



CPT/Inf (2007) 25

**Response of the Hungarian 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 Hungary**

**from 30 January to 1 February 2007**

The Hungarian Government has requested the publication of this response. The report of the CPT on its January/February 2007 visit to Hungary is set out in document CPT/Inf (2007) 24.

Strasbourg, 28 June 2007



**To Mr. Mauro PALMA**

**President of the European Committee for the prevention of torture and inhuman or degrading treatment or punishment**  
**Strasbourg**

Date: 08.06.2007

Dear Mr. President,

I send you the enclosed responses made by the competent Hungarian authorities in relation to the report CPT 62/2007, drawn up by the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) following its visit to Hungary, at Szeged Prison from 30 January to 1 February 2007, in English and Hungarian.

Yours sincerely,

Prof. Dr. György VÓKÓ  
CPT Liaison Officer

**To Mr. Mauro PALMA**

**President of the European Committee for the prevention of torture and inhuman or degrading treatment or punishment  
Strasbourg**

Dear Mr. President,

The Minister of Justice and Law Enforcement, the Director General of the Prison Service and the Chief Prosecutor of Csongrád County give the following information summing up their comments and responses in relation to the report drawn up by the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) following its visit to Hungary, at Szeged Prison from 30 January to 1 February 2007.

First and foremost, we should emphasize that the CPT findings are taken seriously in Hungary, and the realization of the recommendations is considered as one of the main duties. The CPT has blamed and keeps blaming not only for the deficiencies, but it recognized and has been appreciating the efforts and results as well. The intention to help and concrete help itself are expressed in its activity. The Hungarian authorities unanimously offer their thanks to the CPT for the correct and exemplary cooperation and assistance.

1. *To Point 11 of the Report:*

In Szeged Prison, 80 per cent of the prisoners serve lengthy sentences and have perpetrated extremely serious offences, in their case aggressive conduct and the probability of opposing the regulations of the institution and detention is above the average. In order to interrupt and resolve effectively the unusual incidents induced by inmates without delay, it is essential that certain means of restraint (truncheon, hand-cuff, tear spray) belong to the equipment worn on supervision clothing. It is valid not only for the Special Regime Unit for prisoners serving lengthy sentences (HSR Unit), but for the whole territory of the prison. Putting the handcuff into handcuff-sheath hides it partially, but the wearing of truncheon in hidden way – because of its size – can not be realized.

After having surveyed the use of means of (motion) restraint individually, it is/has been ordered depending on the degree of endangerment regarding the security of detention, therefore they do not exclude the possibility to move certain prisoners without the application of a body-belt. (From the HSR prisoners no body-belt has been used against 4 inmates on 11 May 2007.)

2. *To Point 14 of the Report:*

The placement of prisoners in the HSR Unit corresponds to the proposal drawn up by the CPT, so there is no reason to alter it.

3. *To Point 18 of the Report:*

The designated outdoor exercise area for HSR prisoners was formed taking the CPT's former proposal into consideration. The CPT opposed the development of the exercise area according to the original plans, which meant the complete or partial covering of the HSR Unit's yard with transparent material owing to the lack of perceptibility of weather conditions.

Similarly to other parts of the exercise yard, the Prison allows inmates to improve their physique in the HSR Unit's walking area as well by setting up a biceps bar that does not reduce the basic area. Prisoners may take – on demand – an exercise bike, elliptical trainer, and ball to the yard. Prisoners definitely devote their time spending on the “walk-yard” to satisfy their exercise demands, they did not require any means of rest so far, and their health does not justify the introduction of these.

Prisoners were not excluded from sports activities that could be performed in pairs, the temporary restriction of such activities was necessary during the CPT visit because of the inquiries in relation with a planned escape.

4. *To Point 20 of the Report:*

The Prison ensures work for HSR prisoners, they perform work in their cells for a period of 4 hours on weekdays, and the payment is based on piece rate.

Restraining the use of the recreational area by inmates lasted until the closing of necessary inquiries relating to the planned escape which became known in October 2006. Inmates have been utilizing all the possibilities provided by the communal facilities – executing it similarly to the original conception – since the visit of CPT.

The educational institutions do not emphasize the training of HSR prisoners and inmates who will be released after a long period of time. Later on, the Prisons' only measure is to demand the educational institution to include the HSR prisoners in their program.

