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Response

of the Czech Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to the Czech Republic

from 1 to 10 April 2014

The Czech Government has requested the publication of this response. The CPT's report on the April 2014 visit to the Czech Republic is set out in document CPT/Inf (2015) 18.

Strasbourg, 26 August 2015

Response of the Czech Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to the Czech Republic from 1 to 10 April 2014

A. Police custody

In reference to Paragraph 9

The Government deems any form of ill-treatment of persons deprived of their liberty unacceptable. Each and every accusation of unprofessional and illegal conduct must be duly investigated and, where misconduct by police officers is found, punished. Since the Police of the Czech Republic does not have more information based on which it could carry out a thorough investigation of information provided by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (the "CPT"), it is not possible to take measures against specific police officers. However, the prevention of unprofessional and unacceptable practices will continue to be the subject of periodic training of police officers and personnel.

As part of its training activities, the police regularly emphasises the obligation to confine the restriction of rights of individuals only to situations permitted by law and to the extent reasonable, both for new recruits and for current police officers. In the case of violation of rights of a person in police custody, the case is investigated by internal supervisory bodies of the Police of the Czech Republic and also external supervisory bodies, such as prosecutors or the General Inspection of Security Forces, and according to the results of the investigation individual (in the case of a rare excess) or systemic (in the case of system misconduct) measures are taken.

In reference to Paragraphs 12 and 13

Act No. 273/2008 Coll., on the Police of the Czech Republic (the "Police Act"), Section 24 (2) provides for the obligation to immediately notify a close relative or other person designated by the person in police custody. In the case of a minor or a person limited in their capacity, the person providing legal representation for the minor or the person limited in their capacity shall be notified. However, where the notification of custody would jeopardise the fulfilment of the purpose of a serious act or would be associated with unreasonable difficulties, no notification will occur. The police are obliged to inform the prosecutor with territorial competence of the facts. The notification is then given immediately after the removal of the obstacle to the notification. As part of its training activities, the police emphasises the fulfilment of this obligation and also the obligation to allow the person in police custody to talk to their lawyer in accordance with Section 24 (4) of the Police Act. Given the fact the police do not have more information on the outlined case, it is not possible to give an objective assessment whether the procedure of the police officers is correct or wrong. If misconduct is detected, appropriate measures are taken against particular police officers.

In reference to Paragraph 14

The legislation does not currently guarantee the right to access to free legal aid to all persons in police custody outside criminal proceedings. The CPT's recommendation will be implemented as part of the proposed bill on state-guaranteed legal aid, the legislative intent of which is currently being processed.

In reference to Paragraph 16

The Government aims and will continue to aim to ensure that medical examinations of persons in police custody take place in the maximum possible confidentiality.

At the same time, the Government would like to draw attention to the complexity of the situation in which it is necessary to combine the requirement for medical confidentiality and the obligation of police officers to protect the life and health of persons deprived of their liberty as well as the life and health of the doctor and medical staff concerned. The Czech Republic will therefore seek an appropriate solution to implement the CPT's recommendation and adjust it while maintaining to protect the life and health of persons present during medical examinations.

Pursuant to Section 54 of the Police Act, police officers are authorised to use handcuffs as a means of coercion when there are reasonable grounds to suspect that the safety of persons or property or protection of public order are at risk, or if the person concerned attempts to escape. Therefore, if there is such reasonable concern, the police officer may keep the person handcuffed during medical examination. The practice of handcuffing persons only occurs if there are reasonable grounds to suspect that the said risk may arise, and where medical examination is not and may not be a reason to be less wary and cautious while guarding persons deprived of their liberty.

In reference to Paragraph 17

The Government recognises the importance of the CPT's recommendation on the prevention of ill-treatment, to which the doctor examining a detained person can contribute significantly. Consequently, a legislative amendment will be initiated through which Act No. 372/2011 Coll. on the Health Services and conditions of their provision (the "Health Services Act") will establish the obligation of doctors to report suspected ill-treatment to competent supervising bodies. Under the existing legislation, doctors are prevented from reporting ill-treatment due to the confidentiality obligation arising from Section 52 of the Health Services Act. The competent body supervising over the establishments where personal liberty is restricted by legal authorisation, is the General Inspection of Security Forces.

In reference to Paragraph 18

The Police Act and other legislation provide for the obligation to inform detainees of their rights and obligations, and every police officer is obligated to comply with the obligation. Obligations to inform detainees are subject to lifelong learning of police officers. Appropriate measures are taken each time any improper practices are detected. The said legislation will be strictly enforced.

In reference to Paragraph 19

Improvements of conditions in police cells, including the remedy of shortcomings specified in the report, are performed on a continuous basis. These changes naturally depend on the financial capacity of the police to carry out structural or other adjustments, or to build new police cells. The improvement of conditions is also covered by the principles for building police cells, which are attached to the Binding Guidelines on Escorts, Surveillance of Persons and on Police Cells of 2 December 2009. The Internal Control Department of the Police Presidium of the Czech Republic and control departments of regional police directorates inspect conditions in police cells, assess the findings and point out any shortcomings. All shortcomings are subsequently remedied by the relevant establishments.

In reference to Paragraph 20

As regards outdoor exercise for detained persons, it is necessary to distinguish between so-called short-term cells where persons are usually detained for about six hours, and long-term cells where (should the need arise) persons are transported and detained for the remainder of custody. Due to the length of police custody in the case of the short-term cells, the Government does not deem it necessary to provide detainees with access to outdoor exercise. In the case of the long-

term cells, the CPT's recommendations will be taken into account when building new cells. As for existing cells, efforts will be made to create conditions that will enable detainees to have access to outdoor exercise, where technically possible.

In reference to Paragraph 21

Under Section 25 of the Police Act, a police officer may restrict the free movement of persons who physically attack police officers or other persons, endanger their own life, damage property or attempt to escape, usually by shackling the person to a suitable object, especially with handcuffs. In accordance with previous CPT recommendations, wall fixtures have been removed. In order to avoid attaching persons to objects which are not primarily intended for this purpose and which could be degrading for the person attached to it, grips were mounted to the frames of benches located in police cells enabling the attachment of persons in a harmless, natural and comfortable position. Similarly, outside the cells, grips allowing the attachment of a person in a harmless, natural and comfortable position will only be placed in areas of police establishments that are not accessible to the public. The particular attachment position has been consulted with the Medical Institute of the Ministry of Interior. The said rules are based on mutual negotiations of the Police Presidium of the Czech Republic with CPT's members and the Government Commissioner for Human Rights. The CPT was informed of the above in the response of the Government to the CPT report on the 2010 visit.

In January 2014, the rule of exceptional use of handcuffs as a means of restraint in a safe environment arising also from the judgment of the European Court of Human Rights in the case of *Kummer vs the Czech Republic* was established in the Binding Guidelines on Escorts, Surveillance of Persons and on Police Cells of the Police President of 2 December 2009, and in annexes attached thereto. The CPT's recommendation to this extent has therefore been satisfied. The fact that free movement of a person detained in a police cell was restricted by attachment is reported by police officers in the documents relating to the detention of persons deprived of their liberty in a police cell.

In reference to Paragraph 22

The right to subject a person to a strip-search before placement in a police cell is established in Section 29 of the Police Act. A police officer is entitled to check whether a detained person carries a weapon or other item that could pose a threat to life or health, and to remove such item. For this purpose, police officers are entitled to subject a person to a strip-search under Section 111 b) of the Police Act, which involves direct physical contact, i.e. frisking, searching by hand, including intimate parts, or direct inspection of an undressed person or inspection of clothing and items that the person carries on them. A strip-search is carried out by a police officer of the same sex who is obliged to respect the principles of adequacy according to Section 11 of the Police Act, and thus to take this measure in a manner that is adequate to the purpose and to respect the dignity of the detainee.

A strip-search is a measure which falls under the responsibility of the performing police officer. The performing police officer assesses the grounds for taking the measure and, on the basis of specific circumstances (including those related to the person subjected to a strip-search), decides on how to carry out the search. Assessing the thoroughness of such a search is, in addition to objective circumstances, to some extent influenced by the necessary subjective assessment of the situation by the police officer concerned, specifically with regard to verbal and non-verbal expressions used by the person deprived of liberty. On these grounds, the Government deems it inappropriate to automatically entrust the decision on a strip-search to the competence of the immediate superior. Such practice would not always be feasible, e.g. due to the absence of the immediate superior at the search site. Given the variability of situations and personality traits of

persons deprived of their liberty, it is not possible to establish precise criteria for such a search. Unless necessary in a specific situation, the presence of more than one police officer during a strip-search is not appropriate because it can be assumed that most persons would find this situation more humiliating. It is also not possible to impose an obligation to ensure the presence of two police officers because in some cases (a strip-search of a female which requires the presence of two female police officers) such requirement could, *inter alia*, delay the execution of such search and thus thwart the search or thwart the purpose for which the search is carried out.

Methodological guidance for police officers will, however, seek to avoid an automatic and routine strip-search and instead carry out a search after considering the individual risk related to a particular person in cases where another security measure is insufficient, and where the objective cannot be achieved by any other search method, such as frisking or using a screening device. The CPT's recommendation to allow a person subjected to a strip-search to expose only one half of their body, and then getting dressed before removing clothing from the other half of their body, will also be complied with. However, it will depend on the specific circumstances, wherein it is likely that it will not be possible to apply this practice at all times.

