 1 September 2005, paragraph 61.

<sup>24</sup> Parliamentary Assembly of the Council of Europe, Resolution 1707 (2010) on detention of asylum seekers and irregular migrants in Europe, 28 January 2010, paragraph 9.1.9, and Resolution 2020 (2014) on the alternatives to immigration detention of children, 3 October 2014, paragraph 3.

<sup>25</sup> Commissioner for Human Rights, Positions on the rights of minor migrants in an irregular situation, CommDH/Position Paper (2010)6, 25 June 2010.



Given their particular vulnerability, **the CPT recommends that the necessary measures be taken to ensure that unaccompanied/separated minors are always provided with special care and accommodated in an open (or semi-open) establishment specialised for juveniles (e.g. a social welfare/educational institution for juveniles); if necessary, the relevant legal framework should be amended accordingly.**

## 5. Health care

34. The health-care team comprised one doctor (general practitioner) working five days a week for eight hours as well as four nurses who ensured daily nursing cover from 7 am to 8 pm (including at weekends).

That said, it is a matter of concern that no health-care staff were present in the Centre at night. Considering the capacity of the establishment, **the CPT recommends that the Czech authorities take steps to ensure that a staff member competent to provide first aid, preferably with a recognised nursing qualification, is always present in the Centre, including at night.**

35. The medical room was well-equipped (including with a defibrillator and other emergency equipment). Further, upon arrival, all foreign nationals were promptly examined by the doctor, underwent an X-ray (at the Mlada Boleslav Hospital) and were offered various blood and urine tests. Basic health care was provided free of charge (including, if necessary, in outside hospitals).

36. The delegation was informed that nurses were able to communicate in Russian, German and English<sup>26</sup> and that interpretation via the telephone would be arranged whenever needed.

However, several foreign nationals met by the delegation complained that no interpretation had been available during their medical examination and that they had therefore been prevented from describing adequately their health problems. Further, some foreign nationals, notably Vietnamese and Arab speakers, indicated that interpretation during medical consultations was provided by fellow inmates who spoke some Czech. In the CPT's view, the use of fellow detainees as interpreters should be avoided in order to ensure medical confidentiality, except in emergency situations. **The Committee recommends that measures be taken to provide professional interpretation when required during medical examinations.**

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<sup>26</sup> The doctor did not speak a foreign language.

## 6. Other issues

37. The CPT wishes to recall the importance of custodial staff in detention centres for immigration detainees being carefully selected and receiving appropriate training. Staff should possess both well-developed qualities in the field of interpersonal communication and cultural sensitivity, given the diverse backgrounds of the detainees. Further, at least some of them should have relevant language skills. They should also be taught to recognise possible symptoms of stress reaction displayed by detained persons and to take appropriate action.

The Bělá-Jezová Detention Centre was generally well-staffed. It employed a total of 62 staff (including three social workers and four pedagogues/educators); in addition, 14 private security staff were present during the day and eleven at night.

Whilst acknowledging the commitment displayed by staff, the delegation noted that almost no members of staff who were directly in contact with foreign nationals spoke any foreign language. Further, many members of staff – in particular those deployed by the private security company – had apparently received no specific training to work in a multi-ethnic environment. **The CPT recommends that the Czech authorities take appropriate measures to remedy these deficiencies.**

38. Some private security staff usually carried pepper spray canisters inside the detention areas. According to the management, such devices had never been used in the Centre.

In the CPT's view, tear gas is a potentially dangerous substance and should not be used in confined spaces. Further, if exceptionally it needs to be used in open spaces, there should be clearly defined safeguards in place. For example, persons exposed to pepper spray should be granted immediate access to a medical doctor and should be supplied immediately with means to reverse the effects effectively and rapidly. It should not form part of the standard equipment of a security officer. **The CPT recommends that the Czech authorities take the necessary steps to ensure that the above-mentioned precepts are effectively implemented in practice.**

39. The CPT welcomes the fact that the Centre was regularly visited by NGOs and that legal assistance was provided to foreign nationals, once a week, free of charge.<sup>27</sup>

40. As regards contact with the outside world, foreign nationals were entitled to two one-hour visits per week. Upon request, they were usually allowed to have a visit of two hours at a time.

In practice, however, only very few foreign nationals received visits on a regular basis. This was at least partly due to the remote location of the Centre. For some visitors, the journey to the establishment could easily take several hours, especially when using public transportation. Thus, the duration of visits appeared to be too short compared to the travel time required to reach the Centre. **The CPT encourages the Czech authorities to display more flexibility in the application of the rules on visits in respect of foreign nationals whose families/friends live a long way from the Centre (e.g. by allowing inmates to accumulate unused visit entitlements).**

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<sup>27</sup> By the Organisation for Aid to Refugees (*Organizace pro pomoc uprchlíkům*).

41. It is regrettable that foreign nationals were usually allowed to receive visits only in semi-open booths and were thus prevented from having any physical contact with the visitor(s).

In the CPT's view, visiting rooms should enable immigration detainees to meet under open conditions with family and friends visiting them, and the environment should be child-friendly (including a play area for children). If, exceptionally, it is considered necessary to impose restrictions on a particular foreign national, this should be done on the basis of an individual risk assessment. **The Committee recommends that the necessary steps be taken in the light of the above remarks.**

42. Foreign nationals had in principle unrestricted access to telephone booths which were installed on each floor of the accommodation buildings. Further, upon arrival, every foreign national received a phone card free of charge.

That said, the delegation was inundated with complaints from foreign nationals about the costs of telephone calls (in particular international calls or calls to mobile numbers). In addition, a number of complaints were received that, according to the internal rules, foreign nationals could only spend a maximum of 300 CZK per week at the "shop" of the Centre, in order to purchase phone cards (or other commodities). Moreover, mobile phones were systematically taken away upon arrival and foreign nationals were not allowed to keep them during their stay at the Centre.

The CPT sees no reason why foreign nationals should not be allowed to retain their mobile phones (or at least to use them under supervision), as is currently the case in several other European countries. This would facilitate contacts with family and friends, and be more in line with the ethos of an administrative detention centre where the emphasis should be on minimum internal security regulations and the promotion of normality. Another avenue to explore might be the use of modern technology in facilitating communication between the immigration detainees and their families (i.e. through Voice over Internet Protocol).

**The CPT invites the Czech authorities to take appropriate steps to facilitate access to the telephone for foreign nationals at the Bělá-Jezová Detention Centre, in the light of the above remarks. In particular, it encourages the authorities to allow the use of mobile phones within the Centre and to consider the possibility of using modern technology in facilitating communication.**

43. Finally, in the corridor of the detention unit for inmates subject to the strict regime (Building 10), the telephone was not functioning at the time of the visit. **The CPT would like to receive confirmation that this deficiency has been remedied in the meantime.**

## C. Prisons

### 1. Preliminary remarks

44. The delegation carried out full visits to Litoměřice Remand Prison and Valdice Prison, as well as a targeted visit to Prague-Pankrác Remand Prison including to the adjacent Prison Hospital where it focused mainly on interviews of newly-arrived remand prisoners. In addition, the delegation went to Všehrdy Prison in order to interview juvenile sentenced prisoners.<sup>28</sup>

*Litoměřice Remand Prison* was opened in 1908 and is located adjacent to the city courthouse. At the time of the visit, the prison was accommodating 328 prisoners (including 118 sentenced male prisoners, 13 female prisoners and one sentenced juvenile) for an official capacity of 358 places.

*Prague-Pankrác Remand Prison* has previously been visited by the CPT on a number of occasions, most recently in 2010. With an official capacity of some 1,000 places, the establishment was accommodating at the time of the visit a total of 868 inmates of whom 296 were held on remand (274 men, 21 women and one juvenile). The establishment also comprises a prison hospital (capacity: 111 beds), which was accommodating 46 patients at the time of the visit.

*Valdice Prison* was described in more detail in the reports on the 2002 and 2008 visits.<sup>29</sup> The official capacity of the prison remained more or less unchanged since the last visit (1,097 places). At the time of the 2014 visit, it was accommodating a total of 884 sentenced male prisoners (including 579 held under the high-security regime (Category D)). With a total capacity of 48 places, the establishment's segregation section (Section E) comprises a unit for life-sentenced prisoners and a high-security unit for prisoners considered particularly "dangerous" and/or "troublesome". At the time of the visit, the unit for life-sentenced prisoners was accommodating 17 prisoners and 15 prisoners were being held in the high-security unit.

*Všehrdy Prison* is a low-security prison for male sentenced prisoners, which comprises two separate units for juvenile sentenced prisoners (Unit 3 for strict regime and Unit 4 for normal regime). The latter units were the subject of a targeted visit in 2010.<sup>30</sup> At the time of the 2014 visit, the number of juveniles held in the establishment was significantly lower than during the previous visit (22<sup>31</sup> as compared to 141).

45. Since 2010, the number of prisoners in the Czech Republic had decreased from 21,984 to 16,211, while the official capacity of the prison estate had been increased from 19,471 to some 21,000 places. The delegation was informed that the significant decrease in the number of prisoners was mainly the result of a Presidential amnesty pronounced in January 2013. The CPT is pleased to note that none of the prisons visited was overcrowded and the delegation was informed that the same was the case in all other prisons in the country.

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<sup>28</sup> As regards the visit to Brno Remand Prison and Security Detention Facility, see Section D.

<sup>29</sup> See CPT/Inf (2004) 4, paragraph 61, and CPT/Inf (2009) 8, paragraph 45.

<sup>30</sup> For further details, see CPT/Inf (2014) 3, paragraphs 89 to 97.

<sup>31</sup> Five juveniles were being held in the strict regime.

However, from the information gathered during the visit, it transpired that the favourable situation observed during the visit may not last and that a number of prisons are likely to face a situation of overcrowding in the near future. **The CPT would like to receive detailed information on the measures taken by the Czech authorities to prevent prison overcrowding.**

## 2. Ill-treatment

### a. situation at Litoměřice and Pankrác Remand Prisons and Valdice Prison

46. In all the establishments visited, the overwhelming majority of prisoners indicated that they were being treated correctly by prison officers.

However, a few allegations of deliberate physical ill-treatment (such as punches) were received from prisoners at Litoměřice and Pankrác Remand Prisons and Valdice Prison. In addition, many prisoners claimed that they had been subjected to verbal abuse (including of a racist nature). In some cases, prisoners had allegedly been insulted because of their presumed sexual orientation.

**The CPT recommends that the management of Litoměřice and Pankrác Remand Prisons and Valdice Prison deliver to custodial staff the clear message that physical ill-treatment and verbal abuse of inmates are illegal and will be punished accordingly.**

47. At *Valdice Prison*, the delegation heard a number of allegations of inter-prisoner violence. According to the establishment's incident register, a total of 35 cases of inter-prisoner violence had been recorded in 2013 and seven in 2014 (until April); in some of these cases, the victims had sustained serious bodily injuries.

In general, the delegation gained the impression that efforts were being made by the management and staff of the establishment to prevent incidents of inter-prisoner violence, in particular by accommodating inmates considered to be particularly vulnerable in a separate cell or unit and by intervening promptly whenever violent incidents were observed or brought to their attention.

Notwithstanding that, particular vigilance on the part of staff is required, bearing in mind that prisoners interviewed by the delegation indicated that violent episodes were often not reported to staff and thus remained undetected.

**The CPT trusts that the Czech authorities will vigorously pursue their efforts to combat the phenomenon of inter-prisoner violence at Valdice Prison, and if appropriate, at other prisons throughout the country.**

b. situation of juveniles at Všeřdy Prison

48. As already mentioned, the delegation carried out a targeted follow-up visit to Všeřdy Prison in order to interview juveniles who were held in the establishment's unit for juvenile sentenced prisoners. The main focus of the visit was to examine the treatment of juveniles by prison officers.<sup>32</sup> For this purpose, the delegation interviewed all the 22 juveniles who were being held in the establishment at the time of the visit.<sup>33</sup>

49. The delegation received consistent and numerous allegations of physical ill-treatment by prison officers. The alleged ill-treatment consisted mainly of slaps and punches, with custodial staff sometimes wearing leather gloves, and mostly took place in the juveniles' cells or in a storage room. One juvenile claimed that he had been beaten by one particular prison officer almost every time this officer was on duty. As was the case in 2010, it appears that the purpose of the alleged ill-treatment was to keep order and/or to impose discipline. The delegation also gained the impression that physical ill-treatment and threats thereof were an accepted feature of the treatment of juveniles and it perceived an atmosphere of fear in the juvenile unit.

Further, it is a matter of concern that at least one juvenile was apparently threatened with retaliation immediately after having spoken to the delegation by prison staff in the event that they had made any complaints. Overall, the information gathered during the visit suggested that the situation of juvenile prisoners at Všeřdy Prison, as regards the treatment by staff, had deteriorated since the 2010 visit.

50. As already mentioned (see paragraph 6), at the end of the visit, the delegation made an immediate observation pursuant to Article 8, paragraph 5, of the Convention and requested that the Czech authorities carry out a prompt, independent and thorough inquiry into the allegations of physical ill-treatment of juveniles at Všeřdy Prison by prison staff as well as ensure that the juveniles held at Všeřdy Prison will not be the subject of any retaliation for having spoken with the CPT's delegation.

By letter dated 10 June 2014, the Czech authorities provided the following information:

“The Prison Service of the Czech Republic is intensely investigating the situation on the basis of CPT findings. The competent authorities carried out necessary steps to verify these serious matters. [...]

The investigation has shown that the allegations presented by the juvenile delinquents to the CPT Committee are questionable. The supervision of observing the rights of sentenced prisoners is executed by supervising public prosecutor, who did not find any misconduct of Prison Service in the relevant issue during his regular control visits. During these control visits there were neither found, nor investigated any notifications regarding violence committed by Prison Service on the juveniles. Moreover, authorized supervising body, Department of Special Controls of Prisons of the Ministry of Justice, found no cases of violence of employees towards the convicted juveniles. Furthermore,

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<sup>32</sup> The CPT visited this unit in 2010 and received several allegations of ill-treatment by prison staff, see CPT/Inf (2014) 3, paragraph 90.

<sup>33</sup> Since the last visit in 2010, the number of juveniles detained in the establishment has significantly decreased following the opening of juvenile units in other prisons of the country.

the control of the Prison, focusing on the rights and duties of convicted juveniles, is annually conducted by the employees of the Department of the Execution of Custody and Punishment of the General Directorate of Prison Service of the Czech Republic. Not even during their controls any negative behavior of the personnel towards the juveniles was discovered. In 2010, the same year when the first visit of the CPT in the Prison was conducted, the authorized personnel of the Office of the Ombudsman made a similar visit, and found no misconduct. On the contrary, the report notes that the conditions and treatment of prisoners in the Prison Všeřdy are well above average, including in the juvenile wards.

The above mentioned is supported by the fact, that the juveniles have the possibility to anonymously denounce serious allegations to the authorized body of Prison, the Department of Prevention and Complaints, by handing such reports in sealed envelopes into installed boxes in the department, where the juveniles are placed. No such report was filed. As to the question of violence committed by the prison service no such facts were revealed, not even during the regular visits of juveniles, where they were able to report such an ill-treatment to their family members. The visitors have not filed any such complaint. The juveniles have right to send a complaint practically to any authority. However, the Prison Service has no information that any such complaint has been sent.”

51. During its July 2014 plenary meeting, the CPT examined the response of the Czech authorities and concluded that the information provided by the Czech authorities did not remove the Committee’s concerns about the situation of juvenile prisoners at Všeřdy Prison. More particularly, it transpired that no prompt, independent and thorough inquiry had been carried out into the allegations of physical ill-treatment by prison officers, as requested by the delegation during the end-of-visit talks with the Czech authorities.