There is no such option in case of training courses which promoted getting a workplace, since the competition-winning educational institutions may only carry out their activity in accordance with the rules governing the competition, therefore the HSR prisoners were not involved in education programs.

The Prison guarantees the freedom of religion on demand of the prisoners that can be practiced individually under Subsection 3 and 4 of Section 36/A of Law-Decree 11 of 1979 on the execution of punishments and sanctions (hereinafter: Law-Decree). HSR inmates usually keep contact with the chaplain individually.

5. *To Point 22 of the Report:*

Point c of Subsection 1 of Section 14 of Act XLVII of 1997 on Handling and Protecting Health and Related Personal Data, guarantees the presence of a prison officer without the consent of inmates to ensure the protection of health-care staff or if there is a risk of escape. It is not common for prison officers to be present during medical examinations. Medical examination of inmates shall be carried out without the presence of custodial staff, if security or other aspects allow it.

Prison officers – upon the burden of criminal liability – must respect the medical data they got to know as confidential. Doctors participating in medical supply and assistants make efforts – adapting to the given situation and circumstances – to handle information on patients' state of health confidentially, with special regard to the respect of their human rights and dignity.

By creating the conditions of adequate distance, but access considered necessary, medical examinations can be carried out with methods and techniques introduced and applied in the daily practice, so it can be avoided that the members of the custodial staff be not informed of personal health data of the prisoner concerned.

For this reason, the amendment of the referred legal provision is not deemed necessary.

6. *To 23 Point of the Report:*

It is true, from 4 to 30 January 2007 – because of her illness – no psychologist worked for the HSR Unit provisionally, however in this period of time an educator serving in the HSR Unit and with a degree in psychology and a psychologist who works for other units of the Prison was at the inmates' disposal as required.

Any discriminative approach based on gender is unknown to the Prison HR-policy. However, it must be mentioned that in certain professional fields (hygiene, psychology, education) – particularly in case of male inmates – the employment of female employees is more successful, it influences well the state of mind, and moreover it restrains aggression and (intense) emotion. Therefore the finding, according to which the female psychologist had been withdrawn from the work carried out in the HSR Unit owing to the possible employment of a male psychologist, cannot be confirmed. The person in question, despite her psychotherapy in training, had difficulty adapting to the prescription of the HSR Unit and she could not find the appropriate contact with the prisoners and the staff. A male expert, who performs his work adequately to the requirements and professional rules, has been employed since 1 February 2007 and it was not because of his characteristics of gender, but he has professional and human suitability that he was employed; furthermore he takes active part in the team-work, and is absolutely trusted by the staff.

In this situation no conflicts of interests can be revealed, the psychologist's activity is in line with the execution of all the other tasks.

7. *To Point 25 of the Report:*

We agree with the Report's finding, according to that the application of restraints while the prisoner is taking outdoor exercise in "walk-yard" on the roof, is unnecessary. After the CPT visit means of restraint have not been applied against prisoners while they are taking outdoor exercises.

Means of restraint are applied – on the grounds of personal risk analysis – in respect of HSR and Grade 4 prisoners, to prevent unusual events.

The CPT has not given any concrete examples, in which cases of illnesses diagnosing was hindered by the application of restraints. Speaking in general way, when the application of restraints would hinder or influence the establishment of an objective medical finding, the staff removes it.

Prisoners are handcuffed or body-belted when escorting them to/from the designated visitor's premises, therefore the finding of the Report – it states that visits are degrading for both the prisoner concerned and his relative – does not correspond to the Hungarian authorities' point of view.

8. *To 26 Point of the Report:*

At the establishment of the HSR Unit, prison staff were informed by the management that the inmates had been placed in this Unit and the serving therein involve dangers which are above the average.

In case of “*recruitment*” of the custodial staff working in the HSR Unit, volunteership has been taken into consideration as main aspect.

Of course, the assigned prison officer has to be serving in this Unit under instruction, but the staff member, who is in fear of inmates, may be a potential source of unusual event. Female staff has not applied for the service carried out in the HSR Unit.

9. *To Point 27 of the Report:*

Custodial staff working in the HSR Unit has access to relevant information relating to the reasons of the prisoners’ placement in this Unit to the necessary extent as required to the service. In the beginning, the well-motivated, enthusiast custodial staff who were taking the higher security risk did not receive wage increase in fact. As a mark of appreciation and recognition, the prison management ensures 4 hours of recreational favour (use of swimming-pool, theatre-going, etc.) every month for the staff.