B. Detention of foreign nationals under alien legislation

In reference to Paragraph 23

The payment of costs associated with the stay of detained persons and their return to the country of origin is laid down by Act No. 326/1999 Coll., on foreign nationals staying on the territory of the Czech Republic, and on amendments to some other acts ("Law on the Residence of Foreigners"). Costs associated with administrative expulsion include costs of accommodation and food, transportation costs and other necessary financial expenses. There are exceptions to this payment requirement. For instance, in the case of illegal or undocumented employment of a person, the costs are paid by the employer or intermediary, as well as the person who committed themselves to do so in an invitation certified by the Police, or a carrier who brought a foreign national who does not have the necessary travel document or visa, among others, into the country. Unless settled by the above persons, the costs associated with administrative expulsion are borne by the Police or the Ministry until their settlement. An institute for cost recovery exists, to various extent and under various conditions, in almost every EU Member State. The detention of foreign nationals is associated with considerable costs. Therefore, the Government does not consider the recovery of costs of foreigners staying in the Czech Republic irregularly to be unreasonable or inappropriate.

In reference to Paragraph 30

Pursuant to Section 134 (3) of the Law on the Residence of Foreigners, a person may be denied outdoor exercise if there are serious grounds which must be specified in a report. Such a measure is only taken in exceptional cases. These include situations where a foreign national subjected to the strict regime attacks the personnel and police officers, is aggressive, harms themselves, fails to observe the outdoor exercise schedule, etc. In the last two years, only two persons were denied outdoor exercise in accordance with the above legal restriction. This measure is, therefore, applied very rarely, and almost all foreign nationals enjoy their right to outdoor exercise without restriction.

In reference to Paragraph 31

Foreign nationals subjected to the strict regime will be provided with daily contact with a social worker in the establishment.

In reference to Paragraphs 32 and 33

According to the Law on the Residence of Foreigners, unaccompanied minors aged 15-18 may only be detained on grounds of national security or a serious breach of public order. Therefore, there have practically been no cases of the detention of minors. If a decision is made on the detention of an unaccompanied minor, it is necessary to immediately designate a guardian for the entire duration of the proceedings and the detention. Unaccompanied children are placed in special school establishments. Children may not be detained in a detention centre for more than 90 days; no prolongation is permitted. This applies to unaccompanied children and families with minors.

In 2015, the Government approved an amendment to Act No. 325/1999 Coll., on Asylum, the Law on the Residence of Foreigners, and other related acts. This amendment includes a certain specification regarding the detention of a minor aged between 15 and 18 years, who can only be detained on the two serious above-mentioned grounds and only when it is in the minor's own interest in accordance with the Convention on the Rights of the Child.

Pursuant to the Law on the Residence of Foreigners, children under 15 years of age may not be detained in any case. If an accompanied minor is placed in a detention centre, it is only to avoid separation of the child from their parent(s). The Law on the Residence of Foreigners contains several provisions regulating the detention of children and ensuring higher standard than in the case of adults. Detention centres are equipped for children's needs to offer them education and leisure activities such as sports, culture, etc. Parents may place their children into a children's centre during the daytime. The children's centre is a room or a set of rooms located within the establishment and equipped with toys, books, tools and material for drawing and writing, mats, play rugs, etc. Children aged between 3 and 17 years can use the centre to play, develop their skills and abilities under the supervision of trained staff. The children's centre is designated for preschool children – to develop their personality (intellect, team skills, writing and reading skills...) and school children – who can use a PC, books and other tools necessary for studying, doing their homework, and also relaxing. Children under 15 years of age go to primary school. The workshop is equipped with art and craft supplies for children to use in their free time. They can learn the basics of various art techniques and other expressive techniques under the supervision of an educator. Tutors and educators organise various trips and events for children (tours, exhibitions, bicycle rides, children's festivals). Detention centres for migrants include outdoor playgrounds and jungle gyms. Children are given five meals and snacks per day.

In reference to Paragraphs 34 and 36

The above shortcomings have been remedied by providing 24/7 healthcare. Interpretation is provided in accordance with applicable national legislation with respect to quality and medical confidentiality.

In reference to Paragraph 37

All members of staff providing professional services (e.g. social workers) in detention centres for migrants are required to speak at least one world language (English, French, Russian). The ability to work with foreign nationals with diverse cultural backgrounds is supported by regular educational activities. In respect to the multi-language environment, interpreting services are widely used.

In reference to Paragraph 38

The use of pepper spray is subject to established rules, including the provision of first aid to exposed persons. Pepper spray may only be used in exceptional situations; in practice the use of pepper is virtually absent. The said rules apply to all persons working in detention centres, i.e.

employees of the Refugee Facilities Administration, Foreign Police, as well as private security staff.

In reference to Paragraphs 40 and 41

The head of the detention centre working closely with the police on the approval of visits refers to the provision of Section 144 (1) of the Law on the Residence of Foreigners, which enables them to allow a foreign national to receive visits for a longer period, more often than twice per week, or to receive more than four persons at a time. The visiting room in the detention centre for migrants will be adjusted so that the partition system will be removed and a play area for children will be provided.

In reference to Paragraph 42

The use of electronic communication devices is regulated by Section 136 (3)c) of the Law on the Residence of Foreigners. The grounds for this measure are mainly safety related. The centre is provided with a payphone. There is currently a discussion on the possibility of providing Internet services for detainees subject to certain conditions (e.g. blocking certain websites).

C. Prisons

In reference to Paragraph 45

The Prison Service of the Czech Republic is now taking measures to prevent the overcrowding of prisons and remand prisons. The Prison Service of the Czech Republic has been renewing the capacities of various departments in prisons and remand prisons which had been decreased after the Presidential amnesty. The facilities to be opened are Heřmanice Prison – Vyšní Lhoty, Břeclav Prison – Poštorná. The currently operational facility is Prague Ruzyně Remand Prison – Velké Přílepy. The possible reopening of the prison in Drahonice is currently being discussed. Furthermore, in respect to current needs, changes are made to the profiling of individual prisons and remand prisons in order to utilise capacities evenly. Measures against prison overcrowding will be included in the new Prison System Concept by 2025.

In reference to Paragraph 46

Prison officers and custodial staff are repeatedly instructed that any type of ill-treatment of inmates is illegal and will be punished. Investigations of illegal conduct by prison officers are newly carried out by an independent body of the General Inspection of Security Forces.

In reference to Paragraph 47

The Prison Service sees inter-prisoner violence as a serious issue and therefore has taken a number of measures to combat this phenomenon. Inspections are carried out in prisons and remand prisons to ensure that they comply with the Regulation of the Prison Service Director No. 12/2012, on preclusion, prevention and early detection of violence among the remand prisoners, prisoners and inmates. Under the regulation, prisons and remand prisons have multiple tasks to not only detect but also to prevent inter-prisoner violence. The issue is regularly assessed for the management of the Prison Service and measures are taken accordingly. In addition, every prison has its own control mechanisms regarding prevention and early detection of violence.

In reference to Paragraph 52

Given the fact that the investigation of the given cases by the General Inspection of Security Forces is still in progress, information on the outcome of the proceedings and disciplinary sanctions is not as yet available. Once the judicial decision is made, the CPT will be informed of the outcome. Ongoing personnel and control measures are taken.

In reference to Paragraph 53

Shutters installed on cell windows have their security purpose. These preventive and safety means are installed only with the consent of the competent authorities. The intensity of natural light is measured. In fact, at Valdice Prison, after the installation of shutters the intensity of natural light was slightly increased by several lux thanks to the reflection of the luminous flux from the bevelled edges.

Plastic curtains partitioning the sanitary facilities from the rest of a cell will be gradually replaced with another type of suitable partition depending on available funds.

In reference to Paragraph 54

In this matter, the CPT's recommendation has been satisfied. Under the amendment to Decree No. 345/1999, providing for the rules of serving a prison sentence, which came into effect on 1 March 2015, prisoners are allowed to take a shower at least twice a week. Where the job position of a prisoner or other circumstances warrant, the prisoner may take a shower more frequently. This also applies to the remand prisoners. At Valdice Prison, the distribution of hot water to every cell or bedroom will be implemented by the management as part of the prison reconstruction.

In reference to Paragraph 55

The transparent procedure of placing prisoners in inmate custody levels is currently set out in Section 39 of Decree No. 345/1999 Coll., providing for the rules of serving a prison sentence. Sentenced prisoners are placed in one of the three inmate custody levels depending on the fulfilment of their sentence plan. The placement of a prisoner to an inmate custody level is decided by the prison director or deputy director based on the recommendations given by employees – specialists. In addition, a sentenced prisoner may be assigned to a prison with a lower security level for good behaviour. The assignment of a prisoner to a prison with a different security level is subject to court decision based on a proposal by the prison director.

Furthermore, a discussion is taking place regarding the draft amendment to Act No. 169/1999 Coll., on the execution of the sentence of imprisonment and amending certain related acts ("Act on Imprisonment"), which will change the inmate custody levels and prison security levels, as well as subsequent rules for the placement of prisoners in different custody levels. The new classification of prison security levels in the said draft amendment will reduce the current four prison types to two: minimum security prisons and high security prisons. Minimum security prisons will be further divided into three classification levels: minimum, medium, and close security. The assignment of prisoners to a particular classification level within a minimum security prison will be decided by the prison director. Prisoners may lodge an appeal against the decision within three days from the date of notification of the decision. The appeal will be decided by the Director General of the Prison Service or by an employee of the Prison Service delegated by the former. A response to the appeal will be made by the advisory committee. The prison director may comply with the appeal at his discretion based on the consent of the advisory committee. Based on the above, the amendment of inmate custody levels will also be amended in secondary legislation.

