

COUNCIL OF EUROPE



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CPT/Inf (2014) 3

## **Report**

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

**from 7 to 16 September 2010**

The Czech Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2014) 4.

Strasbourg, 18 February 2014



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

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Rights  
Office of the Government of the Czech Republic  
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CZ- Praha 1 - 118 01

Strasbourg, 8 April 2011

Dear Ms Rybová,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Government of the Czech Republic drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to the Czech Republic from 7 to 16 September 2010. The report was adopted by the CPT at its 74<sup>th</sup> meeting, held from 7 to 11 March 2011.

The recommendations, comments and requests for information formulated by the CPT are listed in Appendix I of the report. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the Czech authorities to provide within **six months** a response giving a full account of action taken to implement them.

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

The Committee would ask, in the event of the response being forwarded in the Czech language, that it be accompanied by an English or French translation.

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

Yours sincerely,

Lətif Hüseynov  
President of the European Committee for  
the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment

Copy: Mr Tomáš Boček, Ambassador Extraordinary and Plenipotentiary  
Permanent Representative of the Czech Republic to the Council of Europe



## I. INTRODUCTION

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

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a periodic visit to the Czech Republic from 7 to 16 September 2010. It was the Committee's sixth visit to the Czech Republic<sup>1</sup>.

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

- Pétur HAUKSSON, 1<sup>st</sup> Vice-President of the CPT and Head of delegation
- Anna MOLNÁR
- Ilvija PŪCE
- Jørgen Worsaae RASMUSSEN
- George TUGUSHI
- Anton VAN KALMTHOUT.

They were supported by Michael NEURAUTER, Head of Division, and Marco LEIDEKKER of the CPT's Secretariat and assisted by:

- Alan MITCHELL, medical doctor, former Head of the Scottish Prison Health Care Service, United Kingdom (expert)
- Renata DRAHOZALOVÁ (interpreter)
- Jana FRANKOVÁ (interpreter)
- Alena HANUSOVÁ (interpreter)
- Zdeněk HOFMAN (interpreter)
- Tomáš OPOČENSKÝ (interpreter)
- Helena REJHOLCOVÁ (interpreter).

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<sup>1</sup> The CPT has previously carried out three periodic visits (in 1997, 2002, and 2006) and two ad hoc visits (in 2008 and 2009) to the Czech Republic. The reports on these visits and the responses of the Czech authorities are available on the CPT's website: <http://www.cpt.coe.int/en/states/cze.htm>

**B. Establishments visited**

3. The delegation visited the following places of deprivation of liberty:

**Establishments under the Ministry of Education**

- Dečín-Boletice Educational Institute for Youth and Children

**Establishments under the Ministry of Health**

- Horní Beřkovice Psychiatric Hospital

**Establishments under the Ministry of the Interior**

- Chomutov District Police Headquarters
- Hradec Králové District Police Headquarters
- Kladno Police Station
- Kladno-Kročehlavý District Police Headquarters
- Pardubice District Police Headquarters
- Prague-Kongresová Regional Police Headquarters
- Rychnov nad Kněžnou District Police Headquarters
- Ústí nad Labem District Police Headquarters
- Reception Centre for Asylum-Seekers at Prague-Ruzyně International Airport
- Aliens Police Station at Prague-Ruzyně International Airport (transit zone)

**Establishments under the Ministry of Justice**

- Hradec Králové Remand Prison
- Pardubice Prison
- Prague-Ruzyně Prison (remand section)
- Teplice Remand Prison
- Všehrady Prison (units for juveniles).



### C. Consultations held by the delegation and co-operation

4. The delegation had fruitful consultations with Marek ŽENÍŠEK, Deputy Minister of Justice, Martin PLÍŠEK, Deputy Minister of Health, and David KAFKA, Deputy Minister of Labour and Social Affairs, as well as with other senior officials of the relevant ministries.

It also met Michael KOCÁB, Government Commissioner for Human Rights, members of the Governmental Committee against Torture, Jitka SEITLOVÁ, Deputy Public Defender of Rights, and representatives of the Prague Office of the United Nations High Commissioner for Refugees (UNHCR) and of non-governmental organisations active in areas of concern to the CPT.