On 16 July 2014, the President of the CPT, on behalf of the Committee, addressed a letter to the Czech authorities urging them to carry out an independent and thorough inquiry into the allegations without further delay. The Czech authorities were requested to provide by 15 October 2014 a detailed account of the concrete steps taken in this regard.

52. By letter of 15 October 2014, the Czech authorities provided the following additional information:

“Based on the initiative of the Ministry of Justice of the Czech Republic in the questioned matters, separate inquiries have been carried out in recent months by the Public Prosecutor’s Office, the General Directorate of Prison Service of the Czech Republic, the Department of Complaints and Control of the Prison Service of the Ministry of Justice of the Czech Republic the Ombudsman has also been informed on the matter. [...]

The High Public Prosecutor’s Office in Prague stated with regard to its supervision of Všeřdy Prison, that since the beginning of 2010, the supervising public prosecutor had performed 38 inspections in total, and on their basis had issued 13 orders to the director of Všeřdy Prison to correct breaches of law, that were however not in direct connection to the matter in question. On the bases of disturbing information provided by the CPT, the supervising public prosecutor interviewed – without the presence of prison staff – 33 juveniles. After assurance, that the protocols would not be handed over to the prison wardens, the majority of juveniles testified disturbing facts that led to justified suspicion of unlawful behaviour of members of the Prison Service. Further personal interviews with 10 juveniles were conducted by the employees of the Department of Complaints and Control of the Prison Service of the Ministry of Justice. The results of these interviews were similar to the results of the inquiry of Public Prosecutor’s Office. The inquiries confirmed suspicions or irregular conduct by members of the Prison Service towards juveniles executing sentence of imprisonment. Based on the above mentioned findings, the supervising public prosecutor immediately issued an interdiction of direct contact with juveniles to 16 prison wardens.

The Ministry of Justice referred the documentation regarding this matter to law enforcement authorities, the General Inspectorate of Security Forces, that is competent to investigate facts indicating commitment of a criminal offence by a perpetrator, who is a member or employee of the Prison Service.

The General Director of the Prison Service responded to these findings by ordering an operational control focused on examining the executive and supervisory system of the director of the Všehrdy Prison, especially regarding the Department of Execution of Punishment; and on examining the executive and supervisory system of the Head of the Department of Execution of Punishment and on fulfilment of rights of the juveniles in stated prison. The order of the supervising public prosecutor was extended and direct contact was interdicted to a total of 18 prison wardens and other professional staff. At the same time substantial personnel measures were adopted regarding the prison directorate. The Director of Všehrdy Prison has been dismissed from service on September 30, 2014; on October 31, 2014 service of the First Deputy Director of the prison and also service of the Head of Department of the Service of Sentence will be terminated.

New director of Všehrdy Prison extended frequency of control activities in relation to the questions related to sentenced juveniles (fulfilment of rights and duties of juveniles, realization of events of treatment programs and of schedule of a day). Moreover the escalation of problems between the personnel of the prison and juveniles is analysed and new conception of treatment of juveniles is being prepared (emphasis is placed on detection and early prevention of violence). The system and registry of information about extraordinary situations in the Security Committee of the prison has been updated as well. On request of the General Inspectorate of Security Forces, 18 juveniles were relocated to other prisons.”

The CPT welcomes the investigative actions taken thus far by the relevant authorities as well as the steps subsequently taken by the Ministry of Justice to prevent further ill-treatment of juvenile prisoners. **The Committee would like to be informed of the outcome of the above-mentioned proceedings as well as of the criminal/disciplinary sanctions imposed on the prison staff concerned.**

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

#### **a. material conditions**

53. Both at Litoměřice Remand Prison and Valdice Prison, material conditions were on the whole acceptable in terms of state of repair, access to natural light and artificial lighting and ventilation<sup>34</sup>. It is also noteworthy that in neither establishment complaints were received from prisoners regarding access to electricity in their cells (contrary to the situation found at the time of the 2010 visit).

That said, it is a matter of concern that, in Section D of Valdice Prison, shutters had recently been installed on cell windows, which restricted to a large extent access to natural light in the cells. Further, in some cells of Litoměřice Remand Prison access to natural light and ventilation appeared to be insufficient. Moreover, in both establishments visited, the sanitary facilities in multi-occupancy cells were only partly partitioned (with a plastic curtain).

**The CPT recommends that the above-mentioned deficiencies observed at Litoměřice Remand Prison and Valdice Prison be remedied.**

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<sup>34</sup> At Valdice Prison, some parts of the prison had recently been refurbished.



54. Further, in contrast to Litoměřice Remand Prison, a number of complaints were received from non-working prisoners at Valdice Prison that they were allowed to take a shower only once a week. **The CPT reiterates its recommendation that the Czech authorities take immediate steps at Valdice Prison and, where appropriate, in other prisons, to ensure that all prisoners are able to take a shower at least twice a week and more frequently if the circumstances warrant, taking into account the European Prison Rules.**<sup>35</sup>

b. regime

55. All sentenced prisoners were provided with an individual sentence plan. By fulfilling their sentence plans, prisoners could be placed in a classification group that allowed them to work or to have additional benefits<sup>36</sup> - there were three groups. Upon arrival, every sentenced prisoner is placed in Group 2. After some 2.5 years of good behaviour and a strict implementation of their sentence plan, prisoners might progress to Group 1. If they do not behave appropriately (for example by committing a disciplinary offence), inmates are placed in Group 3 and therefore deprived of certain rights such as working or possessing a television.

Sentence plans were reviewed every six months by a multidisciplinary panel. However, the vast majority of the sentenced prisoners interviewed by the delegation indicated that they had no information regarding this review apart from the final decision which was usually given to them in writing. It would appear that they had no possibility of expressing their views before a decision was taken by the panel. **The CPT recommends that the Czech authorities put in place transparent procedures that enable prisoners to clearly identify the action and behaviour required of them in order to qualify for placement within a group with more favourable conditions.**

56. The delegation gained a generally favourable impression of the regime offered to sentenced prisoners at Valdice Prison (see, however, paragraphs 62 and 66-67 regarding prisoners held in Section E of the establishment). The great majority of them worked in industrial workshops (for various outside companies).<sup>37</sup> Some 150 prisoners were also attending educational or vocational training courses, in the establishment's own educational centre, which was well-equipped (including with computers connected to the internet). It is also praiseworthy that prisoners were able to obtain State-recognised diplomas which included no reference to the place where they were obtained. Prisoners were also offered a range of recreational and (outdoor and indoor) sports activities.

57. Some efforts were made by the management of Litoměřice Remand Prison to provide sentenced prisoners with out-of-cell activities such as educational training courses, board games or sport.

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<sup>35</sup> Rule 19.4 reads as follows: "Adequate facilities shall be provided so that every prisoner may have a bath or shower, at a temperature suitable to the climate, if possible daily but at least twice a week (or more frequently if necessary) in the interest of general hygiene."

<sup>36</sup> For example, additional hours of television viewing, more opportunities for visits, possibility to use a computer.

<sup>37</sup> There were *inter alia* crystal, cardboard, electricity and metalwork workshops as well as a large laundry service.

Notwithstanding that, it is clear that much remains to be done as regards the provision of activities at Litoměřice Remand Prison in order to render the situation satisfactory. As a matter of fact, the overwhelming majority of remand prisoners were not offered any regular out-of-cell activity other than outdoor exercise for one hour per day. Such a state of affairs is not acceptable.

**The CPT reiterates its recommendation that the Czech authorities take the necessary measures to improve substantially the regime of activities for all prisoners at Litoměřice Remand Prison and, where appropriate, in other prisons in the country. The aim should be to ensure that all prisoners – including those on remand – are able to spend a reasonable part of the day outside their cell, engaged in purposeful activities of a varied nature (such as work, preferably with vocational value, education, sports, and recreational activities). The longer the period for which remand prisoners are detained, the more developed should be the regime offered to them.**

58. Finally, at Litoměřice Remand Prison, female prisoners and working male prisoners had access to outdoor exercise yards which were of an acceptable size (some 60 m<sup>2</sup>). That said, it is a matter of concern that the great majority of prisoners was obliged to take outdoor “exercise” in groups of up to eight inmates in small triangular-cubicles measuring a mere 24 m<sup>2</sup>. **The CPT recommends that the outdoor facilities at Litoměřice Remand Prison be enlarged so as to enable prisoners to exert themselves physically.**

#### **4. Conditions of detention of juvenile remand prisoners at Litoměřice and Prague-Pankrác Remand Prisons**

59. At the time of the visit, Litoměřice and Prague-Pankrác Remand Prisons were both accommodating only one juvenile remand prisoner – each of whom was 17 years old at the time of visit.

It is a matter of particular concern that, despite the assurances given by the Czech authorities in their response to the report on the 2010 visit<sup>38</sup>, juveniles in both establishments were not provided with any regime of purposeful out-of-cell activities. As a consequence, at Litoměřice, the juvenile prisoner had been held *de facto* in a regime resembling solitary confinement for some three months. The prisoner usually spent up to 23 hours per day alone in his cell, without being offered any purposeful activities other than outdoor exercise for one hour per day (taken alone) and occasional television viewing in a communal room with adult inmates.

At Prague-Pankrác, the juvenile prisoner had been held in the establishment for some four months. He was sharing a cell, at his own request, with a young adult prisoner, was offered slightly more outdoor exercise (usually 1 ½ hours per day) and could watch television with a small group of adult prisoners in a communal room several times per week. That said, on average, he remained locked up in his cell for 21 to 22 hours per day, his only occupation being reading and playing board games.

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<sup>38</sup> See CPT/Inf (2014) 4, page 25 in which the Czech authorities indicated that: “where the numbers involved are very low, juvenile remand prisoners are grouped together for activities outside their cells with young prisoners, i.e. prisoners of the nearest age category, and such organised activities are always carried out under direct staff supervision”.

60. The CPT wishes to stress once again that juveniles should be offered a programme of purposeful out-of-cell activities throughout the day which are tailored to their needs (such as education, sport and recreation). Further, given the inherent risks of domination and exploitation, juveniles who are exceptionally held in a prison for adults must always be accommodated separately from adult prisoners. In the case of there being only one or very few juvenile prisoners, they should be offered opportunities to participate in out-of-cell activities with adults, under appropriate supervision by staff, and should not be left locked up alone in a cell for extended periods of time.

**The CPT reiterates its recommendation that the Czech authorities take immediate steps to effectively implement these precepts at Litoměřice and Prague-Pankrác Remand Prisons and, where appropriate, in other prisons in the Czech Republic.**

## **5. Situation of prisoners held in Section E of Valdice Prison**

61. At the time of the visit, Section E of Valdice Prison (capacity: 48 places) was accommodating 17<sup>39</sup> life-sentenced prisoners in the unit for life-sentenced prisoners and 15 other prisoners were being held in the adjacent high-security unit. Both units have previously been visited by the CPT (in 2002 and 2008).

At the outset, the CPT wishes to stress that its delegation observed significant improvements since 2008 regarding the situation of life-sentenced prisoners. Regrettably, the same cannot be said about the situation of prisoners held in the establishment's high-security unit. Indeed, only limited progress had been made in implementing the specific recommendations made by the Committee.

### **a. life-sentenced prisoners**

62. Prisoners held in the unit for life-sentenced prisoners continued to be accommodated in single cells. As regards their regime, the CPT welcomes the fact that the anachronistic rule that no more than two (occasionally three) life-sentenced prisoners can ever associate together was no longer applied in practice.<sup>40</sup>

Further, it is positive that, contrary to the situation found in 2008, all life-sentenced prisoners were in principle offered paid work (namely, assembling tubes) outside their cell from Mondays to Fridays, for five hours per day (usually, in groups of four or five prisoners). At the time of the visit, 11 out of the 17 prisoners were benefiting from that possibility. Six prisoners either did not want to or could not work or had been demoted, due to non-compliant behaviour, to the lowest regime level ("Group 3") and were thus excluded from work.

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<sup>39</sup> Four life-sentenced prisoners were being accommodated in ordinary detention units together with other sentenced prisoners.

<sup>40</sup> The rule had already been formally abolished by Regulation No. 55/2007 of the Director General of the Prison Service which entered into force on 1 August 2007.

In addition, apart from daily outdoor exercise of one hour, all life-sentenced prisoners (including those who were classified as “Group 3 prisoners”) had access once a week to a communal room with board games (for 1½ hours) and a computer room (for 1½ hours)<sup>41</sup> and twice a week to a fitness room (for 1½ hours). Moreover, the outdoor exercise yards have been enlarged and equipped with fitness equipment.

Whilst acknowledging the above-mentioned improvements, the CPT considers that additional measures are required to render the situation satisfactory. Life-sentenced prisoners (as indeed all prisoners) should be offered a structured programme of activities (including of a vocational and/or educational nature) throughout the day which is based on an individual treatment plan worthy of its name. The programme should be designed so as to counteract the damaging effects of life imprisonment and to increase and improve the possibilities for the prisoners concerned to be successfully resettled in society to which almost all of them will eventually return. Moreover, prisoners should be provided with appropriate psycho-social support.

**The CPT recommends to further develop the regime offered to life-sentenced prisoners at Valdice Prison, in the light of the above-mentioned remarks.**

63. Following recent legislative changes, which entered into force on 1 January 2014,<sup>42</sup> the rule of segregating life-sentenced prisoners from other sentenced prisoners has been relaxed. Life-sentenced prisoners, who have spent at least ten years in prison and have displayed acceptable behaviour, may now be transferred to an ordinary detention unit and thus be integrated into the mainstream prison population.

This is indeed a step in the right direction. However, the CPT wishes to stress once again that, as a matter of principle, the imposition of a particular regime should lie with the *prison authorities* and always be based on an *individual* risk assessment, and not be the automatic result of the type of sentence imposed. In this regard, the Committee recalls that life-sentenced prisoners are not necessarily more dangerous than other prisoners and that life-sentenced prisoners – as indeed all prisoners – are sent to prison as a punishment and not to receive punishment. These precepts are also embodied in the European Prison Rules<sup>43</sup> and Recommendation Rec (2003) 23 on the management by prison administrations of life sentence and other long-term prisoners<sup>44</sup>.

**The CPT reiterates its recommendation that the Czech authorities take the necessary steps to ensure that the relevant legislation is revised, in the light of the above remarks, with a view to integrating life-sentenced prisoners into the general prison population as soon as possible.**

64. Further, the CPT continues to have misgivings about the security measures applied to life-sentenced prisoners at Valdice Prison. Whenever the prisoners were escorted by prison officers on the prison’s premises outside the detention unit, all of them were systematically handcuffed and guarded by an accompanying service dog.

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<sup>41</sup> This room was not accessible for prisoners placed in Group 3.

<sup>42</sup> Act amending certain provisions of the Act on Remand and the Act on Lawful imprisonment, No. 276/2013, 21 August 2013.

<sup>43</sup> See Rule 102.2.

<sup>44</sup> See in particular paragraph 7.

The CPT does not contest the need for applying strict security measures in exceptional cases, provided that the decision on their use is based on an individual risk-assessment. However, there can be no justification for systematically applying handcuffs to life-sentenced prisoners (or any other prisoners) within the confines of a prison. In addition, there can be no justification whatsoever for using service dogs when escorting prisoners within the security perimeter of a prison.

**The Committee reiterates its recommendation that the Czech authorities review the use of handcuffs at Valdice Prison in the light of the preceding remarks. Further, reference is made to the recommendation formulated in paragraph 89 regarding the use of service dogs.**

b. high-security unit

65. At the time of the visit, five prisoners considered to be particularly “dangerous” and/or “troublesome” were being held in the high-security unit on the basis of a formal decision. In addition, ten prisoners were being accommodated there for their own protection or for “accommodation management purposes” at the request of the Prison Director, without any formal procedure.

In this regard, it is matter of particular concern that the above-mentioned persons were also subjected to the same impoverished regime as persons who were classified as dangerous (see below).