In reference to Paragraph 57

Based on the assignment of the Ministry of Justice in relation to the improvement of imprisonment conditions of May 2013, the Prison Service of the Czech Republic have adopted a series of measures to, *inter alia*, eliminate the time prisoners spend in cells. However, given the nature of the remand, which is decided by the court, the Prison Service is obliged to perform measures in relation to the remand prisoners without frustrating the purpose of remand and the

conduct of criminal proceedings. Activities for remand prisoners are mainly focused on leisure activities. The Prison Service will continue to improve the conditions of remand prisoners with respect to available funds.

As for the situation at Litoměřice Remand Prison, we would like to point out that since 2014 it provides remand prisoners with 16 kinds of out-of-cell activities (preventive and educatory activities, educational activities and sports activities). In 2014, prison staff carried out 11,040 out-of-cell activities with the participation of 755 remand prisoners; 1,784 remand prisoners refused to participate in the activities, also repeatedly. For comparison, in 2013 there were 7,671 out-of-cell activities in the same personnel composition as in 2014.

In reference to Paragraph 58

Unfortunately, the enlargement of the outdoor exercise yards at Litoměřice Remand Prison is not feasible due to its architecture. The existing exercise yards would have to be rebuilt completely. Such reconstruction would require an investment of about CZK 20 million. However, the options of remand prisoners to spend their leisure time meaningfully are subject to long-term interests. As part of the implementation of the tasks assigned by the Ministry of Justice in 2013, the facilities for out-of-cell activities in remand prisons were enlarged to allow remand prisoners to spend at least three hours per day outside their cells not including the duration of outdoor exercise, visits, shopping, etc.

In reference to Paragraph 60

As part of the treatment of remand juveniles, the Prison Service makes a number of steps and measures because it is aware that prisonisation must be eliminated. The Prison Service provides remand juveniles with activities in the scope available at a particular prison. The issue will continue to receive considerable attention by the Prison Service.

At the time of the visit, no juvenile remand prisoner was held at Litoměřice Remand Prison; only one sentenced juvenile was held in the establishment who had been convicted as a juvenile. Prague – Pankrác Remand Prison was accommodating only one juvenile remand prisoner, who was sharing a cell with a young adult. This was, however, an exceptional situation where the juvenile prisoner explicitly requested to share the cell with another person. Otherwise, it is not common practice.

In reference to Paragraph 62

Following the legislative changes effective from 1 January 2014, when the rule of segregating life-sentenced prisoners was revoked, the Prison Service is developing a special educational plan in the light of the integration of life-sentenced prisoners into prison society. This issue was discussed with prisons for life-sentenced prisoners in April 2014, where specialised and methodical procedures were agreed on in relation to the integration of life-sentenced prisoners.

In reference to Paragraph 63

The CPT's recommendation resulting from previous visits to the Czech Republic was satisfied at the time of the last visit in April 2014. The amendment to the Act on Imprisonment, which came into effect on 1 January 2014, introduced a new regime of integrating life-sentenced prisoners. Pursuant to Section 72a, a life-sentenced prisoner may be placed in a unit with high structural and technical security for a maximum of 90 days. If no grounds for the placement are found within the said period, the prisoner is removed from the unit. If, however, there are grounds for the placement found within the period, the prisoner is held in the unit (also repeatedly) for a maximum of an additional 180 days. A life-sentenced prisoner placed in a unit with high structural and technical security may ask the prison director to be discharged from the unit if

they believe that the grounds for the placement have not arisen or ceased to exist. The decision on such request must be made in writing and delivered to the prisoner. The prisoner may lodge an appeal against the decision within 3 days from receipt. The appeal does not have a suspensive effect. The appeal is decided by the Director General of the Prison Service or by an employee of the Prison Service delegated by the former. If the request is rejected, the prisoner may file a new request after three months from the effect of the decision.

The gradual integration of life-sentenced prisoners into the prison population is also evidenced by the fact that 17 out of the 50 life-sentenced prisoners are placed in ordinary imprisonment units.

In reference to Paragraph 64

With regard to the situation at Valdice Prison, we would like to point out that the establishment currently accommodates 25 life-sentenced prisoners, of whom 22 are placed in units with high structural and technical security. None of the life-sentenced prisoners is handcuffed when escorted outside the unit. Prison officer escort with a service dog has been replaced by monitoring the escorted prisoner from a distance of about 20-30 metres. The practice of handcuffing other prisoners within the confines of the unit or outside the unit is restricted to only six prisoners and approached in an individual manner; in all cases the practice is due to the previous physical assault of inmates or prison staff. The Prison Service will ensure the controlled use of handcuffs. Handcuffing prisoners while escorted within the confines of a guarded part of the prison will be assessed individually in relation to each specific prisoner.

In reference to Paragraph 65

In accordance with the Regulation of the Director General of the Prison Service of the Czech Republic No. 66/2013, in the event that the official capacity of a unit with high structural and technical security is not fully utilised due to the current number of prisoners, the capacity may be used to accommodate other prisoners assigned to the same type of prison. The prison resorted to the measure in order to comply with the required size of accommodation space (in square metres) per prisoner. However, if a prisoner assigned to the standard imprisonment regime or a specialised unit is accommodated in a unit with high structural and technical security, their regime naturally corresponds to the regime of the unit to which they would normally be assigned. To fully respect the rights of prisoners who were placed in the said unit, the Prison Service inspects and will continue to inspect whether the standard conditions for their imprisonment are complied with.

In reference to Paragraph 67

The Government seeks to satisfy CPT's recommendations to the maximum extent possible while ensuring the safety of persons placed in units with high structural and technical security and the safety of prison staff. The engagement of prisoners in purposeful activities is also encouraged by the amendment to the Act described under the reference to Paragraph 63 above. As a result of the amendment, a prisoner who is no longer considered dangerous to others may be transferred from the high-security unit to an ordinary unit where a bigger range of purposeful activities are provided.

In reference to Paragraph 68

The procedures for the placement or removal of a prisoner in/from the high-security unit are specified in Section 72a of the Act on Imprisonment. The maximum period of validity of a placement decision may be reduced by the prison director. The prisoner is given the decision and may appeal against it. The appeal is decided by the Director General or an employee delegated

by the former. This issue is monitored by the Directorate General of the Prison Service of the Czech Republic and reasonable measures are taken since it must be acknowledged that the reasons given in decisions used to be formal in some cases. Therefore, the issue will remain to be monitored and based on its evaluation an amendment to the Regulation of the Director General of the Prison Service of the Czech Republic No. 66/2013 will be proposed practically developing Section 72a.

In reference to Paragraph 69

In the Czech Republic, the responsibility for healthcare lies with the Ministry of Justice. In accordance with Section 2 (1)l) of Act No. 555/1992 Coll., on the Prison Service and judicial guard of the Czech Republic, the obligation to provide or ensure healthcare services lies with the Prison Service, which is subordinated to the Ministry of Justice of the Czech Republic under Act No. 2/1969 Coll., on establishments of ministries and other central government bodies of the Czech Republic. The transfer of responsibility for prison health care to the Ministry of Health is not currently planned.

In reference to Paragraph 70

Prisoners who are Czech citizens or citizens of other EU member state participate in public health insurance. Under Act No. 48/1997 Coll., on public health insurance, medical services provided are funded by the public health insurance. Detained or sentenced prisoners who are from other than EU member states are provided emergency medical care for the period of their detention or imprisonment on the territory. Medical treatment of the said prisoners is paid by the Prison Service of the Czech Republic.

In common practice, the question whether a prisoner has money for medical treatment applies only to cases where such medical service requires a fee or surcharge and, at the same time, is other than emergency care. In the case of emergency care (chronic medication for epilepsy, diabetes mellitus, high blood pressure, heart disease, mental illness, etc.), the lack of funds does not prevent the provision of medical treatment, since fees or surcharges are paid by the Prison Service and any outstanding payment becomes a receivable against the prisoner. At the same time, a so-called medical account is opened for the needs of every prisoner. All funds deposited into the account, including those sent from outside, are intended exclusively for the payment of medical services.

Apart from the fee of CZK 90 for after hours healthcare or dental emergency, all other regulatory fees have been abolished with effect from 1 January 2015.

In reference to Paragraphs 72 and 73

The difficulties in recruiting healthcare professionals to work in prisons is closely related to the lack of doctors especially in outpatient healthcare in the Czech Republic. The Prison Service is aware of the issue, addresses it systematically, and seeks motivating elements. The most recent change was made in 2014 as part of the amendment to Government Decree No. 564/2006, on salaries of employees in public services and administration, when the salaries of prison doctors increased. However, the Prison Service will continue to strive to fill the vacant posts of prison medical staff and to create new posts for medical staff present at night and during weekends.