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

5. The degree of co-operation received by the delegation during the visit was generally very good at all levels. The delegation noted that information about a possible visit by the CPT, and the Committee's mandate and powers, had been provided to places used for holding persons deprived of their liberty. It enjoyed rapid access to the places visited and was able to speak in private with persons deprived of their liberty, in compliance with the provisions of the Convention. The only difficulty in this regard was encountered at Kladno-Kročehlavý District Police Headquarters, where the delegation was able to interview detained persons in private only after lengthy discussions with the officers on duty. **The CPT trusts that the Czech authorities will take appropriate steps to avoid any repetition of such situations during future visits.**

The delegation was provided with all the documentation necessary for carrying out its task, and additional requests for information made during the visit were promptly met. The CPT was pleased to note that the difficulties encountered during previous visits regarding access of its delegations to medical files had been resolved.

The CPT also wishes to express its appreciation for the assistance provided before and during the visit by its liaison officer, Ms Simona HRSTKOVÁ, from the Secretariat of the Government Council of Human Rights.

6. However, the principle of co-operation set out in the Convention also requires that decisive action be taken to improve the situation in the light of the Committee's recommendations. The CPT must stress that if the Czech authorities continue to fail to implement its recommendations as regards the discontinuation of surgical castration in the context of treatment of sex offenders, it will be obliged to consider having recourse to Article 10, paragraph 2, of the Convention<sup>2</sup>.

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<sup>2</sup> Article 10, paragraph 2, reads as follows: "If the Party fails to co-operate or refuses to improve the situation in the light of the Committee's recommendations, the Committee may decide, after the Party has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter".



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

### A. Police establishments

#### 1. Preliminary remarks

7. The delegation visited a total of eight police establishments in Chomutov, Hradec Králové, Kladno (Kladno Police Station and Kladno-Kročehlavý District Police Headquarters), Pardubice, Prague (Kongresová Police Headquarters), Rychnov nad Kněžnou and Ústí nad Labem.

8. Since the last periodic visit in 2006, the legal framework governing the deprivation of liberty of persons by the police has undergone significant changes. In particular, a new Police Act was adopted in 2008 and entered into force in January 2009<sup>3</sup>. Under this law, the three fundamental safeguards against ill-treatment advocated by the CPT (namely the right of detained persons to notify a family member or another third person of their situation, the right of access to a lawyer and the right of access to a doctor, including to a doctor of their own choice) are now, for the first time, formally guaranteed by law to all detained persons from the very outset of their deprivation of liberty<sup>4</sup>. Further, the 2008 Police Act was supplemented by new “Binding Guidelines on Escorts, Surveillance of Persons and on Police Cells”<sup>5</sup>, which, among other things, set out detailed requirements regarding the conditions under which persons shall be held in police holding or custody cells and the manner in which detained persons shall be escorted (including during deportations of foreign nationals).

These are most welcome developments.

9. As regards the maximum duration of police custody, it remains the case that persons who are detained by the police on suspicion of having committed a criminal offence must be brought before a court within 48 hours. The judge has an additional 24 hours to decide whether to remand the person in custody, in which case he/she must be transferred to a prison. In total, the person concerned may be held for up to 72 hours in police detention facilities. Persons who are arrested under an arrest warrant must be brought before a court within 24 hours, and the judge must take a decision on remand detention (or release) within 24 hours (the maximum period of police custody in this case is thus 48 hours).

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

Foreign nationals may be held in police custody under aliens legislation for up to 24 hours. Under certain circumstances, this period may be extended to a maximum of 48 hours, before the person concerned is transferred to a detention centre for foreigners (see also paragraph 27).

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<sup>3</sup> With the exception of Section 8, paragraph 2, which will enter into force on 1 January 2012. This provision concerns the setting-up of regional police headquarters.

<sup>4</sup> For more details, see paragraphs 14 to 20.

<sup>5</sup> No. 159/2009 issued on 2 December 2009.

## 2. Ill-treatment

10. As was the case during previous visits to the Czech Republic, most persons interviewed by the delegation indicated that they had been treated correctly while being held by the police.

However, the delegation did receive a number of allegations of excessive use of force and/or physical ill-treatment by police officers from persons who had recently been taken into custody (including juveniles). These allegations concerned, in the main, punches, slaps or kicks by police officers, either at the moment of apprehension or in the context of police questioning.

In a few cases, the allegations made were supported by medical evidence. For instance, at Prague-Ruzyně Prison, a prisoner met by the delegation claimed that, during his custody at a police station in the Prague area in the spring of 2010, police officers wearing balaclavas had entered his cell repeatedly, each time punching him in the chest and stomach. The medical examination by the prison doctor upon his admission to Ruzyně Prison revealed “two haematoma in the chest the size of a fist”; moreover, the medical records found in the police station indicated that the person concerned had been brought into police custody uninjured.