10. *To Point 28 of the Report:*

To specify date and duration of visits receiving by prisoners – under Subsection 1 of Section 89 of the Minister of Justice’s Decree No 6/1996 on the provisions of the execution of imprisonment and pre-trial detention (hereinafter: Decree) – belongs to the power of commandant. The Prison fulfils the provision of Decree relating to the minimum duration (30 minutes) of entitlement, every inmates are allowed a one-hour visit. If the security of Prison or detention gives reason for that, the commandant – in accordance with Subsection 1 of Section 90 of Decree – may order a visit to be executed in premises under special security. Under Section 36 (5) e.) of the Law-Decree, an inmate is entitled to have phone calls as far as possible for the Prison, and the prisoner has to be informed on the possibility of control.

The HSR prisoner – similarly to the other inmates of the Prison – is entitled to 7 minutes of phone calls every week, which may increase with one further occasion.

Having regard to the fact that all HSR prisoners have perpetrated serious offences and will be released after a relatively long period of time, respectively those serving a life sentence must not be released on probation; the secure performance of visits and receptions is of a vital safety interest to the prison, just as the supervision of telephone conversations.

The prison – taking into consideration the risk of possibly ensuing conflicts – does not differentiate in terms of the contacts of HSR prisoners, respectively inmates placed in other units. The available service time of prison staff also highly influences the extra time of guaranteeing inmate rights.



11. *To point 29 of the report:*

The penal institution ensures the prisoners' rights of criminal procedures. The possibility of supervision covers the establishment of the legality of phone calls and identification of lawyers. The register of the computer telephone system contains the lawyer's telephone numbers and their capacity as lawyers. The system automatically discontinues the possibility of wiretapping after the time which is suitable for identification.

12. *To point 30 of the report:*

The use of means of restraint was ordered individually – in the Handbook – after examining the risk of the security of the detention. 'Individual handbooks' were published for prisoners in two HSR Units. The operating order of the Units was ruled in a measure by the Commander of the penal institution. During the systematic regular supervision, the Chief Prosecutor's Office of County Csongrád has not had any objection against the unnecessariness and disproportionateness of restricting the motions of the prisoners. The CPT's Report challenges the lack of the prosecutor's measure in connection with the preparation to escape; however, it was not necessary, as the prison management proceeded pursuant to the law. If the Commander's measures had been unlawful, the prosecutor's office would have taken the necessary steps to terminate the infringement of the law. Considering the operative legislation, it is the Commander of the penal institution who is responsible for the secure custody of the prisoners. If the Commander's measures and commands are not against the law the prosecutor does not have the legal possibility to change them and to take over the specially trained Commander's responsibility in connection with custody. The prison management and the staff on duty in the HSR Unit strived for maximum safety using all the legal possibilities. Because of the nature of the punishment, the abstract danger of escape attempt is very high. Therefore, during the execution the most drastic force would be used against those who would try to impede the escape.

13. *To point 32 of the report:*

The law does not prescribe the establishment and operation of HSR and BSR Units. The operation of the Units is governed by the Commander's measure under No. 31-100-2/2007. The placement of the prisoners into these two Units is based on the prisoners' behaviour and the danger of the security of custody.

According to the measure those people will be placed into the HSR Unit who are sentenced to life imprisonment and it can be assumed thoroughly that they will follow the rules and are inclined to cooperate with the supervision. *'The convict can be placed on the BSR Unit if on the base of his past, crime and time of punishment and behaviour it can be concluded that he prepared actions that seriously violate the order of the institution, prepared or committed act of terrorism and he might hurt or endanger his own or somebody else's health or he has already committed these actions.'*

It is justified to place the inmates in the BSR Unit who behave aggressively in an overt or concealed way, who react aggressively in order to obtain advantage, and the inmates who are endangered by other prisoners.

The placement of prisoners in the HSR and BSR Units and the provisions of the Handbook are supervised after 90 days. During the supervision the opinions of the staff on duty in the Units are taken into consideration.