In reference to Paragraph 74

The Prison Service is generally authorised to only provide outpatient healthcare services. 24/7 care is only provided in inpatient infirmaries, i.e. at Prague – Pankrác Remand Prison and Brno Remand Prison and Security Detention Facility. This is due to the personnel and financial capacities of the Prison Service. Outside the office hours of prison doctors, acute healthcare

services are provided in cooperation with external providers by using the system of healthcare services provided for all people in the Czech Republic. The recruitment of additional prison healthcare staff will take place according to the financial capacities of the Prison Service. Employees of the Prison Service are trained to provide first aid on recruitment and during annual OHS training. The same training is provided to prison staff.

In reference to Paragraph 75

Litoměřice Remand Prison has four inpatient cells, one of which is wheelchair accessible. These cells in no way replace hospital rooms designed for prisoners. The cells are equipped in accordance with Section 9 of the Act No. 293/1993 Coll., on execution of remand (“Remand Act”). Litoměřice Remand Prison also fulfils tasks assigned by the Ministry of Justice regarding the improvement of conditions for remand prisoners. The tasks include improving cells from an aesthetic aspect and providing new furniture. The deficiencies in hospital rooms have been remedied.

In reference to Paragraph 76

Informing a patient on the results of their medical screening is an integral part of healthcare services. Following the CPT's recommendation, the Directorate General of the Prison Service will, as part of its methodological and control activities, will put more emphasis on the provision of consistent information, including information on the results of screening health examinations or examination of a medical and legal nature. Prisoners have the right to express their disapproval of medical screening.

In reference to Paragraph 77

The Czech Republic recognises the importance of the CPT's recommendation on the prevention of ill-treatment, to which the doctor examining the detained person can contribute significantly. In accordance with the CPT's recommendation, a legislative change will be initiated imposing an obligation on doctors to report any suspected ill-treatment of persons deprived of their liberty regardless of the wishes of the patient concerned. Therefore, the doctor will be obliged to report any suspected ill-treatment to the competent inspection authorities, i.e. in the case of a prison, to the Prison Service, public prosecutor, or General Inspection of Security Forces.

In reference to Paragraph 78

The presence of a member of the Prison Service during medical examinations of prisoners is regulated by Section 46 (1)g) of the Health Services Act. Healthcare services provided to persons in custody, imprisonment or security detention are provided in the presence of a prison officer within sight and out of earshot, except in cases of threat to life, health or safety of the medical professional concerned or other specialist or threat to property, in which case the prison officer is entitled to be within earshot during medical examinations.

The Prison Service considers the issue of provision of healthcare services, with respect to the patient's privacy and medical confidentiality, as very serious. However, there are two key aspects to be considered with regard to the provision of healthcare services:

- 1) Prison healthcare facilities;
- 2) Out-of-prison healthcare facilities, i.e. outside the guarded area where prisoners are escorted by an armed escort.

From this perspective, security during the provision of healthcare services is carried out as follows:

- During healthcare services provided in prison healthcare facilities, a prison officer will be within sight only at the request of the doctor concerned, and by no means within earshot. Efforts will be made to ensure that prison doctors' offices are installed with surveillance cameras which will transmit images (but no sound) to a miniature screen in the adjacent

room for monitoring by a prison officer. For this purpose, technology will be purchased in the second half of 2015 so that all offices of prison healthcare facilities are installed with a surveillance camera which will transmit images from the infirmary. Prison officers will not be within earshot or within sight. They will be outside of the doctor's office monitoring images transmitted by the surveillance camera in an image resolution displaying only the silhouettes of figures (without details), so that in the case of an assault of the doctor concerned or other misconduct of the prisoner, the prison officer will be able to take immediate action. All prisons (or prison doctors) will also be informed (advised) of the option to examine patients out of sight of a prison officer (while the camera is turned off).

- In out-of-prison healthcare facilities, with regard to the required level of security provided by escorts, an escort is present in the doctor's office within sight for security reasons but out of earshot, while respecting the medical confidentiality and the confidentiality of the doctor-patient relationship.
- If requested by the doctor concerned or if the life, health or safety of a medical professional or other specialist, or property, are under threat, medical examinations can be conducted within the sight and earshot of an escort provided it is in accordance with the law. However, each particular situation must be assessed.
- The Prison Service of the Czech Republic has taken steps to ensure that medical examinations of prisoners conducted in prison healthcare facilities are conducted out of earshot and, unless requested otherwise by the doctor concerned, out of the sight of prison officers. The presence of a prison officer of the same sex during a medical examination is imposed by Section 4 (1) of Decree No. 345/1999, providing for the rules of serving a prison sentence. If a prison officer of the opposite sex is present during a medical examination, personnel measures will be taken regarding the prison officer concerned.

In reference to Paragraph 79

The supply of medication is governed by the Regulation of the Minister of Justice No. 4/2008, on providing healthcare to people in custody and imprisonment, and by Methodological Document of the Medical Services Director No. 8/2009, establishing Healthcare Provision Standards No. 33 "ADMINISTRATION OF MEDICATION PER OS IN HOSPITALS". In urgent cases, it is a common practice to administer medication immediately, either from a 24/7 pharmacy or during an immediate collection of a prescription medication from a pharmacy. Prescription medication that need not be administered urgently, is usually supplied to prisons within one week. Steps will be taken to change the system of supply to ensure that non-urgent medications are supplied to patients as soon as possible.

In reference to Paragraph 80

The Prison Service has been continuously tackling the issue. However, since required in a wide spectrum of languages and practically on a continuous basis, interpreting cannot be provided by a single agency nationwide. Therefore, extra funds were allocated to prisons to be used for interpreting services. Nevertheless, the issue has not been completely resolved and we continue to search for a systemic solution.

In reference to Paragraph 81

There is a dedicated exercise yard for patients held in the hospital. Some patients, however, are unable to use it due to their poor medical condition, which does not allow them free movement. Under the control mechanism, it will be subsequently inspected whether patients held in the prison hospital are offered outdoor exercise if so permitted by their doctor. The improvement of

material conditions of the exercise yard will be performed depending on the funds available to Prague – Pankrác Remand Prison.

In reference to Paragraph 82

The procedure in the case of a pregnant prisoner or remand prisoner is regulated by law and implementing regulations. If the medical condition of the mother and her child permits, the child may be placed with the mother in the prison under the conditions stipulated by law. On the other hand, if the child's medical condition requires inpatient treatment, it must be provided in an out-of-prison healthcare facility, as such treatment may not be provided by the Prison Service.

As regards the specific case, we would like to mention that the relevant legislation was complied with and the female remand prisoner was released from custody on 2 April 2014 by a court decision, and therefore can care for her child at liberty.

In reference to Paragraph 83

The issue of staffing the prison is associated with a number of factors affecting the recruitment of new staff. Above all, it is necessary to meet all requirements for the service or employment and to fill the labour market in the location of the prison. For job-seekers, a significant factor in deciding whether to take on employment in the Prison Service is financial remuneration. The recruitment of new staff is also dependant on the funds allocated to the Prison Service. Valdice Prison makes every effort to fill the vacant posts.

In reference to Paragraph 84

Communication skills of prison staff are taught as part of both the essential specialised training provided to prison staff and further education organised by the Prison Service Academy. The Prison Service focuses on communication skills owing to prison staff turnover. Since January 2015, as part of its control and methodological activities, the Directorate General of the Prison Service of the Czech Republic analyses all activities of educators, and takes adequate measures based on the evaluation of the analysis.

In reference to Paragraph 86

Pursuant to Section 11 (1) of the Act on Prison Service and judicial guard of the Czech Republic, a member of the Prison Service of the Czech Republic is authorised to subject an inmate in security detention, remand prisoner and prisoner to a frisk search, intimate person search, inspect their personal belongings, take their fingerprints, and make image recordings, or to order the prisoner to undergo a medical examination. The cases where a strip-search is performed are defined in the relevant provisions of the Regulation of the Director General of the Prison Service of the Czech Republic No. 23/2014, on the Prison Service and judicial guard, as amended.

In 2013, there was a significant limitation made to the practice of collective strip-searches of prisoners. So-called general searches were discontinued and, under the newly applicable legislation, are now performed by the decision of the Director of the Department of Prison Service and Judicial Guard, and only in justified cases at the discretion of the prison director. In accordance with the new wording, an individual search, which involves a strip-search, is performed once every three months. Additionally, a strip-search performed as part of an individual search is performed with the scope specified by the prison directors with regard to the number of prisoners present in the area of the search. A technical inspection, which involves a strip-search, is carried out in remand units, disciplinary punishment units, and high-security units at least once a week, including once during a calendar month on a weekend or public holiday. Upon the entry or arrival of prisoners from a workplace located outside the prison or within the prison, at least 10% of the inmate work crew, however not less than 4 inmates, are subjected to a

strip-search. With regard to escorts performed through the collection centre and auxiliary centres, the commander of the escort in cooperation with the officer responsible for the performance of services in the collection centre or auxiliary centre, shall ensure the performance of a strip-search of 5% (randomly selected) of the escorted prisoners, but not less than four escorted prisoners.

The Prison Service will initiate a change in Regulation of the Director General so that a strip-search is performed only where there is a serious suspicion that a prisoner is hiding prohibited substances or objects on or in their body. Furthermore, the legitimate objective will be taken into account, i.e. the objective cannot be achieved by any other measure that would be less invasive. Every reasonable effort must be made to maintain the dignity of a prisoner subjected to a strip-search and to make sure that the prisoner is not affected by the search more than necessary. According to an internal regulation, the conditions and the manner in which a strip-search involving an inspection of an exposed body while maintaining human dignity, and the purpose of each searching activity, will be distinguished from searches where there is no reason to inspect an exposed body and which will be sufficient in many cases.