Whilst acknowledging the challenges for the prison management to find a suitable and safe environment for all prisoners held in the establishment, **the CPT recommends that the Czech authorities take immediate steps to significantly improve the regime offered to vulnerable prisoners. The Committee also urges the Czech authorities to strive to find alternative accommodation – outside the high-security unit – for this particular category of prisoners.**

66. As regards the regime applied to prisoners held in the high-security unit, the delegation observed certain improvements that have been made since the 2008 visit. For instance, in addition to daily outdoor exercise of one hour (in small groups) and a weekly session of board games in a communal room (for 1 ½ hours), most of the prisoners were now allowed to go to the fitness room twice a week. In addition, they were also allowed to spend about 1 ½ hours per week in a computer room.

However, as in 2008, there were hardly any work opportunities or educational courses. In their response<sup>45</sup> to the report on the 2008 visit, the Czech authorities indicated that a comprehensive rehabilitation programme would be offered to high-security prisoners at Valdice Prison. According to the authorities, this programme included five “special guidance activities”, three “educational activities” and seven “hobby activities”.<sup>46</sup> That said, from the information gathered during the 2014 visit, it transpired that most of the aforementioned activities only existed on paper.

To sum up, it remains the case that almost all high-security prisoners were locked in their cells alone for most of the day (up to 22 hours), their main occupation being reading, listening to the radio or watching television if they had one.

67. The CPT wishes to stress once again that prisoners who present a particularly high security risk should, within the confines of their detention unit, enjoy a relatively relaxed regime by way of compensation for their severe custodial situation. In particular, they should be able to meet their fellow prisoners in the unit and be granted a good deal of choice about activities. Special efforts should be made to develop a good internal atmosphere within high-security units. The aim should be to build positive relations between staff and prisoners. This is in the interests not only of the humane treatment of the unit's occupants but also of the maintenance of effective control and security and of staff safety. The activities provided should be as diverse as possible (education, sport, work of vocational value, etc.). As regards, in particular, work activities, it is clear that security considerations may preclude many types of work which are normally found in prisons.

**The Committee reiterates its recommendation that the Czech authorities take steps to ensure that high-security prisoners at Valdice Prison are provided with a range of purposeful regime activities (including of an educational nature), in the light of the above remarks.**

68. As regards the procedure for placement in the high-security unit, the CPT welcomes the fact that, following recent legislative changes which entered into force on 1 January 2014, the maximum period of validity of a placement decision (taken by the Director of the prison<sup>47</sup>) has been reduced from six to three months. In addition, the need for placement will now be reviewed every month by the Prison Security Commission.

That said, it remained the case that decisions were often taken without the prisoners concerned being able to express their views. Further, the reasons given in decisions appeared to be very succinct and stereotyped. Moreover, there is still no legal remedy in place which would allow prisoners to challenge the placement decision.

**The CPT recommends once again that the Czech authorities institute rigorous procedural safeguards prior to and during the placement of prisoners in Section E including the possibility for the prisoners to express their views, to be informed of the reasons for the decision and to appeal the placement.**

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<sup>45</sup> See CPT/Inf (009) 9, pages 17 and 18.

<sup>46</sup> “Special guidance activities” comprise *inter alia* cognitive rational therapy, conflict-resolution and personal counselling; “educational activities” include a language course and a course on preparation for release, and the list of “hobby activities” contains *inter alia* table football, streetball, table tennis, fitness, gardening, logic games and a fine arts and model-building club.

<sup>47</sup> At the time of the 2008 visit, placement decisions had to be taken by the Deputy Director General of the Prison Service.

## 6. Health care

69. In the Czech Republic, the responsibility for health care in prisons lies primarily with the Ministry of Justice. The policy trend in Europe has favoured prison health-care services being placed, either to a great extent, or entirely, under the responsibility of the Ministry of Health.<sup>48</sup> In principle, the CPT supports this trend. In particular, it is convinced that a greater participation of health ministries in this area (including as regards recruitment of health-care staff, their in-service training, evaluation of clinical practice, certification and inspection) will help to ensure optimum health care for prisoners, as well as implementation of the general principle of the equivalence of health care in prison with that in the wider community.

**The CPT would like to be informed of the intention of the Czech authorities regarding the possible transfer of responsibility for prison health care to the Ministry of Health.**

70. Before setting out the delegation's findings regarding the health-care services in the establishments visited, the CPT would like to raise a general matter of concern.

In the Czech health system, patients are required to pay a “regulatory fee” of 30 CZK for every medical appointment and every prescription, which is as a rule not reimbursed by the health insurance. In the same way, prisoners were systematically requested to pay the fee for each medical prescription. Almost all the prisoners interviewed by the delegation stated that the first question asked by doctors during medical consultations was “do you have money on your [prison bank] account?” If that was not the case, a number of prisoners who were indigent and were not offered remunerated work within the prison were apparently denied medical treatment, other than emergency care.

Such a state of affairs is not acceptable. The CPT considers that all prisoners should be guaranteed the provision of the medical care required by their state of health; this implies that the funds allocated to prisons should be sufficient to enable medication to be provided free of charge to prisoners who do not have the financial resources to pay for it themselves. **The Committee recommends that the Czech authorities take appropriate measures in the light of the above remarks.**

71. The delegation examined the health-care services at Litoměřice Remand Prison and Valdice Prison. In addition, the delegation paid a brief visit to the Prison Hospital adjacent to Prague-Pankrác Remand Prison in order to interview several patients (see paragraphs 81 and 82).

72. As regards medical staff, the CPT welcomes the fact that, in all the establishments visited, the practice of prison doctors treating both prisoners and prison staff has been discontinued, as had been advocated by the Committee in the report on the 2010 visit.

At Litoměřice Remand Prison and Valdice Prison, the number of doctors' posts would be generally adequate if all the posts were filled. However, the delegation observed that this was far from being the case.

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<sup>48</sup> See Rules 40.1 and 40.2 of the European Prison Rules and the Commentary to the aforementioned rules.

At Litoměřice, the medical team comprised one part-time general practitioner (0.5 full-time equivalent) as well as a psychiatrist and a dentist (both working the equivalent of one day per week).

Valdice Prison employed five part-time general practitioners (the equivalent of two full-time posts) and one full-time psychiatrist. In addition, several specialist doctors (an ENT specialist, an ophthalmologist, an orthopaedist, a neurologist, a diabetologist and a radiologist) held regular consultations in the establishment. The health-care service was headed by a retired dentist who was present in the establishment four days a week (of which two days were usually devoted to administrative duties).

That said, it is a matter of concern that, in both prisons visited, several additional posts of general practitioner (the equivalent of some 1.5 full-time posts in each establishment) had been vacant for quite some time. Not surprisingly, in both establishments visited, the delegation received a number of complaints from prisoners (who had sufficient financial means to pay for a medical appointment) about difficulties and delays in seeing a doctor. It is also noteworthy that in the above-mentioned establishments, several doctors were approaching or were already beyond retirement age. Therefore, the shortage of doctors may become even more acute in the not too distant future.

**The CPT recommends that the Czech authorities redouble their efforts to fill the vacant posts of prison doctors at Litoměřice Remand Prison and Valdice Prison as a matter of priority.**

73. The delegation was told that the difficulties in recruiting health-care professionals to work in prisons were to large extent caused by unattractive salaries in the prison system,<sup>49</sup> as compared with those in the outside community and the challenging nature of the job as compared with that in outside hospitals. **The CPT invites the Czech authorities to strive to render employment in prison health-care services more attractive, including financially.**

74. Litoměřice Remand Prison employed the equivalent of 4.5 full-time nurses (working Mondays to Fridays) as well as one part-time nurse who visited the prison at weekends to administer prescribed medication. No health-care staff were present at night.

At Valdice Prison, a total of eight full-time nurses ensured nursing cover from 6 am to 6.30 pm five days per week. It is a matter of serious concern that no health-care staff were present at night and during weekends, despite the fact that the establishment was accommodating almost 900 prisoners (for a capacity of more than 1,000 places) and also comprised an in-patient infirmary of nine beds.

**The CPT recommends that immediate steps be taken to ensure that:**

- **the complement of qualified nurses at Valdice Prison is significantly increased and that a qualified nurse is present at all times (including at night and during weekends);**
- **someone competent to provide first aid is always present at night at Litoměřice Remand Prison; preferably, this person should be a qualified nurse.**

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<sup>49</sup> Reportedly, the salaries of doctors in the outside community are often up to three times higher than in the prison system.



75. At Litoměřice Prison and at Valdice Prison, the health-care facilities were of an acceptable standard, and all the necessary basic medical equipment was available.

However, at Litoměřice Remand Prison, the four inpatient rooms were in a poor state of repair (dilapidated and broken furniture) and the conditions of hygiene were inadequate. **The CPT recommends that these deficiencies be remedied without delay.**

76. The CPT recalls the importance of medical screening of newly-arrived prisoners, in particular in the interests of preventing the spread of transmissible diseases and suicide prevention. Prison health-care services can also make a significant contribution to the prevention of ill-treatment by the police, through the systematic recording of injuries observed on newly-arrived prisoners and, if appropriate, the provision of information to the relevant authorities.

In all the establishments visited, newly-arrived inmates were systematically and promptly subjected to medical screening upon admission. As part of the admission procedure, all remand prisoners were screened for transmissible diseases (such as tuberculosis, hepatitis and syphilis) and those with a history of drug use were offered HIV tests.

However, as was the case during previous visits, a number of prisoners in both establishments complained that they had not been informed about the reasons for blood tests or X-rays and their results. **The CPT reiterates its recommendation that discussion take place before and after the examination with all prisoners in relation to blood and other medical tests, in order to enable them to give their valid consent to the tests.**

77. The delegation noted that recording of body injuries by health-care staff during screening upon admission was made on a dedicated form which included a body chart. Nevertheless, in several cases the forms were incomplete and/or superficially filled out and the statements of the inmates concerned were often absent. As an illustration, a prisoner interviewed in one of the establishments visited alleged having been bitten by a dog at the moment of his apprehension. He was examined by one of the delegation's doctors and the marks on his calf (brownish coloured scar with the imprints of a tooth in the shape of an arch with symmetrical prominent pointed marks) were consistent with the allegation. However, upon admission to the prison, he was examined by a nurse and a medical doctor who both drafted a report. Neither of these reports mentioned any physical injury.

In the light of the above, **the Committee recommends that the record drawn up after the medical examination of a prisoner – whether newly-arrived or following a violent incident in the prison – contain:**

- i) an account of statements made by the prisoner concerned which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment),**
- ii) a full account of objective medical findings based on a thorough examination, and**
- iii) the doctor's observations in the light of i) and ii) indicating the consistency between any allegations made and the objective medical findings.**

The results of the medical examination in cases of traumatic injuries should be recorded on a special form provided for this purpose, and “body charts” for marking traumatic injuries should be kept in the medical file of the detainee. If any photographs are taken, they should be filed in the medical record of the person concerned. In addition, documents should be compiled systematically in a special trauma register where all types of injuries should be recorded.

Further, the results of every examination should be made available to the prisoner and his/her lawyer.

Finally, steps should be taken to ensure that, whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a prisoner (or which, even in the absence of allegations, are indicative of ill-treatment), the report is immediately and systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned.

78. As regards medical confidentiality, it is a matter of grave concern that, despite the specific recommendation repeatedly made by the Committee after previous visits, prison officers were routinely present during medical examinations at Litoměřice Remand Prison and Valdice Prison. Further, at Litoměřice, the delegation received several allegations that male officers were present during medical examinations of female prisoners.

**The CPT once again calls upon the Czech authorities to take the necessary steps to ensure that, at Litoměřice Remand Prison and Valdice Prison as well as, where appropriate, in other prisons in the Czech Republic, all medical examinations of prisoners are conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of prison officers. In any case, the involvement of officers of the opposite sex should always be avoided.**

79. In contrast to the situation found at Litoměřice Remand Prison, the supply of medication appeared to be problematic at Valdice Prison. The delegation observed that it could take several days and sometimes up to one week before a sick prisoner received the prescribed medication. **Appropriate steps should be taken to remedy this shortcoming.**

80. In all the establishments visited, the delegation received a number of complaints from foreign prisoners who had difficulties in communicating with health-care staff due to the absence of an interpretation system. On some occasions, fellow-inmates were used as interpreters. **The CPT recommends that steps be taken at the establishments visited and, where appropriate, in other Czech prisons, to ensure that, whenever doctors are unable to communicate with inmates during medical examinations/consultations due to language problems, the persons concerned benefit from the services of a professional interpreter.**

81. During its brief visit to Prague-Pankrác Prison Hospital, the delegation noted with concern that patients held in the hospital had no possibility to benefit from daily outdoor exercise, due to the absence of a dedicated yard.

**The CPT recommends that Czech authorities take immediate steps to ensure all patients held at Prague-Pankrác Prison Hospital whose medical conditions so permits are offered at least one hour of outdoor exercise every day. The exercise yards should be equipped with a means of rest and protection against inclement weather.**

82. Finally, at the Prison Hospital, the delegation met a female remand prisoner whose situation gave rise to concern. The woman was due to give birth a few days later. She indicated to the delegation that she had been kept alone for three weeks and was deprived of the possibility to go outside during the whole period, as the prison hospital did not have an exercise yard (see above). Moreover, she was in despair since she had apparently been informed by the management that her baby would be taken away from her against her will on the day of delivery of the child. The delegation was told by medical staff that the relevant Czech legislation would in principle allow a detained mother (whether sentenced or on remand) to remain with her newly-born baby, but that in the case of remand prisoners no adequate infrastructure for post-natal child care was available.

**The CPT would like to receive the Czech authorities' comments on this matter.**

## **7. Other issues**

### **a. prison staff**

83. Staffing levels appeared to be generally adequate in all the establishments visited.

That said, at Valdice Prison, more than 18 full-time posts (including one post of psychologist, one post of pedagogue and five posts of prison officers) were vacant at the time of the visit, which, according to the management, was causing a number of problems in the organisation of the establishment. **The CPT trusts that the Czech authorities will take the necessary measures to fill the aforementioned vacant posts as soon as possible.**

84. In their response to the report on the 2010 visit, the Czech authorities provided detailed information on the specialised training on communication skills and conflict resolution which is organised for prison officers throughout the country.<sup>50</sup>

Notwithstanding that, in most of the establishments visited, the delegation observed once again that relations between custodial staff and prisoners were rather distant and communication between them limited to the strict minimum. It did not appear that they were encouraged by the management to communicate with inmates as this seemed to be the preserve of the educators. Further, it was still common practice that educators were responsible for a number of tasks which in the prison systems of most European countries normally fall within the responsibility of custodial staff (for example, handling of prisoners' requests to make telephone calls, monitoring their conversations or checking correspondence).

The CPT recalls that the development of constructive and positive relations between staff and inmates, based on the notions of dynamic security and care, would enhance control and security and render the work of prison officers more rewarding.

**The Committee reiterates its recommendation that prison officers in all prisons be encouraged to interact more with prisoners. Steps should also be taken to review the responsibilities of educators in the light of the above remarks.**

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<sup>50</sup> See CPT/Inf (2014) 4, page 31.

b. security-related issues

85. According to information gathered by the delegation, strip-searching of prisoners appeared to be a frequent occurrence in the Czech prison system. Prisoners alleged being obliged to strip naked and perform one or several squats before and after each contact visit, whenever leaving/returning to the prison (e.g. to appear before a court) and randomly when returning from work.

At *Litoměřice Remand Prison* and *Valdice Prison*, inmates were on a number of occasions strip-searched collectively after contact visits or when returning from work. A large number of inmates indicated that they were put in a room with other prisoners who had just received a visit and were required to strip naked in front of others and to perform squats.