**The CPT recommends that police officers throughout the Czech Republic be reminded, at regular intervals, that all forms of ill-treatment of detained persons are not acceptable and will be the subject of severe sanctions. Police officers should also be reminded that no more force than is strictly necessary should be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can be no justification for striking them.**

11. An essential means of combating ill-treatment by the police lies in the diligent examination by the competent authorities of all complaints of such treatment brought before them and, where appropriate, the imposition of a suitable penalty. This will have a very strong dissuasive effect. Conversely, if the authorities do not take effective action upon complaints referred to them, law enforcement officials minded to ill-treat detained persons will quickly come to believe that they can do so with impunity.

Depending on the nature and severity of the alleged ill-treatment, complaints are investigated either by the Control and Complaints Department of the Police Headquarters of the Czech Republic or the Inspection of the Ministry of the Interior. Offences which are considered to be of a non-criminal nature are only investigated by the Control and Complaints Department and may eventually lead to the imposition of a disciplinary sanction on the police officer(s) concerned. All alleged instances of misconduct which are considered to constitute a criminal offence are exclusively investigated by the Inspection of the Ministry of the Interior (under the supervision of a public prosecutor).

The Inspection of the Ministry of the Interior is a police authority which is organisationally independent of the Police Service, and the Director of the Inspection is appointed by the Czech Government. The Inspection is mandated to handle all criminal offences committed by police officers, irrespective of whether offences have been committed on- or off-duty and irrespective of the applicable penalty.

If the Inspection decides to initiate criminal proceedings, it must report within 48 hours to the competent public prosecutor who then takes over the case. In the context of the criminal investigation, the Inspection carries out investigative acts and collects all relevant evidence (including statements from the alleged victim and perpetrator(s), forensic medical reports, etc.) under the supervision of the public prosecutor. The delegation was also informed that a special team of investigators regularly performed undercover operations to detect on its own initiative instances of police misconduct (including any inappropriate behaviour towards persons under their authority).

Whenever a complaint about police misconduct is lodged with the Police Service, it is up to the Control and Complaints Department to assess whether there are sufficient grounds to believe that the misconduct may constitute a criminal offence. In the affirmative, the Department is under a legal obligation to hand over the case to the Inspection of the Ministry of the Interior. **In the CPT's view, the independence and impartiality of investigations into allegations of police ill-treatment would be reinforced if all complaints were to be forwarded automatically to the Inspection of the Ministry of the Interior and if it were up to the latter to decide (under the supervision of a prosecutor) whether the case should be the subject of a criminal investigation.**

12. The delegation was also informed that the Czech authorities were planning to reform the Inspection and that a draft law had been prepared for this purpose. According to these plans, the Inspection would no longer be affiliated to any Ministry but to the Government as a whole, and its responsibilities would be increased to allow it to carry out all criminal investigations against staff of the police, customs and prison services<sup>6</sup> (both officials and contracted public servants). **The CPT would like to receive up-to-date information on this matter.**

13. In order to obtain a nationwide picture of the current situation, **the CPT would like to receive the following information, in respect of the period from 1 January 2009 to the present:**

- (a) the number of complaints of ill-treatment made against police officers and the number of criminal/disciplinary proceedings which have been instituted as a result;**
- (b) the number of criminal investigations which have been instituted by the Inspection of the Ministry of the Interior on its own initiative into possible instances of police ill-treatment;**
- (c) the outcome of the proceedings referred to in (a) and (b) and an account of any criminal/disciplinary sanctions imposed on police officers in these cases.**

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<sup>6</sup> See also paragraph 37.

### 3. Fundamental safeguards against ill-treatment

14. The legal framework surrounding the fundamental safeguards against ill-treatment, namely the right of detained persons to notify a family member or another third person of their detention, and the rights to have access to a lawyer and a doctor has significantly improved since the last visit. As already indicated in paragraph 8, the aforementioned rights now all apply, in principle, from the very moment a person has been deprived of his/her liberty by the police. However, the information gathered by the delegation revealed a gap between law and practice.

15. As regards the right of notification of custody, Section 24, paragraph 2, of the Police Act, stipulates that, at the request of a detained person, the police must inform without undue delay a close relative or another third person of his/her detention<sup>7</sup>.