In reference to Paragraph 87

In accordance with the Regulation of the Director General No. 23/2014, when a prisoner is escorted to an out-of-prison healthcare facility, prisoner is handcuffed with a restrained belt, unless in justified cases decided otherwise by the unit supervisor. The decision of the unit supervisor may not be made without the binding opinion of the doctor concerned on the use of means of coercion.

With regard to the use of means of coercion during medical examinations or consultations, it must be noted that when escorting a prisoner, it is necessary to comply with the regime measures specified by the doctor concerned. Although not regulated by the Regulation of the Director General No. 23/2014, the regime measures apply, *inter alia*, to the use of means of coercion during medical examinations.

A more individual approach to the use of handcuffs with respect to risk assessment of a prisoner escorted to a medical examination will be enabled by the proposed change in the classification of prisons described in Paragraph 55 above. With inmate custody levels, different means of coercion will be used in each of the three groups of prisoners placed in various units in a minimum security prison.

In reference to Paragraph 88

The Prison Service of the Czech Republic will assess the need for handcuffing prisoners while escorted within the confines of a guarded part of the prison individually and will ensure controlled use of handcuffs in accordance with the CPT's recommendation.

In reference to Paragraph 89

In accordance with Section 11 of the Regulation of the Director General of the Prison Service No. 23/2014, on the prison and judicial guard, service dogs are deployed in the following cases:

- a) to provide the safety of prison staff and/or other persons;
- b) to be used as a means of coercion;
- c) to chase escaped prisoners;
- d) to provide safety during the escort of prisoners;
- e) as part of extraordinary security measures to provide safety;
- f) to detect prohibited substances and objects.

Within the confines of prisons, service dogs are primarily used to detect drugs and are thus trained accordingly. Special service dogs (sniffer dogs) are not trained to be used as general service dogs or guard dogs, so they may not be used as a means of coercion. The use of guard dogs and general service dogs during the daytime is exceptional and depends on the type of prison. It helps to maintain peace and order in a precautionary manner. If a service dog is meant to have an intimidating appearance, it is necessary that its dog handler encourages the dog to appear that way; such practice is not deliberately applied. If a service dog is used for patrol activities or during an outdoor assembly of a large number of prisoners, especially in a high-security prison without enough prison officers present, it is considered a preventive safety measure.

In 2015, a comprehensive analysis of the use of service cynology, including the systematisation of the number of service dogs with regard, *inter alia*, to the type and the architectural layout of each prison, will be performed. Based on the results, a new system for the use of service cynology will be proposed to harmonise the service of dog handlers and the use of service dogs, and to correspond to the actual needs for the provision of an adequate level of safety.

In reference to Paragraph 90

Pursuant to Section 17 of the Act on Prison Service and judicial guard of the Czech Republic, in the performance of their duties, prison officers are authorised to use a means of coercion (if necessary to maintain peace and order) against anyone who poses a threat to life or health, or who wilfully damages property or who uses violence in an attempt to thwart the purpose of security detention, custody or imprisonment, or who disturbs order or security on the premises of the Prison Service or in prison or in court buildings and other court places or in prosecutor buildings or ministry buildings, or in establishments providing out-of-prison healthcare services or near guarded units.

According to available statistics from 2014, straps were used in a total of 16 cases across the prison system, of which 9 cases occurred at Valdice Prison.

Section 23 (6) of the amendment to Decree No. 345/1999 Coll., providing for the rules of serving a prison sentence, which become effective on 1 March 2015, explicitly provides that a sentenced prisoner who poses a threat to themselves or others due to their mental state may be placed in a special cell, which is part of the emergency unit, for the duration necessary provided it is recommended by a doctor. The measure aims to ensure that the restriction, or the use of mechanical restraints, is not detrimental to health and that the necessary medical care is provided in a timely manner and to the extent needed. Pursuant to Section 39 (3)d) of the Health Services Act, the use of mechanical restraints must be indicated by a doctor. In exceptional cases requiring urgent attention, the use of mechanical restraints may be indicated by a healthcare professional other than a doctor. The doctor must be immediately informed of such use of mechanical restraints and must confirm the rationale behind the measure. The CPT's recommendation to this extent is therefore fulfilled.

In reference to Paragraph 91

To ensure that a prison officer may use any of the means of coercion listed in the Act on the Prison Service and judicial guard of the Czech Republic, in accordance with the law, the prison officer must have permanent access to them. Collapsible truncheons, which replaced the original rubber truncheons, are carried in special cases and due to their small size when collapsed do not provide intimidation, albeit that they are carried attached to the belt. Nevertheless, the CPT's recommendation will be satisfied and steps will be taken to ensure that prison officers are no

longer systematically equipped with truncheons depending on the type of prison where they work. Where the use of truncheons is not prescribed, truncheons will be stored in a place accessible to prison officers (office) and thus kept out of the sight of prisoners.

With regard to handcuffs carried by prison officers, the Prison Service is of the opinion that this type of means of coercion does not provide intimidation. Consideration could be given to a new practice: handcuffs could be removed from the existing half-open cases and placed in closed pockets attached to the belt.

In reference to Paragraph 92

Similarly as in the preceding paragraph concerning truncheons and handcuffs, tear gas, electric or other similar temporarily paralysing agents belong to the means of coercion listed in the Act on the Prison Service and judicial guard of the Czech Republic, which may be used by prison officers in the performance of their tasks. Despite the potentially harmful effects of substances contained in tear gas, the Prison Service believes that in terms of its use, tear gas is more humane and less dangerous in respect to potential harm to the health of the person against whom it is used. Given that the Prison Service restricts the equipment of truncheons, it is appropriate to mention the fact that prison officers often move around in areas where dozens of prisoners roam freely, and tear gas may be the only available means of defence in the case of assault. However, despite the above arguments, legislative changes regarding the means of coercion will be initiated, and systemic and regulatory measures regarding the use of tear gas will be adopted.

In reference to Paragraph 93

The legislation currently regulates the right of remand prisoners and sentenced prisoners to file a petition to the Administrative Court for the review of the decision on disciplinary sanctions of forfeiture, cellular confinement outside the individual treatment plan, all-day disciplinary confinement or solitary confinement, and freezing of property.

The Government acknowledges that the legal provision regarding disciplinary sanctions should be revised. However, it should be noted that disciplinary sanctions of cellular confinement outside the individual treatment plan, all-day disciplinary confinement or solitary confinement, are only imposed for a serious breach of prisoner obligations. It includes but is not limited to the possession of prohibited items which by their nature could pose a serious threat to the security of the prison, the possession and use of narcotics and psychotropic substances, and violence in relation to prisoners or prison staff. It is appropriate to consider whether these disciplinary sanctions in relation to the above contraventions are motivational and deterrent in nature, and whether these contraventions should be brought to the criminal proceedings. Therefore, a legislative change will be initiated to regulate the process of disciplinary proceedings by the Act on Imprisonment, to reduce the duration of cellular confinement and solitary confinement, and to bring the most severe disciplinary offences to criminal proceedings.

In reference to Paragraph 94

The method of performing disciplinary sanctions will be part of the proposed legislative change, which will involve adjustment of disciplinary proceedings concerning the types of sentences and responsibility for disciplinary offences. Severe disciplinary offences will be subject to criminal law. Disciplinary proceedings will be newly amended so that the entire disciplinary procedure is regulated by the Remand Act or the Act on Imprisonment.

In reference to Paragraph 95

As part of its methodological and inspection activities, the Directorate General of the Prison Service inspects whether the sentenced prisoners who were subjected to cellular confinement in a

disciplinary cell are escorted to participate in out-of-cell activities. The Prison Service has adopted systemic measures regarding this issue.

In response to the situation at Valdice Prison, it can be noted that it was an exceptional situation where the sentenced prisoner subjected to the said disciplinary sanction was not included in the work programme and was assigned to the minimum treatment plan, which was only assigned to him in the case that he did not choose or refused to choose, e.g., special educational activities. Therefore, the prisoner spent most of the time in cellular confinement.

In reference to Paragraph 96

This recommendation has been satisfied. The obligation of employees of the Prison Service to provide a copy of decisions on disciplinary sanctions arises from the Regulation of the Director General of the Prison Service No. 36/2014, on disciplinary procedures for remand prisoners, sentenced prisoners and inmates, which came into effect on 1 October 2014.

In reference to Paragraph 97

The position of healthcare staff providing healthcare services is an independent one. Healthcare staff are not only bound by an oath and by the code of medical ethics, but also by the quality of services provided. The same approach applies to medical-legal procedures. A medical examination in order to assess whether a prisoner is fit to undergo disciplinary confinement may not, provided it is conducted with due professional care, lead to a loss of trust between the patient and the doctor, since the purpose of a medical examination is to protect the health of the prisoner that could otherwise be compromised as a result of the disciplinary sanction. In other words, such medical examination is of a preventive nature, and the level of efficiency of prevention is largely dependent on the understanding of the health status and its history. A doctor who sees a patient for the first time does not have sufficient information to be able to make a full assessment of the patient's health status and thus may not anticipate possible negative consequences of the punishment. Therefore, the Government expresses disagreement with the CPT's recommendation.

Rule 43.2 of the European Prison Rules will be incorporated in the amendment to the Regulation of Director General of the Prison Service No. 36/2014, on disciplinary procedures for remand prisoners, sentenced prisoners and inmates.