86. A strip search is a very invasive – and potentially degrading – measure. Therefore, resort to strip searches should be based on an individual risk assessment and be subject to rigorous criteria and supervision. Every reasonable effort should be made to minimise embarrassment; detained persons who are searched should not normally be required to remove all their clothes at the same time, e.g. a person should be allowed to remove clothing above the waist and to get dressed before removing further clothing. Moreover, prisoners should never be required to strip naked in front of other inmates or a large group of persons.

**The CPT recommends that the Czech authorities ensure that these precepts are respected in practice whenever it is deemed necessary, on the basis of an individual risk assessment, to resort to strip-searching of a prisoner. Urgent measures should be taken to put an end to collective strip-searches.**

87. In all the establishments visited, every resort to physical force or means of restraint (such as handcuffs or use of restraint belts) in response to violent and/or recalcitrant behaviour by prisoners were recorded in a special register.

That said, the CPT has serious misgivings about the frequent use of handcuffs during medical examinations in outside facilities (in the presence of prison officers). Many female prisoners met by the delegation at Litoměřice Remand Prison complained about the fact that they had been handcuffed during gynaecological examinations, with one hand allegedly cuffed to a belt while (un)dressing. Such a state of affairs is unacceptable.

In the CPT's view, the use of handcuffs during medical examinations/consultations is a practice that infringes upon the dignity of the prisoners concerned and, in addition, impedes the development of a proper doctor-patient relationship (and is possibly detrimental to the establishment of an objective medical finding). **The CPT recommends that the Czech authorities take the necessary measures to ensure that such practices are stopped immediately throughout the prison system.**

As regards the presence of prison officers during medical examinations/consultations, reference is made to the remarks and recommendation made in paragraph 78.

88. Moreover, it is a matter of concern that at Valdice Prison, life-sentenced prisoners were systematically handcuffed whenever they were escorted outside the detention unit by prison officers and a dog (see, in this regard, the following paragraph).

The CPT does not contest the need for applying strict security measures in exceptional cases, provided that the decision on their use is based on an individual risk-assessment. However, there can be no justification for applying handcuffs to life-sentenced prisoners (or any other prisoners) systematically within the confines of a prison.

**The Committee reiterates its recommendation that the Czech authorities review the use of handcuffs at Valdice Prison and, where appropriate, in other prisons in the Czech Republic in the light of the preceding remarks.**

89. In the report on the 2010 visit, the CPT expressed serious misgivings about the use of service dogs within detention areas of a prison. Regrettably, it still appeared to be common practice in several prisons visited that service dogs were present during daily headcounts at weekends, in principle behind metal bars (see also paragraph 64).

**The CPT reiterates its recommendation that the Czech authorities take immediate steps to ensure that an end is put to the intimidating practice of using service dogs within detention areas.**

90. At Valdice Prison, it was not uncommon for agitated and/or violent prisoners to be subjected to mechanical restraint by means of leather belts. According to the establishment's register on the use of special means, such prisoners were subjected to this restraint on average once a month, usually for less than 24 hours.

The information gathered during the visit suggests that the specific recommendations made by the Committee after the 2010 visit had not been implemented. In particular, the resort to mechanical restraint was not systematically brought to the attention of a doctor and the persons concerned were not permanently monitored by a member of staff. In practice, only visual checks were performed, at best once every 15 minutes. The delegation received a number of allegations that such checks were being performed much less frequently.

**The CPT reiterates its recommendation that the Czech authorities take the necessary steps to ensure that, whenever prisoners are immobilised with instruments of mechanical restraint (such as straps):**

- **the resort to such restraint is immediately brought to the attention of a doctor;**
- **the prisoners concerned are, at all times, continuously and directly monitored by a suitably trained member of staff.**

Further, the Committee wishes to stress that the duration of the application of means of mechanical restraint should be for the shortest possible time (usually minutes to a few hours). The exceptional prolongation of restraint should warrant a further review by a doctor.

91. It is regrettable that, despite the specific recommendations repeatedly made by the Committee after previous visits, prison officers in several of the establishments visited were openly carrying truncheons and handcuffs within the detention areas.

In this regard, the CPT considers that, in the interest of promoting positive relations between staff and detainees, prison officers should not carry such equipment as a matter of routine in detention areas. In addition, an effective implementation of the concept of dynamic security (see paragraph 84) will enhance control and security and will normally render the systematic carrying of such devices unnecessary.

**The CPT reiterates its recommendation that the Czech authorities take the necessary steps to ensure that prison officers are no longer systematically equipped with truncheons and handcuffs (or at least that such devices are concealed from view).**

92. Further, in several establishments visited, it remained the case that prison officers were also carrying tear gas canisters within the detention areas. Given the potentially harmful effect of using this substance, the CPT wishes to stress once again that such devices should not form part of the standard equipment and should not be used in confined spaces. **The CPT recommends once again that the Czech authorities reconsider their policy regarding the use of tear gas canisters accordingly.**

c. discipline

93. According to the relevant legal provisions<sup>51</sup>, the most severe disciplinary sanction for adult remand prisoners is an all-day disciplinary confinement for up to 10 days. Sentenced prisoners may be sanctioned to cellular confinement in a multi-occupancy disciplinary cell for up to 28 days whilst maintaining the right to participate in out-of-cell activities which form part of the individual treatment plan (so-called “UOMPZ placement”), all-day cellular confinement in a multi-occupancy disciplinary cell for up to 28 days and all-day solitary confinement in a disciplinary cell for up to 20 days. Juvenile remand prisoners may be sanctioned to solitary confinement for up to five days and juvenile sentenced inmates to 10 days<sup>52</sup>.

As was the case during the 2010 visit, the delegation observed that resort to the most severe disciplinary sanction of solitary confinement was very rare in all the establishments visited.

Nevertheless, the CPT considers that, given the potentially very damaging effects of solitary confinement, the maximum period for solitary confinement as a punishment for an adult prisoner should be no higher than 14 days for a given offence, and preferably lower. Further, there should be a prohibition of sequential disciplinary sentences resulting in an uninterrupted period of solitary confinement in excess of the maximum period. Any offences committed by a prisoner which might call for more severe sanctions should be dealt with through the criminal justice system.

Further, the placement of juveniles in a solitary confinement regime is a measure which can easily compromise their physical and/or mental integrity. Consequently, resort to such a sanction should be regarded as an exceptional measure which should be used only for very short periods, in any event not for a period exceeding three days.

**The Committee recommends that the relevant legal provisions be revised accordingly.**

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<sup>51</sup> See Section 22(2) of the Act on Remand Detention and Section 46(3) of the Act on Imprisonment.

<sup>52</sup> See Section 26 of the Act on Remand Detention and Section 64 of the Act on Imprisonment.

94. Further, it is regrettable that, despite the assurances given by the Czech authorities in their response<sup>53</sup> to the report on the 2010 visit that the applicable rules would be revised, it remains the case that remand prisoners subject to the sanction of solitary confinement are still not allowed to receive visits (except from their lawyer) and that remand and sentenced prisoners subject to disciplinary solitary confinement are only allowed to have legal, educational and religious literature during their stay in a disciplinary cell.

**The CPT reiterates its recommendation that the Czech authorities take the necessary steps, including at the legislative level, to ensure that:**

- **disciplinary punishment of prisoners does not involve a total prohibition of family contact and that any restrictions on family contact as a punishment are imposed only when the offence relates to such contact;**
- **all prisoners, including sentenced prisoners, subjected to the sanction of solitary confinement are provided with a wider range of reading material during their stay in a disciplinary cell.**

95. Moreover, from the consultation of disciplinary files and discussions with staff, it transpired that in particular at Valdice Prison, prisoners subjected to a “UOMPZ placement” were sometimes not allowed to participate in out-of-cell activities for the whole duration of the sanction and were thus de facto held in solitary confinement for up to 28 days. **The CPT would like to receive the comments of the Czech authorities on this point.**

96. As regards disciplinary procedures, the delegation observed that, in the establishments visited, prisoners facing disciplinary charges were usually heard by the person responsible for taking a decision<sup>54</sup> and were informed orally about the possibility to lodge an appeal against the decision to the superior official and subsequently to the court.

That said, it is a matter of concern that prisoners subjected to a disciplinary sanction were usually not provided with a copy of the decision. In order to ensure that the right of appeal is fully effective in practice, **the CPT recommends that prisoners subjected to a disciplinary sanction always be given a copy of the decision (containing information on the reasons for the decision as well as on the avenues and deadline for lodging an appeal). The prisoners concerned should confirm in writing that they have received a copy of the decision.**

97. In the report on its 2010 visit, the CPT expressed misgivings about the fact that prison doctors were required to perform a medical examination in order to assess whether the prisoner concerned was fit to sustain the punishment of disciplinary confinement. It is regrettable that the specific recommendation made by the Committee in this regard has not been taken into account.

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<sup>53</sup> See CPT/Inf (2014) 4, pages 33 and 34.

<sup>54</sup> Depending on the seriousness of the offence, a decision could be taken by an educator, special pedagogue, head of department or the prison director. The most severe sanction of solitary confinement can only be imposed by the director him/herself.

The Committee wishes to stress once again that medical practitioners in prisons act as the personal doctors of prisoners, and ensuring that there is a positive doctor-patient relationship between them is a major factor in safeguarding the health and well-being of prisoners. Obliging prison doctors to certify that prisoners are fit to undergo punishment is scarcely likely to promote that relationship. As a matter of principle, the Committee considers that medical personnel should never participate in any part of the decision-making process resulting in any type of solitary confinement in a prison environment (except where the measure is applied for medical reasons).

On the other hand, health-care staff should be very attentive to the situation of prisoners placed under solitary confinement and should visit such prisoners immediately after placement and thereafter at least once per day, and provide them with prompt medical assistance and treatment as required.

**The CPT reiterates its recommendation that the role of health-care staff in relation to disciplinary matters be reviewed, in the light of the above remarks. In so doing, regard should be had to the European Prison Rules (in particular, Rule 43.2) and the comments made by the Committee in its 21<sup>st</sup> General Report (see paragraphs 62 and 63 of CPT/Inf (2011) 28).**

98. Material conditions in disciplinary cells were on the whole adequate in the establishments visited.

That said, at Litoměřice Remand Prison, disciplinary cells had poor access to natural light and insufficient ventilation. **Steps should be taken to remedy these deficiencies.**

d. contact with the outside world

99. In all the prisons visited, prisoners were able to send and receive an unlimited number of letters in all the establishments visited, the confidentiality of correspondence with lawyers was apparently always respected.

100. Further, as was the case in 2010, adult prisoners could receive visits from family members for three hours per month. Sentenced prisoners could have either one three-hour visit or several shorter visits totaling three hours, while remand prisoners could receive two visits of 1 ½ hours per month (usually under open conditions)<sup>55</sup>. In justified cases, remand prisoners could receive visits for more than 90 minutes at a time.

That said, it is regrettable that the visit entitlement of prisoners has not been increased as recommended by the Committee after the 2010 visit. Further, it remains the case that sentenced prisoners can only receive visits from persons other than next-of-kin “in justified cases”.

Given the importance of the maintenance of good contact with relatives and other close persons, particularly in the context of prisoners' social rehabilitation, **the CPT reiterates its recommendation that the Czech authorities take the necessary steps to ensure that all prisoners (whether sentenced or on remand) are entitled to receive visits for at least one hour every week. Further, steps should be taken to ensure that all prisoners are, as a rule, also allowed to receive visits from persons other than next-of-kin.**

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<sup>55</sup> Juvenile remand prisoners were entitled to a visit of 1 ½ hours per week and juvenile sentenced inmates to five hours per month.



101. In accordance with the relevant regulations, sentenced prisoners at Valdice Prison who gained credits for “good behaviour” were also allowed to receive visits without being monitored by staff.

However, due to the lack of designated facilities, sentenced prisoners at Litoměřice Remand Prison were not able to benefit from such unsupervised visits. **The CPT invites the Czech authorities to make the necessary arrangements at Litoměřice Remand Prison and, where appropriate, in other prisons in the country, to ensure that sentenced prisoners are able to receive visits without supervision as envisaged by relevant national regulations.**

102. As regards access to the telephone, the situation has significantly improved since the 2010 visit. Following legislative changes, the telephone calls of remand and sentenced prisoners are no longer limited to “justified cases”. Usually, prisoners were entitled to make one telephone call of at least ten minutes per week at Litoměřice Remand Prison and of 30 minutes every two weeks at Valdice Prison.

That said, in particular at Litoměřice Remand Prison, the delegation received a number of complaints that prisoners had to wait up to two weeks for requests to make a telephone call to be processed. **The CPT would like to receive the Czech authorities’ comments on this point.**

e. inspection procedures

103. The Office of the Ombudsperson, in its capacity as NPM, regularly visits prisons. In addition, public prosecutors have the duty to carry out inspections in the prisons under their jurisdiction.

That said, in several of the prisons visited, prosecutors’ inspection reports seen by the delegation appeared to be extremely succinct (sometimes containing only one sentence) and contained no information on the action taken, nor any conclusions. The CPT considers that Prosecutors should be proactive and take the initiative to visit the establishments’ detention areas and to enter into direct contact with inmates (including by interviewing them in private). The information contained in paragraph 52 illustrates the importance of the supervisory role of the Prosecutors. **Appropriate steps should be taken to ensure that public prosecutors carry out their task to visit prisons regularly and effectively.**

## **D. Security detention**

### **1. Preliminary remarks**

104. The delegation carried out a targeted visit to Brno Remand Prison and Security Detention Facility in order to examine, for the first time in the Czech Republic, the situation of inmates subject to the measure of security detention (“*zabezpečovací detence*”).

Security detention was introduced in the Czech Republic in January 2009, for the purpose of detaining in special facilities persons who, due to the nature and seriousness of their mental disorder (“*duševní porucha*”), represent a particularly serious threat to society. The basic legal framework is now laid down in Section 100 of the Criminal Code (CC) and the Law on the Execution of Security Detention (LESĐ).<sup>56</sup>

Security detention may be imposed on persons who have committed certain serious criminal offences (or an act which would otherwise be regarded as a serious criminal offence) in a mental state which excludes their criminal liability or diminishes it and who are considered to represent a danger to society, if it cannot be expected that a court-ordered measure of protective treatment (see paragraph 148) will achieve its goal. Security detention is thus designed as a subsidiary measure, the primary aim of which is the protection of society and the therapeutic and educational fostering of inmates,<sup>57</sup> and shall be served in special facilities under the authority of the Czech prison service.

105. Security detention is imposed by a court at the time of sentencing (i.e. during the criminal proceedings) and, depending on the circumstances of the case, either as a separate measure or together with a penalty. In addition, at a later stage, a court-ordered measure of in-patient protective treatment in a psychiatric facility may be converted into security detention if conditions for imposing security detention are met or if the protective treatment is not achieving its goal or does not ensure sufficient protection of society, in particular if the patient has escaped from a psychiatric facility, used violence against staff or other patients, repeatedly refused to undergo examinations or treatment, or has in another manner expressed a negative attitude towards the protective treatment.<sup>58</sup>

A court may also convert security detention into in-patient protective treatment if the reasons for which the security detention was ordered cease to exist and if conditions for in-patient protective treatment are met.

106. In the case that security detention is imposed together with a prison sentence, it is executed after the prison sentence has been served. The delegation was informed that, at the time of the visit, there were some 50 prisoners in the Czech prison system who would be transferred to security detention after having served their prison sentence (the last one was expected to be transferred in 2029).

However, it is a matter of concern that prison establishments where such inmates were being held did not offer them any specific treatment programmes (psychiatric, educational, rehabilitation, etc.) which are tailored to their particular situation and individual needs and would facilitate the achievement of the therapeutic and educational aims of the subsequent security detention or render it unnecessary.

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<sup>56</sup> Laws nos. 40/2009 and 129/2008, respectively.

<sup>57</sup> For further details, see paragraph 132.