The delegation gained the impression that the above-mentioned provision was in most cases respected in practice. However, there are certain issues which give rise to concern:

Firstly, the delegation received a number of allegations from detained persons that they had not been informed at the outset of their deprivation of liberty of their right to contact a relative or another trusted person, but rather at a later stage of their stay in custody. **In this regard, reference is made to the remarks and recommendation made in paragraph 19.**

Secondly, several persons met by the delegation claimed that they had been provided with no feedback on whether it had been possible to notify a close relative or other person of their detention. **Steps should be taken to remedy this shortcoming.**

Thirdly, the Police Act offers police officers a too wide margin of discretion to impose restrictions on the exercise of the right of notification. According to Section 24 (3), the police shall not notify a person's detention to a third party if the notification "constitutes a threat to the purpose of a serious action or if such notification is associated with disproportionate difficulties"<sup>8</sup>.

The CPT acknowledges that the right of notification of custody may be subject to certain exceptions designed to protect the legitimate interests of the investigation. However, any such exceptions should be clearly defined - in this respect, the current wording of Section 24 (3) of the Police Act is clearly too vague - and applied for as short a time as possible. Further, appropriate safeguards should be in place (e.g. any delay to be recorded in writing together with the reasons, and to require the express approval of a senior police officer unconnected with the case at hand or a prosecutor). **The Committee recommends that the relevant legal provisions be amended so as to reflect these precepts and that the practice in all police establishments be revised accordingly.**

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<sup>7</sup> See also Section 70 of the Code of Criminal Procedure.

<sup>8</sup> In such cases, the police is obliged to inform the competent prosecutor in writing without undue delay.

16. The right of detained persons to have access to a lawyer (including to have a lawyer present during police questioning and to talk to him/her in private) is formally guaranteed in the Code of Criminal Procedure<sup>9</sup> and the Police Act<sup>10</sup>.

As far as the delegation could ascertain, detained persons were usually informed of their right to benefit from the assistance of a lawyer. That said, a number of complaints were received from detained persons that they had been interviewed by the police before the arrival of the lawyer. The CPT considers that, save for highly exceptional circumstances when the matter is urgent, whenever a detained person has made a request to have a lawyer present, police officers should always delay the questioning for a reasonable time until the arrival of the lawyer. **The Committee recommends that the Czech authorities take steps to ensure that this precept is effectively implemented in all police establishments.**

17. The CPT must stress that the exercise of the right of access to lawyer can only be considered to be an effective safeguard against ill-treatment if persons in police custody who are not in the position to pay for a lawyer benefit from a fully-fledged system of legal aid. If this is not the case, the right of access to a lawyer will remain, in many cases, purely theoretical. In this regard, the CPT notes with concern that, under current criminal legislation, the right of access to an *ex officio* lawyer is limited to serious criminal offences (i.e. those which are punishable with at least five years of imprisonment or a fine of at least 5 million Czech Koruna<sup>11</sup>).

**The Committee recommends that a fully-fledged and properly funded system of legal aid for all persons in police custody who are not in a position to pay for a lawyer be developed as a matter of priority. This system should be applicable as from the very outset of police custody, irrespective of the severity of the offence allegedly committed.**

18. The CPT welcomes the fact that the right of persons in police custody to have access to a doctor (including to one of their own choice) is now formally provided for by law<sup>12</sup>, as recommended by the CPT after the 2006 visit. The information gathered during the visit suggests that detained persons were able to consult a doctor if needed in the establishments visited.

That said, medical consultations were frequently carried out in the presence of police officers, and medical reports or data were often accessible to police officers. It is also a matter of concern that, under the new Binding Guidelines on Escorts, Surveillance of Persons and on Police Cells<sup>13</sup>, police officers are obliged to remain in visual contact with detained persons whenever the latter are examined by a doctor.

**The CPT reiterates its recommendation that the Czech authorities take steps to ensure that, in all police establishments, medical examinations of detained persons are conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of law enforcement officials. Further, steps should be taken to ensure that medical data are no longer accessible to non-medical staff.**

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<sup>9</sup> Sections 33 (1), 76 (6) and 158 (4).

<sup>10</sup> Section 24 (4).

<sup>11</sup> Cf. Sections 17 and 36 of the Code of Criminal Procedure.

<sup>12</sup> Section 24 (5) of the Police Act.

<sup>13</sup> Section 2 (2).