In reference to Paragraph 98

The opinion on material conditions in remand prisons is given in Paragraph 75 above. As part of the improvement of conditions for remand prisoners, material conditions in disciplinary cells at Litoměřice Remand Prison will also be improved.

In reference to Paragraph 100

The extension of visit times and range of visitors that prisoners are allowed to receive will be incorporated in the subsequent amendment to the Remand Act and the Act on Imprisonment. However, remand prisoners and sentenced prisoners are already allowed to receive visits from persons other than next-of-kin. Moreover, remand prisons are also enabled to benefit from longer visit than the one guaranteed by law.

In reference to Paragraph 101

There are currently no suitable facilities at Litoměřice Remand Prison that would enable prisoners credited for "good behaviour" to receive visits without being monitored. The investment for the necessary reconstruction of the existing facilities will be in hundreds of thousand Czech crowns. However, the Prison Service will seek an optimal solution for such visits, not only at Litoměřice Remand Prison.

In reference to Paragraph 102

Regarding the situation at Litoměřice Remand Prison, it can be noted that there are 5 payphones available to prisoners. In 2014, a total of 2,883 telephone calls were made, of which 1,683 were made by remand prisoners and 1,245 by sentenced prisoners. Requests for telephone calls made by prisoners are processed on a continuous basis. Phone calls can usually be made the same day of placing a request or the following day. To be complete, it should be noted that the Prison Service has been preparing a systemic change regarding the selection of a new provider of telephone services. This change should be positively reflected in the higher number of payphones and thus an opportunity for more telephone calls.

In reference to Paragraph 103

The methods of inspection are regulated by the General Guidelines of the Supreme Public Prosecutor No. 10/2012, on inspection of compliance with legislation in areas of lawful restriction of personal liberty. The inspection is performed in the form of investigations carried out on the basis of an initiative or observation, or through personal visits of public prosecutors in prisons, usually once every two months, which are recorded in an inspection entry. The said General Guidelines specify areas that need to be inspected by the public prosecutor every time they visit a prison – whether remand prisoners, sentenced prisoners and other inmates are detained in accordance with the laws, and whether a particular establishment consistently procures documents and maintains files and other records. In the case of sentenced prisoners, it is also inspected whether they are placed in a prison category in accordance with the court decision. In the case of remand prisoners, it is inspected whether generally binding regulations and court orders or prosecutor orders regarding separate cellular placement are complied with. Other areas of the inspection are selected by public prosecutors depending on their knowledge of the situation in a particular establishment. Prisons are obliged to inform the public prosecutor if a remand prisoner or sentenced prisoner wishes to speak with the public prosecutor. Depending on the urgency of such request, the public prosecutor carries out such contact with the prisoner.

In former practice, prosecutors' inspection reports were kept in a particular prison for use by prison directors. Therefore, the CPT was able to see inspection reports during the previous visit. Since 2011, when this practice was abolished by the Supreme Public Prosecutor's Office, prison directors no longer have access to inspection records, and therefore CPT was only able to see public prosecutor orders, which are only issued if the public prosecutor finds a legislation violation and are thus more succinct than inspection records.

D. Security detention

In reference to Paragraphs 106 and 107

The Government is aware that the issue regarding the relation between a prison sentence and security detention requires a comprehensive solution. That said, the Government will initiate expert consultations regarding the issue with the aim to propose changes in legislation.

In reference to Paragraph 109

At Brno Remand Prison and Security Detention Facility, inspection activities are duly regulated and performed at all management levels. Prison officers and staff are and will be regularly trained and reminded to strictly comply with all legal standards and Prison Service instructions, including the matters mentioned by the CPT. The General Directorate of the Prison Service of the Czech Republic will continue to monitor the situation as part of its inspection and methodical activities, and respond to suggestions and complaints made by inmates regarding inappropriate treatment of inmates.

In reference to Paragraph 112

Given the nature of persons detained in the security detention facility, it is necessary to adjust the conditions regarding accommodation and operation so that the individual personality and therapeutic needs of inmates are met while their health is protected. The impact of the environment on the quality of therapeutic procedures is a matter of professional approach in the context of therapeutic and treatment programmes.

At Brno Remand Prison and Security Detention Facility, inmates are allowed to decorate their rooms by placing photographs or pictures on notice boards and shelves. In the second half of 2014, the rooms accommodating inmates were painted with colours. Inmates are only provided with spoons to eat their meals; this is to ensure the personal safety of both inmates and prison staff. By no means are inmates obliged to have their hair cut in the same style; they may style their hair as they wish.

In reference to Paragraph 113

At present, we can say that the inmate concerned is provided with maximum care by the staff who take permanent interest in his personality and attempt to activate and meet his basal needs, both non-pathological and health related. The development of his mental state continues to be monitored and therapeutically regulated by the staff with the aim to achieve positive changes. If achieved, there will be an immediate proposal to adjust the existing protective measure.

In reference to Paragraph 114

The Czech Republic states that healthcare provided to inmates is not a crucial issue of therapeutic programmes with regard to the personality traits of inmates. Generally, it covers outpatient healthcare which can be provided by the prison medical staff in the prison medical facilities. In the case of destabilisation of an inmate's state of health and insufficient capacities, inpatient care may be provided by out-of-prison providers. If the number of inmates significantly increases, the prison staff will take measures accordingly. At present, the capacity at Brno Security Detention Facility is less than 50% full, so there are some capacity reserves available.

In reference to Paragraph 115

The specialised staff make every possible effort to encourage inmates to participate in activities. In order to engage as many inmates as possible, two simultaneous activities take place to utilise the maximum capacity of the facility and staff to work with willing inmates. The work with inmates held at the Brno Security Detention Facility focuses on enlightenment, education and therapy. Moreover, there are activities involving relaxation and the development of inmates' interests. An entire team of specialised staff and members of the Prison Service assigned to the security detention facility is involved in the treatment regime provided to inmates. Based on the character of the current composition of inmates and the requirements for each activity, an individual or group – community approach is taken. The Prison Service will continue to develop the treatment regime.

In reference to Paragraph 116

To help inmates suffering from addiction to overcome current withdrawal symptoms, Brno Remand Prison and Security Detention Facility provides them with a special programme substituting activities that are part of the treatment regime. Thus far, however, all inmates who came to the security detention had already been detoxified during their sentence or protective treatment and thus there was no need to initiate the special programme. As part of their individual therapeutic sessions with a psychologist and a psychiatrist, inmates dependent on addictive substances are provided treatment focused on addiction. As part of "trivium"

educational activities, drug addicts and persons at risk of substance abuse are provided an education programme highlighting the dangers of addictive substances.

In reference to Paragraph 117

It should be borne in mind that the prescription of medication is not dependent on the status of the insured person but depends entirely on the quality of health and the treatment programme. If the inmate's health condition requires pharmacotherapy, which may only be applied in inpatient care, the inmate is placed in an inpatient facility. As soon as the reasons for inpatient care cease to exist, the inmate is prescribed medication that can be applied in outpatient care, while taking into account economical standards generally set by the Act on Public Health Insurance. At the same time it is not possible to interchange treatment programmes for persons who have been ordered protective treatment with treatment programmes for persons held in security detention.

In reference to Paragraph 121

See the response to Paragraph 78 above.

In reference to Paragraph 122

The Government believes that it is within the competence of the attending doctor to decide, based on the evaluation of the current state of health of an inmate and the purpose and objective of the medical examination, whether to conduct the examination through bars or not with regard to the security of the doctor and the inmate. It is important to acknowledge that the specifics of psychiatric and psychological examinations lie in the fact that their purpose is to detect and assess the extent of those personality traits, or negative effects of an illness, that the patient is not aware of or consciously resists. This is generally reflected in increased aggression. If the doctor does not expect such situation to occur, the examination will not be conducted through bars as direct contact with the patient is optimal for both. However, the Prison Service will make efforts to enable direct contact between the psychiatrist or psychologist and the inmate provided it poses no risk to their health or safety and, where possible, will endeavour to provide the psychiatrist or psychologist with protection by means other than bars.

In reference to Paragraph 123

The provision of healthcare services is mainly regulated by the Health Services Act and by Act No. 373/2011 Coll., on specific health services ("Act on Specific Health Services"). The said laws also regulate the procedure for obtaining consent with the services provided, including a written consent, and the procedure of their provision without patient's consent. Persons held in security detention have, in this respect, the same rights as other patients, including the right to express informed consent to medical treatment or to refuse the recommended treatment.

In reference to Paragraph 125

The use of means of restraint as part of the provision of healthcare services is expressly regulated by Section 39 and 40 of the Health Services Act. The said legislation does not provide for exemptions for persons held in security detention. The use of restraints is also based on Section 35 of the Security Detention Act and on the Regulation of the Director of Brno Remand Prison and Security Detention Facility No. 3/2013. The placement of an inmate in a seclusion room is decided by a doctor. This applies to the entire Brno Security Detention Facility and Prison Hospital.

With regard to the situation at Brno Remand Prison and Security Detention Facility, it can be noted that outside office hours there are always two doctors on 24/7 duty. In accordance with the cited law, the seclusion room is equipped with a surveillance camera. At least once every 24 hours, the inmate is checked by a doctor who decides on the frequency of checks to be conducted by a member of the health-care staff. As of 1 September 2014, Brno Remand Prison and Security

Detention Facility is provided with 24/7 access to medical care. In cases where a person placed in the seclusion room must be restrained, e.g. fixated by means of straps, they will be regularly checked by healthcare staff.