<sup>58</sup> See Section 99 (5) of the CC.

Moreover, it would appear that this situation is not conducive to achieving the aim of Section 100 (7) of the CC (the court may refrain from the execution of security detention before the execution started if the reasons for which it has been imposed cease to exist). **The CPT would like to receive the comments of the Czech authorities on this matter.**

107. If a prison sentence is imposed on an inmate in security detention, the execution of the security detention is interrupted and the inmate concerned is transferred to a prison establishment; after having served the prison sentence, he/she is returned to security detention. However, given the lack of specific treatment programmes in prisons described in the previous paragraph, in practice, such an arrangement leads to a sudden interruption of the treatment programmes provided to inmates in the context of security detention. **The CPT would like to receive the comments of the Czech authorities on this issue.**

108. The security detention facility at Brno Prison was established in 2009 as the first facility of its kind in the Czech Republic.<sup>59</sup> It is located in a separate building within the compound of Brno Prison and falls under the authority of the governor of the prison.<sup>60</sup> Originally, the building served as a rehabilitation centre for the prison hospital. At the time of the visit, it was holding 27 adult inmates (including three women), for an official capacity of 48 places.

The facility is intended to serve as a point of entry into the security detention system; all inmates upon whom security detention is imposed are first placed in Brno Security Detention Facility and may later be transferred to Opava, depending on their diagnosis and therapeutic progress. Of the 46 inmates admitted to Brno since 2009, twelve were transferred to Opava, and in respect of an additional six, security detention was transformed into in-patient protective treatment in a psychiatric hospital. The security detention of one inmate had been interrupted and the person concerned was transferred to a prison to serve his prison sentence (which was imposed when he was already serving security detention).

## 2. Ill-treatment

109. Many security detention inmates interviewed by the delegation made no allegations of ill-treatment by staff.

However, the delegation did receive some allegations of inmates being slapped (usually in their rooms or in the showers, i.e. places not covered by CCTV) and/or verbally abused by members of custodial staff, in response to “disobedient” behaviour by the inmates concerned.

Moreover, several allegations were heard, in interviews carried out separately with individual inmates, that inmates with a learning disability had been made by custodial staff, for the amusement of the latter, to dance, bark, eat grass and drink water from a bucket. Accounts were also heard of custodial staff laughing and reporting to each other in the presence of the inmates on “what the fools have done”. If confirmed, in the CPT’s view, such actions would amount to degrading treatment.

One inmate also claimed that he had informed a member of non-custodial staff about having received slaps from prison officers but that the former had allegedly taken no action.

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<sup>59</sup> A second detention facility was opened at Opava Prison in February 2013. As of 31 March 2014, it was holding eleven inmates for an official capacity of 18 places.

<sup>60</sup> A remand prison, a prison hospital and the security detention facility are located within the compound.

**The CPT recommends that the management of Brno Prison clearly and regularly remind custodial staff that they should always treat all inmates with politeness and respect and that physical ill-treatment and verbal abuse of inmates, as well as other forms of disrespectful behaviour vis-à-vis inmates, are not acceptable and will be punished accordingly. Further, the Committee recommends that all staff at Brno Detention Facility be reminded that accountability for ill-treatment extends beyond the actual perpetrators to anyone who knows, or should know, that ill-treatment is occurring/has occurred and fails to act to prevent or report it.**

110. By contrast, the CPT's delegation received no allegations and found no other indications of inter-inmate violence.

### **3. Living conditions**

111. Material conditions in the security detention facility were generally very good. All the premises were in a good state of repair and clean.

At the time of the visit, 16 inmates were being accommodated in double-occupancy rooms and the remaining eleven in single rooms. Male and female inmates were accommodated separately from each other. All rooms were sufficient in size (measuring between 18 and 29 m<sup>2</sup>, including the fully partitioned toilet), had good access to natural light and artificial lighting and were adequately heated and ventilated. They were also well-equipped (beds, tables, chairs, wardrobes, shelves and call bells) and inmates were allowed to keep some personal belongings (photographs, magazines, books, etc.).

In addition, there were communal rooms for daily communal meetings and several activity rooms (including fitness rooms). Communal showers, located on each floor, could be used by inmates twice a week.<sup>61</sup>

112. That said, the rooms accommodating inmates were rather austere (although the management of the facility informed the delegation that inmates were allowed to personalise them with pictures or notice boards (in such a way that the walls were not damaged)) and to eat their meals,<sup>62</sup> inmates were only provided with spoons (a few of them were using plastic knives and forks which they had bought for themselves in the prison shop).<sup>63</sup> Further, all male inmates were obliged to have their hair cut in the same style.

The CPT considers that such practices are demeaning and not conducive to the psycho-social rehabilitation of inmates and the achieving of the goal of the therapeutic process and that they may impinge upon inmates' sense of security and autonomy. **The Committee recommends that the above-mentioned practices be revised.**

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<sup>61</sup> Some inmates' rooms were equipped with showers.

<sup>62</sup> Inmates took their meals in their rooms.

<sup>63</sup> Inmates had the right to wear their own clothes (provided that the clothes met hygienic standards and inmates had the possibility to exchange them at their own cost) – see Section 20 (3) of the LESD. However, in practice, the vast majority of inmates wore institutional clothes.

113. By letter of 16 July 2014, addressed to the Minister of Justice, the CPT raised the case of one particular inmate whom the delegation had met in the security detention facility. The inmate concerned had been in security detention for two years, had suffered from an organic brain disease and a personality disorder and, when met by the delegation, had not been oriented in time and space and not fully oriented in person. Because of his aggressive behaviour towards staff and other inmates, the person concerned had been accommodated in a single room which had been devoid of any furniture except for two beds covered with plastic “sheets” as he reportedly had repeatedly destroyed furniture. The room had been untidy and a strong smell of urine had been present.

The CPT acknowledged the particular challenge posed by this inmate. Nevertheless, the CPT considered that the necessary steps should be taken without delay to ensure that the inmate concerned is provided with appropriate care. If necessary, he should be transferred to a suitable health-care facility.

By letter of 15 October 2014, the Minister of Justice informed the Committee that the continuation of the measure of security detention of this particular inmate had been reviewed by the court and the measure had been extended. The care provided to the inmate in the security detention facility focused on ensuring dignified living conditions; the laundry was changed more often and the inmate’s personal hygiene was thoroughly carried out by the employees of the facility. Efforts were made to eliminate aggressive behaviour to his surroundings as well as to himself and the inmate was provided with maximal health care by the medical staff. Attempts were also made towards fuller social integration within the group.

The letter further states that during seven random inspections by the public prosecutor, no deficiencies were detected as regards the state of cleanliness and equipment of the cell of this inmate.

**The CPT takes notes of the improved material conditions and care provided to the inmate concerned and trusts that the Czech authorities will continue their efforts in this respect.**

114. However, more generally, the above-described case raises the question whether the Brno Security Detention Facility is equipped and ready prepared to cope with and provide adequate environment to a potentially growing number of inmates who, due to, for example, neurodevelopmental or neurocognitive disorders, or severe deterioration of their physical and mental state as a result of illness or age, have a minimal perspective of change and are not capable of taking care of themselves. **The CPT would like to receive the comments of the Czech authorities on this issue.**

115. During the time of the day when no organised treatment/activities were provided, a closed-door regime was applied to inmates in the security detention facility. The information gathered during the 2014 visit suggests that, in principle, inmates were locked up in their rooms, either alone or with one roommate (see paragraph 111) for a minimum of 18 hours a day on weekdays and some 21 hours at weekends (when the only organised activity provided was watching TV and outdoor exercise).

**The CPT encourages the Czech authorities to further develop the regime provided to inmates held at Brno Security Detention Facility in order to ensure that they are able to spend more time out of their rooms, in particular during weekends.**

#### 4. Health care

116. The delegation gained a generally positive impression of the range of therapeutic and recreational activities which were offered to inmates on an individual or group basis; they included psychological counselling, psychotherapy (including for sexual deviations), socio-psychological, motivation and conflict resolution training, drama and art therapy, speech therapy, gardening, cooking, watching videos, fish breeding and sport.

In addition, inmates had access to books/magazines, could play board games, listen to a radio in their rooms, had daily access to a television room (for approximately one hour and a half) and were offered daily outdoor exercise.

However, although six inmates (i.e. nearly one in four) had been diagnosed with substance dependence, no specific treatment programme was available for them. **The CPT recommends that a specific treatment programme for inmates suffering from addictions be developed and provided to inmates at Brno Security Detention Facility.**

117. As regards pharmacotherapy, the delegation did not observe any signs of overmedication of inmates. Concerning the quantity and range of medication available, the delegation was informed that, from the perspective of health-care legislation, security detention inmates were regarded as out-patients (unlike forensic psychiatric in-patients) and, in practice, certain more expensive types of medication, such as second generation depot anti-psychotics, were not available to them. The delegation observed that, in some cases, these arrangements resulted in an abrupt interruption of medication and its replacement by less expensive drugs if the penal measure of in-patient protective treatment was turned into security detention by the court and forensic psychiatric patients were transferred to the security detention facility. **The CPT would like to receive the comments of the Czech authorities on this issue.**

118. A comprehensive report was prepared on every inmate once a quarter by a panel of specialist staff members,<sup>64</sup> in compliance with Section 26 of LESD. Inmates were entitled to be informed of the contents of the report.

The reports seen by the delegation had been drawn up thoroughly and contained an individualised evaluation of the effectiveness of treatment programmes, a description of the inmate's behaviour, his/her social situation, perception of the offence and self-reflection, risk assessment and conclusions as to the motivation of the inmate, his/her willingness to co-operate and the possibility to move on to protective treatment.

119. Another positive element was the holding of communal meetings for groups of inmates and staff every morning; participation was mandatory, the programme of the day was discussed and inmates were encouraged to take an active part in the meetings (e.g. to recall what they had done the day before, one inmate was chosen in advance to announce a piece of news).

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<sup>64</sup> I.e. non-custodial staff responsible for achieving the aim of security detention.

120. The provision of somatic care was adequate;<sup>65</sup> inmates were thoroughly examined upon admission to the security detention facility and their medical files were accurately kept.

121. Concerning medical confidentiality, it is a matter of concern that custodial staff were always present during all medical examinations of inmates; moreover, the results of medical examinations upon admission were contained in inmates' personal files and were thus accessible to non-medical staff.

In the CPT's view, there can be no justification for custodial staff being systematically present during medical examinations; their presence is detrimental to the establishment of a proper doctor-patient relationship and usually unnecessary from a security point of view. 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, whereby a doctor would be in a position to rapidly alert prison officers in those exceptional cases when an inmate becomes agitated or threatening during a medical examination.

**The CPT recommends that all medical examinations/consultations be conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of sight of non-medical staff. If necessary, the relevant regulations should be amended accordingly.**

Further, **the Committee recommends that information concerning inmates' health be kept in a manner which ensures respect for medical confidentiality. Health-care staff may inform custodial officers on a need-to-know basis about the state of health of an inmate; however, the information provided should be limited to that necessary to prevent a serious risk for the inmate or other persons, unless the inmate consents to additional information being given.**

122. It became clear during the visit that all contact of the psychiatrist and psychologist with inmates, be it in an individual or group therapy session, was conducted through metal bars. Apparently, this practice was required by the relevant regulations.

The CPT acknowledges that special security measures might be called for in specific cases; however, systematic contact with inmates through bars is a practice which can hardly be described as conducive to a genuine therapeutic relationship and is potentially degrading to both patients and staff. **The Committee recommends that the Czech authorities fundamentally review this approach.**

123. The information gathered during the visit indicates that, in general, inmates were aware of the medication and treatment they were receiving. It appeared, however, that consent to treatment was usually only sought for invasive interventions.

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<sup>65</sup> Somatic care was provided by the prison hospital, located within the remand prison and security detention facility compound.

The CPT considers that inmates in security detention should, as a matter of principle, be placed in a position to give their free and informed consent to treatment. Every inmate should be given the opportunity to refuse – either in person or through his or her guardian – treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances.

**The Committee recommends that these precepts be effectively implemented in practice at Brno Security Detention Facility as well as in the other security detention facility in the country.**

## **5. Means of restraint**

124. Section 36 of LESD provides for the use of the following means of restraint: placement in a closed unit or seclusion room, manual control, mechanical restraint (use of straps) and acute parenteral administration of psychotropic medication<sup>66</sup> (chemical restraint). All resort to means of restraint must be recorded. Under Section 37 (2), any use of means of restraint (if connected with the state of health of the inmate) shall be authorised by a medical doctor.

125. According to the relevant register, resort to seclusion and mechanical means of restraint was rare at Brno Security Detention Facility. In 2013, placement in a seclusion room was ordered in eight cases, usually for up to several hours. In one of these cases, the placement in a seclusion room was combined with mechanical restraint – the limbs of the inmate were fixated by means of straps (made of leather and textile) and the period of restraint came close to 24 hours.

The record made in the relevant register concerning this particular case indicates that the fixated inmate was under continuous CCTV surveillance and, between 9 a.m. and 7 p.m., he was being regularly checked by a member of the health-care staff; as regards the night time, there was no record of regular personal checks of the inmate.

The CPT considers that when an inmate is subjected to mechanical restraint, a qualified health-care staff member should be continuously present in order to maintain the therapeutic alliance and to provide assistance. Contact is to be maintained in an appropriate way aiming at de-escalating the situation and discontinuing the measure. Clearly, video surveillance cannot replace such a continuous staff presence. In cases where an inmate is secluded, the staff member may be outside the seclusion room, provided that the patient can fully see the staff member and the latter can continuously observe and hear the patient.

**The CPT recommends that steps be taken at Brno Security Detention Facility to ensure that the minimum standards set out above are applied whenever resort is had to means of restraint.**

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<sup>66</sup> This option is regarded as a means of restraint unless it is administered upon the inmate's request or constitutes a long-term treatment of a mental disorder.



126. The information received by the delegation during the visit suggests that resort to chemical restraint was not recorded in the register of restraint. Moreover, the decision to resort to rapid tranquillisers was in practice made by a nurse, on the basis of a prescription previously made by a medical doctor in the medical file of the inmate.

**The CPT recommends that instances of chemical restraint be subjected to the same safeguards as mechanical restraint, i.e. be ordered by or immediately brought to the attention of a doctor and be recorded in the register of restraint and the inmate's personal medical file.**

127. The material conditions in the two seclusion rooms at Brno Security Detention Facility were adequate; in particular, the rooms were sufficient in size, were adequately equipped (a metal bed, a table and a chair, all fixed to the floor, a fully partitioned sanitary annexe, a call bell and a CCTV) and were well lit and ventilated.

## **6. Staff**

128. The complement of specialised staff appeared generally adequate. The team comprised a psychiatrist, a psychologist, three educators, two therapists, four nurses and two orderlies, all working full time; a sexologist was contracted by the facility on a part-time basis.

However, a social worker shared her time between the prison and the security detention facility; this arrangement, according to the information provided by the management, did not sufficiently respond to the needs of the security detention inmates. **The CPT would like to receive the comments of the Czech authorities on this point.**

129. As regards custodial staff, in addition to the post of head of the security detention facility, there were 19 prison officers (including two women), working 12-hour shifts. On working days, the day-shift consisted of one prison officer being continuously present on each of the three floors of the detention area and four additional custodial staff (responsible *inter alia* for outdoor exercise, visits and escorting inmates within the establishment). Outside working hours and at weekends, there were two prison officers responsible for the three accommodation units and one additional custodial staff member.

130. Working with persons suffering from a mental disorder will always be a difficult task for all categories of staff involved. Bearing in mind the challenging nature of their work, it is of crucial importance that staff assigned to security-related tasks be carefully selected and that they receive appropriate training before taking up their duties, as well as in-service courses.