Drawing the line between the HSR and BSR Units is very difficult. The HSR Units cannot function entirely, because there are still some inmates in this Unit who should be placed in a BSR Unit. At the moment the BSR Unit is not suitable (the quality of the doors of the cells and the bars; the furniture can be easily damaged and moved) for inmates who potentially endanger the safety of detention. In proportion to the danger of the inmates to be placed in BSR Unit, the security fittings do not guarantee the prevention of possible unusual events. Due to financial reasons, the General Directorate of the National Prison Administration was not able to satisfy the requirement of the penal institution to supply the Unit with technical equipment to strengthen the safety.

The staffs on duty in the BSR Unit have been trained in a special way, as well as the staff in the HSR Unit. The staff is subordinated to the director of the Unit during the day, and they are subordinated to the chief inspector of the Unit and the safety officer while the staff is off duty.

*14. To point 33 of the report:*

Referring to the recommendation of the CPT it should be established on the basis of an individual risk assessment whether 'actual lifers' can serve the remainder of their sentence in the community.

Considering the fact that – pursuant to the operative legislation – the only way for such inmates to be released is the amnesty, the CPT's issue is not relevant.

Treatment of life-sentenced prisoners who are deprived of conditional release is a challenge for the prison administration. In spite of the effort made by the penal institution, the life of the inmates who are deprived of conditional release can be purposeless; they might commit suicide or acts of terrorism.

## CONCLUSION

The penal institution has taken into consideration the recommendation of the CPT's Report as before (plans of the HSR Unit). The restrictions introduced during the escape attempt were removed. Since the CPT's visit the HSR Unit has been working in accordance with the original conception.

It is essential for the staff to carry means of coercion in order to interrupt unusual events, caused by the inmates in HSR Unit, effectively and without loss of time.

With regard to the inmates' right to contact the outside world – considering the risk of conflict – difference is neither made between the prisoners, nor between the inmates in special units (HSR-, BSR Units).

Freedom of conscience and religion is guaranteed for the inmates. The wording of "*they were offered possibilities to practice their religion*" is misleading and it refers to the experience of the previous CPT's visit. It can be concluded that the freedom of conscience and religion is not guaranteed for the prisoners in the penal institution.

Pursuant to Section 36/A (3)-(4) of the Law-Decree on Penal Institution the freedom of religion is guaranteed according to the inmates' needs and it can also be practiced individually. The inmates in HSR Unit meet the priest individually.

The use of means of restraint is decided individually and on the base of the danger of safety.

If the use of means of restraint prevents the doctor from examining, diagnosing or treating the patient, the staff would change the position of the means of restraint or remove it if it is justified and the doctor requests it. During the examination the staff can only stay in distance of vision and hearing if it is justified.

Sex was not taken into consideration while recruiting the staff. During the voluntary application for the work the female staff did not undertake the service which includes more burden and risk above average. The female psychologist was replaced because it was difficult for her to adapt to the circumstances.

In the case of inmates placed in HSR Unit the penal institution has a safety interest to arrange the visits in a safe and specially-built place and to control the phone calls.

The wording of the Report is not untenable in connection with the visits and wiretapping the inmates' telephone conversations with their lawyers. The means of restraint are not used during the visit, they are only used when the inmates are taken to the place of visit, and therefore it cannot be degrading. The computer telephone system allows the checking of the conversation with the lawyer until it is identified then it automatically discontinues wiretapping.

The operational purpose and rules of HSR and BSR Units can be well separated. The HSR Unit cannot fulfil its original function, because in the case of some inmates it would be justifiable to replace them in the BSR Unit. The replacement and placement of inmates are not possible because the equipment of the BSR Unit is amortized and obsolete and it lacks some devices.

Since the employment, the enthusiasm of the staff in HSR Unit has decreased. The implementation of tasks above average risk should be associated with financial appreciation and salary-increase.

Finally, it should be highlighted again that according to the Hungarian authorities the CPT's findings, recommendations and remarks promote their work, and they include useful information. They express their thanks and they endeavour to maintain the continuous cooperation. On the base of the previous practice, they ask the delegation of the CPT to publish the Report made during their visit in Szeged Prison between the 30<sup>th</sup> January and the 1<sup>st</sup> of February, 2007 together with the reply of Hungary. (The Hungarian reply was compiled on the base of the written report of the competent authorities, and the final version was harmonized with the competent officers: by Prof. Dr. Vókó György, CPT Liaison Officer.)