In reference to Paragraph 126

The use of chemical means of restraint is always recorded in the patient's medical records. As detailed in the response to Paragraph 90 above, in exceptional cases requiring urgent attention, the use of mechanical restraints may be indicated by a healthcare professional other than a doctor. The doctor must be immediately informed of such use of mechanical restraints and must confirm the rationale behind the measure. Steps will be taken to ensure that the said legislation is strictly complied with.

At present, the draft amendment to the Health Services Act, which will impose an obligation on healthcare providers to keep a central register of means of restraint, which will include summary information on the number of cases of the use of restraints per year for each type of restraint specifically, including chemical restraints.

In reference to Paragraph 128

As of 1 July 2014, Brno Remand Prison and Security Detention Facility is provided with a full-time social worker. As of 1 September 2014, the establishment is provided with 24/7 access to medical care.

In reference to Paragraph 130

Courses and training for custodial staff working in the security detention facility are organised duly and to a sufficient extent to cover the specified requirements. All custodial staff working in the security detention facility received a one-week training course at Bohnice Psychiatric Hospital. Furthermore, a multi-day visit to Stráž pod Ralskem Prison was made, where specialist staff members reviewed the work with persons with mental disabilities at a specialised unit, and several visits to Opava Prison and Security Detention Facility were made. An internship is currently planned at Brno – Černovice Psychiatric Hospital and Praha – Bohnice Psychiatric Hospital. Selected staff completed training courses such as Practical Didactics for Preparation of Educational Activities, Social and Psychological Training, and other courses at the Prison Service Academy of the Czech Republic. Staff working at Brno Remand Prison and Security Detention Facility receive regular internal training. Last, but not least, all staff receive regular supervision under the leadership of an external supervisor. There is also continuous training conducted regarding "treatment of the mentally ill". This issue will continue to be given appropriate attention. The Prison Service of the Czech Republic will continuously improve qualifications in training courses organised by accredited educational institutions.

In reference to Paragraph 131

See response to Paragraphs 91 and 92.

In reference to Paragraph 135

The need for a second expert opinion is at the discretion of the court. The court may request such opinion as it deems appropriate.

In reference to Paragraph 136

State administration authorities will carry out an inspection of the courts focused on the compliance with the time limits for court decisions on the prolongation of security detention and, where appropriate, take appropriate measures to remedy the errors found.

In reference to Paragraph 141

See response to Paragraph 102.

In reference to Paragraph 143

See response to Paragraph 86.

In reference to Paragraph 146

This issue is addressed in the context of specialised training for staff working at Brno Remand Prison and Security Detention Facility. In the case of a breach of confidentiality of correspondence, procedures will be taken in accordance with the law.

In reference to Paragraph 147

The public prosecutor made 36 inspections at Brno Security Detention Facility throughout the period from 27 February 2009 to 3 March 2015. The inspections primarily focused on the legality of the placement of inmates in the establishment, complaints made by inmates, the legality of the use of means of restraint, and the legality of disciplinary sanctions and disciplinary rewards. An opinion with photo-documentation of 10 September 2014 on an investigation carried out by the public prosecutor regarding a specific inmate held at Brno Security Detention Facility is attached. The investigation was initiated as a result of alleged shortcomings identified by the CPT between 2 April 2014 and 4 April 2014 during its visits to Brno Security Detention Centre. Errors found by the CPT, however, were not confirmed by the inspection carried out by the supervising public prosecutor. The outcome of the inspection and investigation did not create statutory conditions for the issue of an order to maintain legal regulations applicable to security detention in accordance with Section 40 (2)e) of the Security Detention Act.

E. Psychiatric establishments

In reference to Paragraph 149

The main objective of the reform of psychiatric care in the Czech Republic is to create community-based services providing health and social care to people with mental disorders as an alternative to institutional care in large psychiatric hospitals. As a result, a significant number of people with mental disorders will be treated in a domiciliary setting rather than in large institutions.

As its global goal, the strategy of the reform of psychiatric care aims to increase the quality of life of people with mental disorders. Preventive activities (primary, secondary and tertiary prevention) will significantly help to detect early signs of mental disorders. The systematic creation of a network for the community care pillar (so-called Mental Health Centres) will provide health and social interventions to people with mental disorders in a domiciliary setting through a multidisciplinary team. Other system activities include new and innovative types of care (in particular, expanded out-patient clinics, day care, etc.). Another component of the strategy is the development of acute psychiatric units in general hospitals, and the provision of de-stigmatising and educational activities which have a mutually conditioning relation with and are closely related to the abovementioned process. More details to be found in annexe.

In reference to Paragraphs 153 and 154

The reform of psychiatric care also plans to improve conditions in existing establishments. Gradual investments will be made to cultivate a hospital environment and reduce the capacity of dormitories. The main goal of the reform is to make a systemic change which, as already

mentioned in response to Paragraph 149, should bring a shift from the existing institutional model of psychiatric care.

The Government is aware that the spatial and material conditions in psychiatric hospitals in the Czech Republic are currently not at an optimal level, and on several wards there are no bedside tables or lockers for patients. However, in recent years major improvements have been made in this respect with funds available. Also in the future, gradual furnishing with the necessary storage space for patients is planned. In order to set a standard to be progressively achieved by psychiatric hospitals, an amendment to the implementing regulation will be made to specify the standard material conditions of accommodation for psychiatric inpatients. That said, the Government would like to note that several selected rooms at Kosmonosy Psychiatric Hospital are intentionally not furnished with some of the standard furnishings. These rooms are designed for short-term accommodation of patients who have not completely recovered from a state of agitation, in which case it is inadvisable to place them in a standard room immediately after their agitation.

In reference to Paragraph 155

In general, it can be said that psychiatric hospitals do their best to ensure that their patients are offered as much outdoor exercise as possible. The form and extent to which a patient is allowed outdoor exercise and the level of freedom of movement in an outdoor setting depends on the state of health of each patient. It is a common practice at Kosmonosy Psychiatric Hospital that all patients, unless they are bedridden, are allowed outdoor exercise. Patients who are unable to walk are assisted by staff and taken outdoors in wheelchairs; the potential of the adjacent park is fully exploited. Patients at Kosmonosy Psychiatric Hospital and other psychiatric hospitals are allowed to walk outside the establishment. In the future, efforts will be made to increase staffing levels in psychiatric hospitals in order to enable patients who require more attention to also benefit from outdoor exercise.

There has never been (not even at the time of CPT's visit) such practice of prohibiting patients from outdoor exercise as a formal or informal sanction.

In reference to Paragraph 158

According to Section 88 (1) of the Act on Specific Health Services, a patient under protective treatment is obliged to submit to an individual treatment process prescribed for protective treatment, including all medical interventions which are part thereof. This does not affect the patient's right to choose from possible alternative treatments.

Treatment options for sex offenders with paraphilic disorder are as follows: the recommended practices in the treatment of paraphilic sex offenders developed by professional societies of the Czech Medical Association of Jan Evangelista Purkyně based on international scientific knowledge include psychotherapy and biological therapy. Psychotherapy alone without biological therapy may only be used in the case of other than dangerous paraphilia. In all other cases, treatment may not be fully effective unless psychotherapy is used in combination with biological therapy. Biological therapy involves medicinal treatment (pharmaceutical drugs, anti-androgens, gonadoliberin analogues) and surgical castration. Pharmacotherapy alone is primarily indicated in the case of exhibitionism, voyeurism or compulsive masturbation. The preferred medication in the case of dangerous paraphilia is anti-androgens or gonadoliberin analogues (medicaments that block the action of androgens). None of the above hormonal medications is applied without the informed consent of the patient. Other impediments to the application of the treatment include incomplete somatosexual development, the existence of severe hypertension, cardiac or renal lesions, depression, allergy to the substance, and pituitary disease. As the

recommended practices in the treatment of sex offenders show, in the case of dangerous paraphilia the only alternatives to anti-androgen treatment are gonadoliberin analogues (also hormonal therapy) or surgical castration, which requires the free and informed consent of the patient and the approval of the central expert committee and the court.

To avoid ambiguity in the application practice, the following steps will be taken:

- 1.) Methodological guidelines clarifying the provision of consent with anti-androgen treatment will be adopted as soon as possible. The guidelines will contain information on the obligation to give a written explanation to the patient, to obtain the written consent of the patient, and to enable the patient to withdraw their consent and discontinue their treatment.
- 2.) Subsequent clarification of the legal regulation regarding the provision of consent to medical interventions and treatment of patients subjected to a protective treatment in the Act on Specific Health Services.

If the patient fails to consent to the treatment, they remain under the protective treatment which is, if needed, periodically extended every two years by judicial review in accordance with Section 353 of Act No. 141/1961 Coll., on criminal procedure.

In reference to Paragraph 159

The Ministry of Health would like to note that the "pyjama regime" was not used as a form of punishment, but as part of protective treatment of patients with selected diagnoses based on the recommendation of the professional society. This practice will no longer be used.