In this context, the delegation was informed that custodial staff were specifically selected, on a voluntary basis, to carry out their duties in the security detention facility. It is also positive that they received a one-week training course at Bohnice Psychiatric Hospital on working with persons suffering from a mental disorder.

However, no refresher courses had been provided, nor were any such courses planned in the foreseeable future. **The CPT recommends that ongoing training be organised on a regular basis for custodial staff working in the security detention facility.** This should, *inter alia*, help to eliminate the issues identified in paragraph 109.

131. The delegation noted that custodial staff at Brno Security Detention Facility openly carried batons, tear gas canisters and handcuffs in the detention areas. Such an approach is not conducive to the establishment of positive relations between staff and inmates. **In this regard, reference is made to the remarks and recommendations made in paragraphs 91 and 92.**

## 7. Safeguards

132. As regards the legal grounds for placement, pursuant to Section 100 of the CC,<sup>67</sup> the court may order security detention only if it cannot be expected that protective treatment will adequately protect society, if the criminal offence in question has been committed intentionally and may be punished by imprisonment of more than five years (“*zločin*”) and if:

- the perpetrator has committed a criminal offence in a state of diminished sanity or in a state caused by a mental disorder and the court considers that security detention will better protect society than a criminal punishment (security detention is imposed instead of a criminal punishment);
- the perpetrator has committed a criminal offence (or an act which would otherwise be regarded as a criminal offence) for which he/she is not criminally liable due to insanity or in a state caused by a mental disorder and his/her remaining at liberty is dangerous for society;
- the perpetrator who abuses addictive substances has again committed a criminal offence even after having served a custodial sentence of at least two years for a criminal offence committed under the influence of an addictive substance or in connection with the abuse thereof.

133. The measure of security detention is imposed for a potentially indefinite period of time. However, a regular review as to whether grounds for security detention persist must be carried out by the court at least once a year for adult inmates and once every six months for juveniles.

134. The examination of personal files at Brno revealed that inmates were as a rule<sup>68</sup> present at court hearings at which security detention was reviewed, received a copy of the relevant decisions and had the possibility to appeal against them.

135. Within the criminal proceedings in which the imposition of security detention was considered by the court, a psychiatric expert opinion was regularly ordered to assess the mental state of the perpetrator.

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<sup>67</sup> By virtue of Section 21 (2) of the Law on the Liability of Juveniles for Illegal Acts (Law no. 218/2003), the relevant provisions of the CC also apply to juvenile offenders.

<sup>68</sup> Of the 27 inmates held at Brno at the time of the visit, only one inmate with a severe learning disability (IQ in the range of 35-40) was not systematically invited to court hearings as he was apparently not able to understand the purpose of the proceedings. The inmate concerned was, however, represented by an *ex officio* lawyer.

However, as regards the annual review of security detention, courts usually based their decisions on the psychiatric opinion of the security detention facility, without an independent psychiatric report being commissioned in a number of instances. **In the CPT's view, a second opinion from a psychiatrist who is independent of the detention facility would offer an additional, important safeguard in the context of the reviews of the placement in security detention.**

136. Moreover, in a few cases examined by the delegation, the court decisions extending security detention were taken several weeks after the expiry of the one-year time limit. In another case, while the court hearing had taken place within one year after the admission of the inmate to security detention, the decision to extend security detention had still not been delivered in writing to the inmate concerned several weeks after the expiry of the one-year time limit. **The CPT recommends that the appropriate steps be taken to ensure that decisions on a possible prolongation of security detention are taken by the courts in the time limits set out by the relevant national legislation.**

137. In all the cases examined by the delegation, inmates were represented by a lawyer, in most cases appointed by the authorities, during the proceedings in which security detention was imposed or reviewed (including the review proceedings initiated by the inmates themselves).<sup>69</sup>

138. In addition to the *ex officio* annual judicial review of security detention, inmates may file a motion for discharge from security detention with the court. An appeal may be lodged against the court decision on the matter. If a motion by the inmate is dismissed, he/she may file a new one after six months (unless new reasons are stated in the motion).

Inmates may also be discharged at the initiative of the management of the security detention facility: if a panel of specialist staff members (see paragraph 118) concludes that reasons for security detention ceased to exist, it shall submit to the governor a detailed report containing a recommendation to terminate the security detention or to convert it into protective treatment. The governor shall subsequently file a motion with the court for release of the inmate concerned from security detention or his/her transfer to protective treatment. If the governor disagrees with the panel's conclusion, he/she shall submit to the court the report, together with his/her dissenting opinion.

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<sup>69</sup> Under Section 36(4)(b) of the Code of Criminal Procedure (Law no. 141/1961), a defendant must be represented by a lawyer in proceedings in which security detention is being imposed. Pursuant to Section 36a (1)(a) and (c) of the same law, an inmate must be represented by a lawyer in proceedings in which security detention may be extended/terminated if the inmate concerned is legally incapacitated or his/her legal capacity is limited or if the court has doubts about the person's capability to adequately defend him-/herself.

## 8. Other issues

139. According to Section 28 (3) of LESD, the following disciplinary punishments may be imposed on inmates in security detention: reprimand, revocation of a “personal advantage” which has been granted as a disciplinary reward,<sup>70</sup> revocation of the possibility to participate in a social or cultural event and confiscation of an item (e.g. one which has been used to commit a disciplinary offence).

The disciplinary register was properly maintained at Brno Remand Prison and Security Detention Facility and resort to disciplinary punishment was quite rare.<sup>71</sup> Inmates concerned were heard in person during the proceedings (in compliance with Section 28 (2) of LESD) and received a reasoned decision which contained information on the modalities for lodging an appeal.

140. As regards contact with the outside world, inmates in security detention could send and receive letters (in principle without limitation) and receive packages (without limitation if they contained clothes, books, newspapers or educative materials, and, once every three months, a package of up to 5 kg if it contained personal belongings and “long-life” food).

141. As regards access to the telephone, inmates are entitled by law to call their lawyers. In contrast, they only “may be allowed” to phone other persons, “in particular close persons, guardians and human rights bodies”. The information gathered during the visit indicates that requests by inmates to this end were usually granted.

Notwithstanding that, given the importance of inmates’ contact with the outside world, not only for the prevention of ill-treatment but also from a therapeutic standpoint, the CPT considers that security detention inmates should be formally guaranteed (and granted in practice) regular and frequent access to the telephone. **The Committee recommends that the relevant rules be amended accordingly.**

142. The relevant legal provisions guarantee the right of inmates to receive visits twice a week, each time for at least two hours, and the delegation received no complaints in this respect from inmates.<sup>72</sup> Visits were carried out under open conditions (i.e. without partitioning between the inmate concerned and his/her visitors), and the material conditions in the visiting facilities do not call for any particular comments.

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<sup>70</sup> Disciplinary rewards are listed in Section 27 of the LESD (commendation, public commendation, an increased visit entitlement in a given month or other “personal advantage” and a gift or pecuniary bonus of up to CZK 1,000).

<sup>71</sup> Of the 36 disciplinary decisions rendered in 2014 in respect of all prisoners and inmates held at Brno Remand Prison and Security Detention Facility, 32 granted a reward and four imposed a reprimand (i.e. the least severe punishment).

<sup>72</sup> According to the information provided by the management of the detention facility, only eight inmates usually received visits.

143. That said, it is a matter of concern that inmates were systematically strip-searched<sup>73</sup> before and after every visit and also prior to each transfer from the detention facility and upon return.

The CPT must point out in this respect that a strip-search is a very invasive – and potentially degrading – measure. Therefore, resort to strip-searches should be based on an individual risk assessment and subject to rigorous criteria and supervision. Every reasonable effort should be made to minimise embarrassment; detained persons who are searched should not normally be required to remove all their clothes at the same time, e.g. a person should be allowed to remove clothing above the waist and to get dressed before removing further clothing.

**The Committee recommends that the Czech authorities ensure that these precepts are respected in practice whenever it is deemed necessary, on the basis of an individual risk assessment, to resort to strip-searching of a security detention inmate.**

144. The findings of the 2014 visit indicate that, in compliance with the relevant legal provisions,<sup>74</sup> inmates in security detention were informed in writing of their rights upon admission, including the right to request discharge from security detention or to request the conversion of their security detention into protective treatment.

145. The register of complaints lodged by security detention inmates at Brno Security Detention Facility was properly maintained and also contained information on their outcome.

146. As regards external complaints, the LESD guarantees the confidentiality of correspondence with various complaints and monitoring mechanisms, such as the national Ombudsperson and international human rights bodies.

However, an allegation was heard that confidentiality was not always respected in practice. Further, some inmates met during the visit also stated that they did not dare to complain, whether in general or to the delegation, for fear of (collective) reprisals by staff which could include revocation of certain “favours”, such as additional smoking breaks outdoors and watching television.

**The CPT recommends that the custodial staff at Brno Remand Prison and Security Detention Facility receive the clear message that inmates must never be punished for making complaints and that any attempt to prevent complaints from reaching the relevant complaints and supervisory bodies will not be tolerated and will be punished accordingly.**

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<sup>73</sup> The inmates concerned were obliged to strip naked during such searches.

<sup>74</sup> See Section 4 (1) of the LESD.

147. In addition to the mandate of the national Ombudsperson to carry out inspections in security detention facilities (see paragraph 7),<sup>75</sup> public prosecutors have the authority to visit such establishments in order to supervise the compliance with relevant legal requirements, including the legality of the deprivation of liberty. They have the right, *inter alia*, to carry out the visit at any time, speak with inmates in private and order their release if no legal grounds are given for their detention.<sup>76</sup>

**The CPT would like to be informed of the practical implementation of the mandate of public prosecutors in respect of security detention and; in this connection, it would also like to receive a copy of the report on the most recent visit by the competent public prosecutor to Brno Security Detention Facility.**

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<sup>75</sup> As of April 2014, the mandate has not yet been implemented in respect of these particular establishments.

<sup>76</sup> See Section 4(1)(b) of the Law on the Public Prosecutor's Office (Law no. 283/1993) and Section 40 of the LESD.

## **E. Psychiatric establishments**

### **1. Preliminary remarks**

148. Since the 2010 visit, major developments have occurred in the Czech Republic as regards the legal framework governing the involuntary placement of patients in psychiatric establishments. The basic provisions concerning forensic psychiatric patients (i.e. those subject to a protective treatment measure) are contained in the Criminal Code<sup>77</sup> and the newly adopted Law on Specific Medical Services (LSMS).<sup>78</sup> The involuntary placement of a civil nature is regulated by the new Civil Code<sup>79</sup> and the new Law on Medical Services (LMS)<sup>80</sup> which governs, *inter alia*, involuntary hospitalisation and treatment, as well as the use of means of restraint in health-care institutions; procedural provisions concerning civil placement are contained in the new Law on Specific Court Proceedings (LSCP).<sup>81</sup>

149. At the beginning of the 2014 visit, the Czech authorities informed the delegation that a strategy document on a comprehensive reform of the provision of psychiatric care had been adopted by the Ministry of Health in the autumn of 2013. **The CPT would like to receive more detailed information on the planned reform of psychiatric care in the Czech Republic (main goals, measures envisaged, timetable for their implementation, etc.). In particular, the Committee would like to know whether it is planned to replace large-capacity establishments with smaller institutions.**

150. In the course of the visit, the delegation visited, for the first time, Kosmonosy Psychiatric Hospital. The hospital was opened in 1869 on the premises of a former monastery and comprises several buildings located in a large garden-like compound.

With an official capacity of 600 beds,<sup>82</sup> it was accommodating at the time of the visit 560 patients of whom 150 had been admitted on an involuntary basis: 110 (including 73 female patients) under the civil law procedure and 40 (including three women) under a court-ordered protective treatment measure.

151. It should be underlined at the outset that the delegation received no allegations, and found no other indications, of ill-treatment of patients by staff. On the contrary, many patients interviewed by the delegation stated that they were treated correctly by staff and that they appreciated their caring attitude.

The delegation's findings also indicate that instances of inter-patient violence were very rare, and that staff generally reacted in an appropriate manner.

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<sup>77</sup> Law no. 40/2009, in force already at the time of the 2010 visit.

<sup>78</sup> Law no. 373/2011, entered into force on 1 April 2012.

<sup>79</sup> Law no. 89/2012, entered into force on 1 January 2014.

<sup>80</sup> Law no. 372/2011, entered into force on 1 April 2012.

<sup>81</sup> Law no. 292/2013, entered into force on 1 January 2014.

<sup>82</sup> 510 places at Kosmonosy and 90 in a separate unit at Sadská (which was not visited by the delegation).

## 2. Patients' living conditions

152. Material conditions at Kosmonosy Psychiatric Hospital were generally satisfactory. All the premises were in a good state of repair and hygiene and were well-lit and ventilated. At the time of the visit, minor refurbishment works were being carried out to improve some existing deficiencies.

153. The CPT welcomes the fact that the majority of patients at Kosmonosy Psychiatric Hospital were allowed to wear their own clothes during the day (see, however, paragraph 159).

That said, on several wards, bedside tables and/or lockers where patients could keep their personal belongings were not available. **Steps should be taken to remedy this shortcoming.**

154. On some wards, rooms were shared by two to four patients. However, many other patients were accommodated in large-capacity dormitories (e.g. with seven or eight beds). Although these rooms were spacious, the CPT wishes to stress again that such dormitories may have a counter-therapeutic, institutionalising effect on patients, infringe upon their privacy and compromise their safety (especially at Kosmonosy where some dormitories were only accessible through other patients' rooms).<sup>83</sup> It is generally held that large-capacity dormitories are not compatible with current standards of accommodation for psychiatric in-patients. **The CPT trusts that these precepts will be duly taken into account in the planned reform of psychiatric care in the Czech Republic** (see paragraph 149).

155. In principle, patients benefited from at least one hour of outdoor exercise per day, including in the garden surrounding the hospital. In addition, a number of patients were occasionally allowed to walk to the town of Kosmonosy, depending on the therapeutic progress they had made.

That said, it appeared that a number of patients in admission wards and those in need of assistance and/or surveillance for safety reasons (due to their physical impairment and/or mental state) did not benefit from outdoor exercise for weeks or even months on end. Moreover, some allegations were heard that patients were denied outdoor exercise as an informal sanction; if true, this would be unacceptable.

The CPT wishes to stress that, as a matter of principle, every patient, unless there are clear medical contraindications, should be offered at least one hour of outdoor exercise every day and preferably considerably more, and under no circumstances should daily outdoor exercise be prohibited for such patients as an informal sanction. **The CPT recommends that this minimum requirement be effectively implemented in practice at Kosmonosy Psychiatric Hospital as well as in all other psychiatric hospitals in the country.** Further, **the Committee encourages the Czech authorities to take the necessary steps to ensure that the potential of the large garden surrounding Kosmonosy Psychiatric Hospital is fully exploited.**

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<sup>83</sup> See the report on the 2010 visit (document CPT/Inf (2014) 3), paragraph 107.



### 3. Staff and treatment

156. Staffing levels at Kosmonosy Psychiatric Hospital appeared to be generally adequate for the number of patients and care provided.<sup>84</sup> The staff complement for provision of in-patient care comprised the following number of full-time equivalents:<sup>85</sup> 32 medical doctors, 16 psychologists and physiotherapists, 241 nurses (including 72 specialised psychiatric nurses and seven social nurses) and 75 orderlies.

That said, according to the information provided by the management of the establishment, there were only two male nurses and the management faced difficulties in recruiting more male nurses. Reportedly, this state of affairs generated difficulties when staff had to manage agitated patients (see paragraph 168).

157. The delegation gained a generally positive impression of the psychiatric treatment provided to patients at Kosmonosy Psychiatric Hospital. Apart from pharmacotherapy, the treatment involved a range of therapeutic, rehabilitative and recreational activities, such as psychotherapy, hippotherapy, art therapy and occupational therapy. The establishment appeared to have a sufficient supply and variety of medication.

As regards more particularly the treatment received by sex offenders under protective treatment, the delegation noted, as was already the case during the previous visits to the Czech Republic, that it was well-structured and followed a plan drawn up after an extensive diagnostic evaluation. The treatment focused on altering the offenders' system of sexual motivation in order to address the underlying sexual deviation; in particular, patients had to go through a process of learning about human sexuality and its disorders. The treatment included psychotherapy, group therapy and pharmacological interventions. Patients had to contribute actively to the treatment process on an ongoing basis by written presentations and could benefit from a progressive regime with increasing privileges, including leave. It appeared that patients were generally able to accomplish the treatment programme during a two-year stay in protective treatment, to be subsequently released and to continue treatment as out-patients.

That being said, reference is made to paragraphs 181 to 184 as regards the use of surgical castration in the context of treatment of sex offenders.

158. The findings of the 2014 visit indicate that patients undergoing anti-androgen treatment were orally informed by the treating psychiatrist about the possible adverse side effects of the treatment.

However, the delegation was informed by the authorities, as well as by the staff of the hospital, that the imposition of the penal measure of protective treatment was interpreted as an obligation by the patient to accept any treatment connected with the measure, including anti-androgen treatment.<sup>86</sup> Consequently, patients were not asked to give free and informed consent to the treatment and refusal to take medication was regarded as a breach of the house rules or, if repeated, as obstructing the treatment which would be reported to the court. These principles were also reflected in the house rules of the sexology ward at Kosmonosy.

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<sup>84</sup> See, however, the remarks discussed in paragraph 170.

<sup>85</sup> All posts were occupied at the time of the visit.

<sup>86</sup> See, in this context, Section 88 (1) of the LSMS which sets out the obligation of a patient under protective treatment to submit to an individual treatment process prescribed for protective treatment, including all medical interventions which are a part thereof.

The CPT wishes to stress once again that anti-androgen treatment should always be based on a thorough individual psychiatric and medical assessment and that such medication should be given on a purely voluntary basis.<sup>87</sup> As should be the case before starting any medical treatment, the patient should be fully informed of all the potential effects and side effects.

**The Committee recommends that steps be taken to ensure that the written consent of patients is obtained prior to the commencement of anti-androgen treatment and that such persons are given a detailed explanation (including in writing) of the purpose of the treatment and all recognised adverse effects of the drugs concerned. Further, patients should be able to withdraw their consent to anti-androgen treatment and have their treatment discontinued at any time.**

159. In the male sexology ward (S9) which accommodated mostly, but not exclusively, involuntary patients subjected to a protective treatment measure, new standardised house rules had been introduced which allowed the treating psychiatrist (and/or psychologist) to impose on patients a so-called “pyjama regime”; the delegation was informed that these house rules were now in use in all sexology wards of psychiatric hospitals in the Czech Republic.

The regime may be imposed, for a specified period of time (in principle, for 14 days), on a patient who has breached the internal rules of the ward.<sup>88</sup> Apart from the obligation to wear pyjamas throughout the day, the patient concerned may not participate in outdoor exercise/occupational therapy outside the premises of the ward, may not use a mobile phone and his/her phone and visiting entitlements<sup>89</sup> are restricted.

The CPT acknowledges that there may always be patients who will pose a particular challenge. However, the Committee considers that obliging certain patients to wear pyjamas has a stigmatising effect as it exposes the patient concerned to everybody in their surroundings as someone who has failed to comply with the tasks within the treatment programme and/or the house rules. It may also be, and the information gathered during interviews indicates that it indeed was, perceived by the patients concerned to be humiliating. More generally, the CPT has serious misgivings about the very concept of imposing on psychiatric patients any punishment, including the “pyjama regime”, in the context of a psychiatric treatment programme, and all the more so if it is imposed by the treating psychiatrist or psychologist.

**Consequently, the CPT recommends that the Czech authorities put an end to the practice of imposing the “pyjama regime” on psychiatric patients.**

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<sup>87</sup> See the report on the 2008 visit (CPT/Inf (2009) 8), paragraph 25.

<sup>88</sup> E.g. gambling, smoking outside the designated areas, use of a mobile phone outside the approved time slots, refusal to abide by the instructions given by staff, verbal aggression, absence from therapeutic sessions.

<sup>89</sup> Visits are limited to family members or a partner, for a maximum of three hours a week.

160. Electroconvulsive therapy (ECT) was administered to patients only in its modified form (i.e. with anaesthetics and muscle relaxants) with EEG surveillance, in a specifically designated and well-equipped room. All applications of ECT were duly recorded in a central register and in the patients' files.<sup>90</sup> The consent form, which patients were given to sign, contained detailed information on the intervention, including its description, alternative treatment methods and an offer to answer additional questions. The form also contained consent to additional interventions necessary for saving the life or health of the patient should unexpected complications occur in connection with the application of ECT.

161. Concerning somatic care, it is positive that all patients were thoroughly checked upon admission to the establishment and that their physical and psychological status was duly recorded in their personal medical file.

However, the delegation was informed that when police officers escorted patients to the hospital, they often remained present during the medical examination. In the CPT's view, such a practice is not acceptable as it constitutes a breach of medical confidentiality and may well discourage persons who have been subjected to police ill-treatment from saying so. **The CPT recommends that the Czech authorities take the necessary steps to ensure that police officers are no longer present during medical examinations upon admission at Kosmonosy Psychiatric Hospital and, where the above-mentioned practice exists, also in other psychiatric hospitals in the country.**

162. Moreover, the information gathered during the visit indicates that no action would be taken by medical staff if newly admitted patients made allegations of police ill-treatment and/or presented injuries indicative of ill-treatment.

**The Committee recommends that the Czech authorities put in place procedures in all psychiatric hospitals to ensure that whenever injuries are recorded which are consistent with allegations of ill-treatment made by the patient concerned (or which, even in the absence of an allegation, are clearly indicative of ill-treatment), the record is systematically brought to the attention of the competent prosecutor, regardless of the wishes of the person concerned.**

**As regards the contents of the record of injuries, the recommendation made in paragraph 17 equally applies to all psychiatric hospitals.**

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<sup>90</sup> According to the central register, between seven and 17 ECT interventions have been carried out every year since 2009.

#### 4. Means of restraint

163. The new Law on Medical Services (LMS) regulates in a comprehensive manner the use of means of restraint in health-care settings. Section 39 of the LMS provides for manual control by staff, the use of straps and straightjackets, placement in a net-bed,<sup>91</sup> placement in a seclusion room, parenteral administration of psychotropic medication (chemical restraint)<sup>92</sup> and a combination of the aforementioned means. Means of restraint may only be applied with the aim of averting imminent danger to the life, health or safety of the patient or third persons and only for the time during which these reasons persist. The use of restraint must be ordered by a doctor or brought to his/her attention (if ordered, in the case of emergency, by another member of the health-care staff) and must be recorded in the patient's personal medical file.

Further, in compliance with the specific recommendation made by the Committee in the report on the 2010 visit, the use of means of restraint on a patient admitted on a voluntary basis must be notified by the health-care facility to the court within 24 hours (unless the patient concerned approves the restraint within the same time limit), with a view to initiating an involuntary placement procedure (see paragraphs 172 and 173).

164. The delegation observed that the above-mentioned requirements were effectively implemented in practice at Kosmonosy Psychiatric Hospital<sup>93</sup>. Additional details on restraint of patients were contained in a written policy.<sup>94</sup>

165. The examination of the relevant registers revealed that, in the first three months of 2014, straps/belts were used in 36 cases, including 19 cases where their use was combined with chemical restraint. The duration of uninterrupted mechanical restraint varied between ten and 82 hours, the average duration being approximately 30 hours.

In the CPT's view, the application of means of mechanical restraint should be for the shortest possible time (usually minutes to a few hours) and should always be terminated when the reason for the restraint ceased to exist. The maximum duration of the application of mechanical restraint should normally not exceed six hours, and under no circumstances should patients continuously be subjected to mechanical restraint for more than 24 hours; applying means of restraint for days on end cannot have any justification. Any prolongation of restraint beyond six hours should be the subject of a review by two medical doctors.

**The CPT recommends that the Czech authorities take the necessary steps to ensure that these precepts are effectively implemented in practice at Kosmonosy Psychiatric Hospital as well as in other psychiatric hospitals in the Czech Republic.**

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<sup>91</sup> As regards the use of net-beds, see the remarks set out in paragraph 169 of this report.

<sup>92</sup> This option is regarded as a means of restraint unless it is administered upon the inmate's request or constitutes a long-term treatment of a mental disorder.

<sup>93</sup> Usually, the following means of restraint were used: manual control, magnetic textile straps, restraint belts, net-beds and chemical restraint.

<sup>94</sup> "Standard č. 1 – omezení pacienta".

166. The use of mechanical restraint was, in principle, properly recorded in the patients' personal medical files and in a computerised central restraint register.

However, the delegation was informed by members of the medical staff that instances of chemical restraint were not always recorded in the central register (e.g. if not combined with mechanical restraint).

The CPT considers that resort to chemical restraint should be subjected to the same safeguards as mechanical restraint. Consequently, **it recommends that all instances of chemical restraint be recorded in the central register of restraint at Kosmonosy Psychiatric Hospital (as well as in other psychiatric hospitals in the Czech Republic); the entry should include the time of the measure, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, the staff who participated in the application of the measure and an account of any injuries sustained by the patient or staff.**

167. Despite the specific recommendation made by the Committee in the previous visit report,<sup>95</sup> the new legislation does not require that patients subjected to mechanical restraint be under continuous, direct and personal supervision by staff and be placed away from direct contact with other patients.

As regards the situation observed by the delegation at Kosmonosy Psychiatric Hospital, patients were as a rule strapped to a bed in multi-occupancy rooms (reserved for patients being restrained by straps) where they could be supervised through a window from the nurse's room (if nurses were present), and direct inspections by nurses were carried out in regular intervals. However, outside the inspection intervals, restrained patients had to shout or otherwise attract the attention of the staff to receive assistance.

The CPT must reiterate that whenever a patient is subject to means of mechanical restraint (including placement in a net-bed until the time net-beds are taken out of use in line with the recommendation made in paragraph 170), a member of the health-care staff should be continuously present in order to maintain the therapeutic alliance and to provide prompt assistance including in emergency situations.<sup>96</sup> Such assistance may include escorting the patient to a toilet facility or, in the exceptional case where the measure of restraint cannot be brought to an end in a matter of minutes, helping him/her to consume food. It is also essential to conduct an interview with the patient concerned at the end of the measure; this will provide an opportunity to explain the rationale behind the measure, thus reducing the psychological trauma of the experience as well as preserving/restoring the doctor-patient relationship. Moreover, immobilisation of patients should not take place within sight of other patients.

**The CPT recommends that the above-mentioned precepts be fully implemented in all psychiatric hospitals in the Czech Republic.**

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<sup>95</sup> See CPT/Inf (2014) 3, paragraph 111.

<sup>96</sup> The need for constant personal supervision was vividly illustrated in the case of a death of a patient subjected to mechanical restraint on 25 May 2012 at the Opava Psychiatric Hospital. According to the information gathered during the visit, a patient who was restrained by means of straps while sleeping was killed by another patient who had entered the victim's room.

168. It became clear during the visit that uniformed police officers were frequently called upon to assist in restraining agitated patients whenever health-care staff at Kosmonosy Psychiatric Hospital were not able to control the situation themselves. This state of affairs is not acceptable and cannot be justified by the lack of male nurses.

**The CPT recommends that the Czech authorities take the necessary steps to put an end to the practice of involving police officers in restraint of agitated patients at Kosmonosy Psychiatric Hospital. Further, all nursing staff should be trained in the appropriate use of means of restraint and refresher courses should be organised at regular intervals. Such training should not only focus on instructing staff how to apply means of restraint but, equally importantly, should ensure that they understand the impact the use of restraint may have on a patient and that they know how to care for a restrained patient.**

169. The CPT has repeatedly expressed its serious misgivings about the use of net-beds and recommended that the Czech authorities pursue a policy of putting an end to their use in psychiatric hospitals as soon as possible. Regrettably, the findings of the 2014 visit indicate that there has been no progress in this respect. Moreover, certain aspects of the use of net-beds at Kosmonosy Psychiatric Hospital give rise to particular concern.

170. At Kosmonosy, there were some 30 net-beds used in seven of the establishment's 15 wards (namely the gerontopsychiatric, admission and chronic care wards).<sup>97</sup> As a rule, between four and six net-beds were located in one room in each of the wards concerned, and patients were thus restrained in full view of each other.

Moreover, in contrast with the rooms where patients were restrained by straps, there was no possibility of direct visual contact with staff, let alone continuous, direct and personal supervision by staff. Regular inspections by staff of patients placed in net-beds carried out every two hours cannot substitute for this measure.

The Committee is also concerned about the excessive duration of placement of certain patients in net-beds. For example, according to the registers examined by the delegation, one patient has been restrained in a net-bed for a total of almost 2,600 hours (i.e. the equivalent of 108 days) during some 180 days since 18 October 2013. Another patient was placed in a net-bed between 22 September 2013 and 4 March 2014 (163 days) for more than 1,800 hours (i.e. the equivalent of 75 days). It would thus appear that certain patients were spending half or even more of their time in net-beds during several months.

The risks linked with the use of net-beds and the need for supervision may well be illustrated by another case, namely that of a 51-year old woman who died in a net-bed at Dobřany Psychiatric Hospital in January 2012.<sup>98</sup> The patient concerned was reportedly placed in a net-bed on the day of her admission to the hospital and, after having spent several hours therein, she tore the net and strangled herself in the loop. Allegedly, this happened despite constant CCTV-coverage of the net-bed where the patient was placed.

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<sup>97</sup> In some wards, every fifth bed was a net-bed.

<sup>98</sup> This establishment was visited by the CPT in 2006 (see CPT/Inf (2007) 32).

**The CPT reiterates its recommendation that net-beds be withdrawn from service in psychiatric hospitals in the Czech Republic. If necessary, staffing levels in facilities providing psychiatric care should be reviewed in this context.**

**If there are patients who need protective measures, such as persons with impaired mobility or nocturnal disorders (e.g. disorientation/ sleepwalking), the CPT recommends that more suitable protective means than net-beds be found to ensure their safety (e.g. hospital beds which can be lowered and/or which are boarded along the sides and enable the staff to assist the patient from both sides).**

171. Another matter of concern to the Committee is the fact that net-beds at Kosmonosy Psychiatric Hospital were included in the overall complement of hospital beds and therefore could be, and in practice regularly were, used as “ordinary” beds for patients who did not require any specific protective measures or restraint.<sup>99</sup> Although in such cases, the front part of the net-bed was reportedly kept open, it is clear that the beds created an oppressive atmosphere and had an intimidating effect on patients.

**The CPT recommends that the Czech authorities take immediate steps to ensure that every patient at Kosmonosy Psychiatric Hospital is provided with a standard hospital bed.**

## **5. Safeguards**

172. By virtue of Section 38(1)(b) of the LMS, patients may be subjected to civil involuntary placement if they pose an imminent and serious threat to themselves or their “surroundings” and show signs of or suffer from a mental disorder or are under the influence of an addictive substance and if the threat for the patient or his “surroundings” cannot be prevented by other means. Further, Section 38(1)(c) stipulates that patients may be hospitalised without their consent if their state of health requires the provision of “urgent care” (*neodkladná péče*) and does not allow the patient to provide his/her consent.

173. The placement procedure, as described in the report on the 2006 visit<sup>100</sup> and incorporated in the new Law on Specific Court Proceedings (LSCP), remained unchanged in principle.

It is recalled that involuntary hospitalisation must be notified by the psychiatric institution to the court within 24 hours (unless the patient concerned has given his/her consent to hospitalisation in the meantime);<sup>101</sup> the same rule applies in the event that a voluntary patient withdraws his/her consent and conditions for involuntary hospitalisation are met.