In reference to Paragraph 161

Regarding psychiatric care, police officers are only present upon the admission of a patient to a psychiatric hospital. Police officers are not present during medical examinations. The only exception is a case where patients pose an imminent threat to their lives or the lives and health of others, or property. In such cases, police officers protect the life and health of persons in accordance with their powers under the law. In the context of the amendment to the Act on Health Services, an express authorisation will be given to members of the Police of the Czech Republic, Military Police, local police, or the Prison Service of the Czech Republic, to be present during emergency treatment or specialised medical examinations at the request of the medical service provider, to protect the life and health of persons in emergency situations. The powers of doctors, police officers and other security forces will be clearly defined in respect to medical confidentiality and confidentiality of the doctor-patient relationship.

In reference to Paragraph 162

The system of recording of undesirable events, such as patients' injuries indicative of ill-treatment by medical staff, is used in all psychiatric hospitals. Such records are also made in the case of less serious events and may be used for future purposes. Records on undesirable events are generally made electronically and are periodically assessed by the management of psychiatric hospitals.

Moreover, a legislative amendment will be initiated through which the Health Services Act will establish the obligation of doctors to report suspected ill-treatment of persons deprived of their liberty to competent supervising bodies.

In reference to Paragraph 165

The Government deems it unfeasible to set a maximum duration of the application of mechanical restraint. The use of this measure depends on the patient's health status, and only occurs as a last resort and for the time necessary. If the use of mechanical restraint was discontinued without the

patient being ready due to their health conditions, it would be necessary to resort to radical pharmacotherapy, which is undesirable and risky for the patient.

That said, the draft amendment to the Health Services Act, which is in legislative process, focuses, *inter alia*, on the provision of guaranteed protection of rights of a patient who, due to their state of agitation must be put under restraint. The law newly establishes the principle of subsidiarity of restraint use and a principle that the least restraining means corresponding to the intended use must be applied. The amendment will also regulate the obligation of healthcare providers to keep a central register of means of restraint, which will include summary information on the number of cases of the use of restraints per year for each type of means of restraint specifically, including chemical restraints. The Government believes that the new legislation will help eliminate excessive use of restraints in psychiatric hospitals, as might have occurred on rare occasions.

In order to improve the practice of using restraints, the Ministry of Health will continue to work methodically in psychiatric hospitals by providing a training programme for the staff of psychiatric hospitals on the use of restraints, and by publishing a model of internal regulation for the use of restraints (including chemical restraint) in psychiatric hospitals.

In reference to Paragraph 166

The CPT's recommendation on the strict maintenance of records on the use of chemical restraint will partially be satisfied once the amendment to the Health Services Act (as described in response to Paragraph 165 above) is passed. In practice, there may be situations where chemical restraints are mistakenly recorded as a means of therapy instead of a means of restraint. To clarify the application of the rules in practice, an expert working group will be established to monitor the compliance with the legislation described in the previous paragraph.

In reference to Paragraph 167

The standard required by the CPT is currently hard to achieve in all psychiatric hospitals. In a number of establishments, patients are supervised on the principle similar to the one used in intensive care units. Nevertheless, not all psychiatric hospitals have technical and capacity conditions for this type of supervision and, therefore, patients are supervised during regular inspections. The Government will take a long-term approach in pursuit to provide a continuous presence of a member of medical staff, who will be available to provide prompt assistance to patients. The CPT's recommendation will also be satisfied by the above-mentioned model internal regulation on the use of restraints.

In reference to Paragraph 168

Police officers are not involved in restraint of agitated patients, i.e. normal hospital operation, however, they do intervene if there is a need for calming down an uncontrollably aggressive patient who poses an imminent threat to themselves or to the life or health of others, or to property. Such practice of police intervention is in accordance with the law governing the activities of the Police of the Czech Republic, and will be adapted as described in the response to Paragraph 161 above. To eliminate situations where it is necessary to summon the police to intervene, psychiatric hospitals will be encouraged to develop a plan for dealing with agitated patients.

In reference to Paragraph 170

Net-beds are used in accordance with the Health Services Act. In general, net-beds are withdrawn from service. However, there are cases where the use of this restraint method is considered necessary. Patients are only placed in net-beds for the duration necessary depending

on their current state of health. In the future, efforts will be made to find other protective means to replace net-beds.

In reference to Paragraph 171

There may be a situation where some patients are temporarily placed in open net-beds. However, this is not a common practice but a temporary emergency measure owing to a lack of available "ordinary" hospital beds. Efforts will be made to stop this practice completely.

In reference to Paragraph 174

The Government is prepared to consider revising the current legislation regarding protective treatment. That said, a Working Group on Protective Treatment was established by the Ministry of Justice in 2014. Its task is to prepare appropriate legislative and systemic changes regarding protective treatment. The group also addresses the process of extension of protective treatment which includes the condition of an expert opinion.

In reference to Paragraph 176

Free legal aid is also available to patients within proceedings in which the need for continued protective treatment is being reviewed because such proceedings involve the extension and/or termination of this measure.

In reference to Paragraphs 177 and 178

According to the legislation in force governing involuntary hospitalisation, medical service providers must report cases of hospitalisation of patients who did not express consent to it to the court within 24 hours. The CPT's recommendation is, therefore, already regulated by law, and it will be ensured that it is strictly complied with in practice.

In reference to Paragraph 179

There is no such practice in hospitals in the Czech Republic of withholding correspondence from civil psychiatric patients or restricting or inspecting their correspondence. However, in the case of patients under protective treatment, it is possible to follow Section 85 (1)a) 3 of the Act on Specific Health Services, as amended, under which the provider providing inpatient protective treatment outside the prison may prohibit the forwarding of correspondence to a patient if there are reasonable grounds to suspect that it could seriously disrupt their treatment. The practice of delivering post within the hospital is generally detailed in internal regulations.

The CPT report does not provide more information based on which the situation could be unambiguously assessed. That said, it cannot be ruled out that a rare delivery error might have occurred in the specific case.

In reference to Paragraph 180

The lodging of complaints against a procedure from a provider providing medical services, or against activities relating to medical services, is regulated by the Health Services Act. Information packs containing information on patient rights and responsibilities will be distributed by the Ministry of Health to all hospitals where this has not yet been provided.

F. Use of surgical castration in the context of the treatment of sex offenders

In reference to Paragraph 184

The Government acknowledges that in regard to surgical castration the CPT repeats its previous opinion, and refers to its response to the CPT report on the visit to the Czech Republic in 2010, in which the Government responded to the matter in detail. The Government would like to add

the following response regarding voluntariness of a patient's consent to treatment to its previous response.

The key factor on which the CPT bases its statement that surgical castration of detained patients can be considered as amounting to degrading treatment is the alleged lack of voluntariness of patients' decisions, which is supposed to derive from the fact that patients may see the treatment as a "ticket to freedom." However, this interpretation is in conflict with the interpretation of the European Court of Human Rights. In its judgment in the case of *Dvořáček vs the Czech Republic* of 6 November 2014, the Court recognised that the applicant, who was in sexological protective treatment, faced a difficult choice between using anti-androgens with the prospect of earlier discharge from the hospital and undergoing psychotherapy and social therapy with the prospect of a longer stay in the hospital. However, the Court concluded that in the specific case where anti-androgen treatment was necessary from the medical perspective, and the applicant was not compelled to it, it cannot be deemed that the applicant had been subjected to forcible treatment. Therefore, the Court found that there had been no violation of Article 3 of the European Convention on Human Rights. Moreover, the Court noted that surgical castration was strictly regulated by the laws of the Czech Republic and was subject to a patient's free and informed consent.

Following the judgement, it is clear that if the conditions laid down by law are complied with, especially if the treatment is necessary from a medical perspective and is offered to the patient as opposed to forced upon them, the consent of the patient in protective treatment with such treatment is voluntary, and the patient's subjection to the treatment cannot be considered degrading treatment.

A similar conclusion may indeed be made under the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention), namely in accordance with Chapter V. Under Chapter V and the Explanatory Report thereto, intervention programmes and measures which are offered to sex offenders and which may include medical intervention such as anti-hormone therapy, may only be undertaken on the basis of the free and informed consent of the recipients of such programmes and interventions. The Convention also states that such consent may also be given if participation in such a programme is conditional for a suspended sentence or conditional release. It is therefore evident that, under the Lanzarote Convention, free and informed consent is also possible in circumstances where the decision of the person concerned is influenced by considerations of how acceptance or refusal of a certain form of therapy will affect the deprivation of their freedom.

Many authors of academic literature also agree that surgical castration may, in some cases, strengthen the autonomy of patients suffering from a paraphilic disorder by enabling them to return to normal life, and are of the opinion that the patient's consent to the procedure cannot be considered involuntary. Therefore, it is erroneous to consider it degrading treatment if the therapy is offered to a patient as an alternative to institutional care. Offering a patient such choice is indeed moral and in accordance with medical ethics.¹

¹ See for example R. B. Krueger, M. H. Wechsler, M. S. Kaplan, *Orchiectomy v Sex Offenders: Identification, Risk Assessment, Treatment and Legal Issues*, New York, Oxford University Press, 2009, and J. McMillan, *The kindest cut? Surgical castration, sex offenders and coercive offers*, *Journal of Medical Ethics*, 2013.

Having regard to the foregoing, in particular the case law of the European Court of Human Rights, the Government continues to believe that the existing legislation on surgical castration fully complies with the European Convention on Human Rights. The Government will continue to ensure that the guarantees of free and informed consent will be strictly observed in practice and, if necessary, will be prepared to strengthen the guarantees.