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<sup>99</sup> E.g., newly-admitted patients were often placed in net-beds simply because there was allegedly no other bed available.

<sup>100</sup> See CPT/Inf (2007) 32, paragraph 120.

<sup>101</sup> See Section 40 of the LMS, Section 105 (2) of the Civil Code and Section 75 of the LSCP.

Within seven days, the court must hear the patient concerned<sup>102</sup> and take a decision as to the lawfulness of the involuntary placement. If the court has declared the involuntary admission lawful, it pursues judicial proceedings to examine the admissibility of continued detention in the psychiatric institution. In the context of these continued proceedings, the court must appoint an independent medical expert to assess the mental state of the patient. In its decision, which has to be taken within three months, the court must determine the duration of the involuntary placement (for a maximum period of one year). After the expiry of this period, the involuntary placement may be extended by renewable periods of up to one year at a time. In such cases, the aforementioned procedure for continued detention must be followed.

An appeal (which does not have suspensive effect) may be lodged by the patients against the decisions on placement and continued detention. In such a case, the first instance court shall submit the case file without delay to the appellate court which shall take a decision on the case within one month.

During the involuntary placement, the patient (as well as his/her representative, guardian and his/her close family members/trusted persons<sup>103</sup>) may request a re-assessment of his/her mental state and discharge from the hospital. The court must take a decision on such a motion within two months. However, if the court repeatedly dismisses the motion for release and improvement of the state of health of the patient cannot be expected, it may decide that a new assessment will not be carried out before the expiry of the time for which hospitalisation has been approved.

The findings of the 2014 visit indicate that all the above-mentioned requirements were respected in practice and that patients were represented by a lawyer throughout the involuntary placement proceedings (including frequently by one appointed *ex officio*).<sup>104</sup>

174. The legal grounds for the imposition of the penal measure of protective treatment are set out in Section 99 of the Criminal Code. Such treatment may be imposed by a criminal court upon a person who has committed an act which would otherwise be regarded as a criminal offence for which he/she is not criminally liable due to insanity or who has committed a criminal offence in a state of diminished sanity or in a state caused by a mental disorder and his/her remaining at liberty is dangerous, or upon a person who abuses an addictive substance and has committed a criminal offence under its influence or in connection with the abuse.

As indicated in the previous visit report, the court may impose “protective treatment” for a maximum period of two years. If the measure has not been terminated before the expiration of that period, the measure may be prolonged by periods lasting a maximum of two years each, in theory indefinitely.

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<sup>102</sup> Unless, according to the treating doctor or an expert opinion, his/her presence at the hearing could seriously damage his/her state of health.

<sup>103</sup> “*Osoba blízka*”.

<sup>104</sup> According to Section 69 (2) of the LSCP, should the patient fail to choose a representative or should it be necessary for the defence of his/her interests, the court shall appoint a lawyer as the patient’s representative *ad litem*.



The information gathered during the visit indicates that, in the context of the biennial review of protective treatment, commissioning of an expert opinion, independent to the establishment where the patient was placed, was left at the discretion of the court. **In the CPT's view, mandatory commissioning of such an expert opinion would offer an additional, important safeguard in the context of the reviews of an extension of the protective treatment.**

175. A patient may be discharged from protective treatment only on the basis of a court decision, taken upon a motion lodged by the patient, a prosecutor or the psychiatric facility.

176. Concerning legal representation, it is mandatory in proceedings in which protective treatment is being imposed.<sup>105</sup> The patient must also be represented by a lawyer in proceedings on extension and/or termination of the measure if he/she is legally incapacitated or his/her legal capacity is limited or if the court has doubts about the person's capability to adequately defend him-/herself.<sup>106</sup>

That said, it remains somewhat unclear to what extent free legal aid is available within proceedings in which the need for continued protective treatment is being reviewed. **The CPT would like to receive clarification on this point from the Czech authorities.**

177. As regards involuntary treatment, it is a positive development that Section 100 of the Civil Code now expressly sets out the general principle that the approval by the court of an involuntary placement in a health-care institution does not deprive the patient of his/her right to refuse a particular medical intervention.

Under Section 38 (3) of the LMS, only "urgent care" (*neodkladná péče*) may be provided without the consent of the patient if his/her state of health does not allow the patient to express such consent, or in the case of a patient suffering from a serious mental disorder if no treatment would in all probability result in a serious damage to his/her health.

However, as regards involuntary treatment of patients under protective treatment, reference is made to the remarks and recommendations in paragraph 158.

178. The CPT welcomes the fact that, upon admission, patients at Kosmonosy Psychiatric Hospital received information about their diagnoses and proposed treatment and civil patients were requested to sign a written consent to hospitalisation and treatment. Patients were further informed of the house rules and their rights and obligations; information sheets on the rights of patients were also available on all wards.

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<sup>105</sup> With the exception of the anti-alcoholic protective treatment.

<sup>106</sup> See Sections 36(4)(b) and 36a (1)(a) and (c) of the Code of Criminal Procedure.

That said, the delegation observed in one case that a person had been admitted to the hospital as a voluntary patient on the basis of his written consent.<sup>107</sup> However, according to the individual file, the person concerned had been brought by the police as he had been destroying furniture in a bar, was drunk and, during the admission procedure, provided incoherent answers and was not oriented in time. In the CPT's view, consent to hospitalisation and treatment provided by a patient in the state described can hardly be regarded as free and informed. **The CPT recommends that in cases where the mental state, including alcohol or drug intoxication, prevents a person from making a valid statement, the request should be postponed until the person is in a suitable mental state. In any case, however, the 24-hours statutory time limit for reporting to the court cases of involuntary hospitalisation must be respected.**

179. The existing arrangements for patients' contact with the outside world were satisfactory. Patients were able to send and receive correspondence, to make telephone calls and to receive visits from their family and friends.

However, an examination of the relevant register revealed that one patient had complained, *inter alia*, of the fact that a letter sent by her mother had been intercepted by the staff of the establishment and had not been delivered to her. **The CPT would like to receive clarification as to the legal basis for the withholding of correspondence from civil psychiatric patients.**

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

The delegation noted that on all wards of Kosmonosy Psychiatric Hospital, information sheets containing detailed information on avenues of complaint open to patients<sup>108</sup> were available. However, patients were apparently not informed of the possibility to submit confidential complaints to an independent body, such as the Ombudsman. **The CPT recommends that this shortcoming be remedied.**

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<sup>107</sup> The status of the patient was later changed to involuntary as means of restraint were applied against his will.

<sup>108</sup> I.e. to the health-care staff, director of the establishment, health-care authority, health-insurance agency and the Czech Medical Chamber.

**F. The use of surgical castration in the context of the treatment of sex offenders**

181. The use of surgical castration in the context of the treatment of sex offenders has been the subject of a longstanding dialogue between the CPT and the Czech authorities.<sup>109</sup>

The Committee has repeatedly expressed its fundamental objections to the use of this intervention as a means of treatment of sex offenders. The reasons are manifold: it is a mutilating, irreversible intervention with serious physical effects and direct or indirect mental health consequences, which is not in conformity with recognised international standards and the positive effect of which in respect of re-offending has not been based on sound scientific evaluation. Moreover, effective alternative therapies for treatment of sex offenders are currently available and the intervention can thus not be considered as a medical necessity in the context of treatment of sex offenders. The Committee also expressed doubts whether, given the context in which the intervention was offered, consent to surgical castration would always be truly free and informed. In conclusion, it considers that surgical castration of detained sex offenders could easily be considered as amounting to degrading treatment and, consequently, has repeatedly called upon the Czech authorities to put an end to the application of surgical castration in the context of treatment of sex offenders.

182. In their response to the report on the 2010 visit, the Czech Government stated that they had decided to retain surgical castration as a form of treatment of detained patients on a voluntary basis. At the same time, they indicated that additional safeguards had been introduced in the new legal framework laid down by the Law on Specific Medical Services which entered into force on 1 April 2012.<sup>110</sup>

Notably, surgical castration can no longer be carried out on prisoners (whether sentenced or on remand)<sup>111</sup> or on persons deprived of their legal capacity. The intervention may be permitted upon the written request of the patient concerned who must at least be 25 years old, must have committed a violent sexually-motivated crime, an expert medical examination must have shown the existence of specific sexual deviance and a high probability that he would commit a violent sexually motivated crime again in the future and if other methods of treatment have proven unsuccessful. The patient's application form should include detailed information on the intervention and must be accompanied by a recommendation from the attending physician as well as by an independent medical evaluation.

A central commission has been established within the Ministry of Health to decide on patients' requests; it is composed of experts in psychology, psychiatry, sexology and urology, together with a lawyer specialising in medical law, who must not have any links to the facility in which the patient has been placed. The commission must hear the patient in person and must inform him again of the nature, permanent consequences and possible risks of the surgical intervention. If the patient is subject to in-patient protective treatment or security detention, he must be informed that the castration will not give him a right to be released and that his request must be approved by the court. The castration may only be performed if the patient re-confirms his consent in writing immediately before the intervention.

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<sup>109</sup> See, most recently, the report on the 2010 visit to the Czech Republic (doc. CPT/Inf (2014) 3, paragraphs 121-123) and the related Government response (doc. CPT/Inf (2014) 4, pages 62-67).

<sup>110</sup> Law no. 373/2011.

<sup>111</sup> In contrast, it may still be carried out on patients subject to a court-ordered measure of in-patient protective treatment as well as on inmates in security detention.

183. At the beginning of the 2014 visit, the Czech authorities informed the delegation that since the entry into force of the LSMS (on 1 April 2012), no surgical castration of sex offenders had been carried out.<sup>112</sup> On the other hand, the delegation was also informed that two requests for the intervention had recently been lodged, of which one had been approved by the commission and, given that the patient concerned was in security detention, also by the court. The other had been rejected by the central commission.

184. The CPT takes note of the new legal framework and acknowledges the significant decrease in the resort to surgical castration in the context of treatment of sex offenders in recent years, in particular since the new legislation came into force.

However, this in itself cannot remove the CPT's fundamental objections to the intervention as summarised above and the Committee regrets that the legislative overhaul of the provision of medical services has not been used to exclude it definitively from the treatment options for sex offenders. Consequently, **the CPT urges the Czech authorities to put a definitive end to the use of surgical castration in the context of treatment of sex offenders and to amend the relevant legal provisions accordingly.**

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In comparison, the information available to the CPT indicates that some 70 surgical castrations of sex offenders were carried out in the period of 2000 – 2006 and approximately 13 between 2007 and 2011.

**APPENDIX**

**LIST OF THE NATIONAL AUTHORITIES, OTHER BODIES AND ORGANISATIONS  
MET BY THE CPT'S DELEGATION**

**A. Ministerial authorities**

**Ministry of Justice**

Helena VÁLKOVÁ Minister of Justice

**Division of Prisons and Criminal Policies**

Pavel ŠTERN Deputy Minister for Prisons and Criminal Policies

Milan HOSPODKA Director of Probation and Mediation Service

**Division of International and Constitutional Affairs**

Petr JÄGER Deputy Minister for International and Constitutional  
Affairs

**Office of the Government Agent for the representation of the Czech Republic before the European  
Court of Human Rights**

Petr KONŮPKA Deputy Government Agent

Viktor KUNDRÁK Legal Expert

**Division of Judicial and Legislative Affairs**

Jana PŘIBYLOVÁ Head of the Civil Proceedings Department

Tomáš PROCHÁZKA Legal Expert, Department of Criminal Legislation

Marie MIKEŠOVÁ Legal Expert, Department of Judicial Control

**International Cooperation Department**

Helena LIŠUCHOVÁ Acting Head of International Cooperation Department

Lenka HABRNÁLOVÁ Legal Expert

Directorate General of the Prison Service of the Czech Republic

Petr DOHNAL	Director General of the Prison Service of the Czech Republic
Pavel ONDRÁŠEK	Acting Director General of the Prison Service of the Czech Republic
Miroslav LOULA	Director, Private Office of the Director General
Pavel HORÁK	Director, Penitentiary System and the Execution Department
Petr VLK	Director, Prison and Judicial Security Department
Miroslav KUFA	Counsellor of the Prison Service for Crisis Management
Michal ŘEHÁČEK	Deputy Director of the Penitentiary System
Michal PETRAS	Methodologist of the Special Treatment, Penitentiary System and the Execution Department
Hana LÖFFELMANNOVÁ	Publicist and Analyst

**Ministry of the Interior**

Monika PÁLKOVÁ	Deputy Minister of the Interior
Kateřina STEHLÍKOVÁ	Head of Unit, Asylum and Migration Policy Department
Lubomír JANKŮ	Counsellor, Security Policy Department
Marcela ČERNÁ	Counsellor, Asylum and Migration Policy Department
Martin MADĚRA	Counsellor, Asylum and Migration Policy Department
Jana RÁZGOVÁ	Counsellor, International Relations and EU Department
Benedikt VANGELI	Counsellor, Security Policy Department

Presidium of the Police

Petr PETŘÍK	Deputy Police President
Martin HRINKO	Director, Directorate of Uniformed Police
Michaela HÝBNEROVÁ	Head of Unit, Internal Audit Department
Jaroslav NOVÁK	Police Officer, Directorate of Uniformed Police

Administration of Refugee Facilities

Miloslav KOUDELNÝ Director  
Petr PONĎĚLÍČEK Head of Unit, Social Work Department

**Ministry of Health**

Josef VYMAZAL Deputy Minister for Health Care  
Ivan DUŠKOV Head of Unit, Strategic Project Management Office  
Tomáš JUNG Head of Health Programmes Unit  
Martin HOLLÝ Director of Bohnice Psychiatric Hospital and Chairman of the Psychiatric Society  
Irena KÖHLEROVÁ Counsellor

**Ministry of Labour and Social Affairs**

Pavel JANEČEK Head of the International Cooperation Unit  
Brigita VERNEROVÁ Expert, International Cooperation Unit  
Jana Marie LANDOVÁ Head of the Inspection of Providing Social Services and Social Work Unit  
Milena PRŮŽKOVÁ Director, Department for Non-Insurance Social Benefits for People with Disabilities, Inspection for Providing Social Services and Social Work  
Hana ČIBEROVÁ Expert, Department of Social Services  
Petr MACH Expert, Department of Social Services

**Office of the Minister of Human Rights, Equal Opportunities and Legislation**

Jiří DIENSTBIER Minister of Human Rights, Equal Opportunities and Legislation  
Martina ŠTĚPÁNKOVÁ Director, Human Rights Section  
Jakub MACHAČKA Head of the Secretariat of the Government Council for Human Rights  
Zuzana VANÍČKOVÁ Counsellor, Secretariat of the Government Council for Human Rights

**B. Other national bodies**

**Public Defender of Rights (Ombudsperson)**

Anna ŠABATOVÁ	Public Defender of Rights
Marie LUKASOVÁ	Head of the National Preventive Mechanism (NPM)
Ondřej VALA	Counsellor, NPM
Milan SVOBODA	Counsellor, NPM

**Supreme Court**

Antonín DRAŠTÍK	Judge, Criminal Law Division
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**General Inspection of Security Forces**

Ivan BÍLEK	Director
Dušan BRUNCLÍK	First Deputy Director
Petr SOBOTOVIČ	Head of the Director's Private Office
Lenka HADERKOVÁ	Deputy Head of the Director's Private Office
Jan MELŠA	Counsellor, Department of Methodology and Prevention

**C. International organisations**

Prague Office of the United Nations High Commissioner for Refugees (UNHCR)

**D. Non-governmental organisations**

Counselling Centre for Citizenship, Civil and Human Rights  
Czech Helsinki Committee  
League of Human Rights  
Mental Disability Advocacy Centre (MDAC)  
Organisation for Aid to Refugees (OPU)