19. As regards the provision of information on rights, the findings during the visit would suggest that detained persons were in most cases informed of their rights verbally upon arrival at a police establishment. However, written information on these rights was often provided only when detained persons were placed in a custody cell or at the beginning of questioning by an officer of the criminal police, which could be after several hours.

**The CPT reiterates its recommendation that the Czech authorities take steps to ensure that a form setting out in a straightforward manner all the above-mentioned rights of persons in police custody is systematically given to such persons immediately upon their arrival at a police establishment. This form should be available in an appropriate range of languages. Further, the persons concerned should be asked to sign a statement attesting that they have been informed of their rights, and the date and time of the signature should be recorded.**

20. The delegation also paid particular attention to the specific situation of juveniles who had been detained by the police in relation to criminal offences. In this regard, the CPT welcomes the fact that, in accordance with the relevant legislation, parents when contactable were always informed of their detention and a lawyer appointed. Further, interviews were usually carried out in the presence of a parent (and/or a lawyer).

#### **4. Conditions of detention**

21. In most of the police establishments visited, material conditions of detention were on the whole adequate and complied with the specific requirements set out in the Annexes to the 2009 “Binding Guidelines on Escorts, Surveillance of Persons and on Police Cells”. Cells were of a sufficient size, reasonably clean and equipped with a bed (or plinth), mattresses, blankets, a table, a chair, a sink, a toilet and a call bell. Further, cells in most establishments had direct access to natural light, and in all the cells visited the artificial lighting was sufficient. Detainees were also provided with a tracksuit and a range of personal hygiene products.

The main exception was Kladno-Kročehlavy District Police Headquarters, where all of the cells were poorly ventilated and dirty, and no mattresses were provided. Further, despite the fact that two persons could be held in each cell, in-cell toilets were not partitioned. Moreover, no personal hygiene products were apparently provided to detained persons. **The CPT recommends that the Czech authorities take immediate steps to improve material conditions of detention at Kladno-Kročehlavy District Police Headquarters, in the light of the preceding remarks.**

As regards Prague Kongresová Regional Police Headquarters, the delegation noted that the toilets in the double cells had been partitioned since the 2006 visit. However, in most of the cells, the ventilation was still inadequate. **The CPT recommends that this shortcoming be remedied.**

22. As regards detainees’ access to drinking water and the provision of food, the situation appeared to have significantly improved since the 2006 visit. That said, several complaints were received from detained persons (including juveniles) that they had been obliged to remain seated in a corridor or in an office for hours (on occasion, for up to ten hours), without access to drinking water or food.



**The CPT trusts that the Czech authorities will take the necessary measures to ensure that all persons deprived of their liberty by the police are given food at the appropriate times and have ready access to drinking water.**

23. In none of the police establishments visited were detained persons offered any outdoor exercise during police custody. The relevant legislation does not provide for such a possibility, and in those few establishments which actually had suitable outdoor facilities, the latter were apparently never used (according to staff, due to staff shortages).

In the CPT's view, persons detained by the police for longer than 24 hours should be entitled to benefit from daily outdoor exercise. The Committee understands that, at present, the layout of certain police establishments may impede the construction of secure yards. However, the Czech authorities should strive towards the gradual creation of such facilities. In this regard, priority should be given to Prague Kongresová Police Headquarters, which is by far the largest police detention facility in the country (covering the entire Prague area). The need for outdoor exercise facilities for detained persons should also be taken into account in the design of any new police detention facilities. **The CPT recommends that all necessary steps be taken at Prague Kongresová Police Headquarters and, as far as possible, in other police establishments to ensure that persons detained for 24 hours or more are offered at least one hour of outdoor exercise per day.**

24. In most police establishments visited, custody cells were equipped with CCTV. The CPT has no objection to the use of a closed-circuit video surveillance system for keeping detention areas under surveillance, provided that persons deprived of their liberty are assured of reasonable privacy when using the toilets, wash basins and showers, which appeared to be the case in all the CCTV-monitored custody cells seen by the delegation. However, systems of this kind cannot be a substitute for direct contact with custodial staff and may, moreover, engender a false sense of security; **they should not replace the regular inspection of cells by custodial staff.**

25. The CPT has repeatedly expressed<sup>14</sup> its misgivings about the practice of handcuffing detained persons to wall fixtures or like objects in police establishments. From the response to the report on the 2006 visit, the Committee had understood that it was the intention of the Czech authorities to put an end to the practice of handcuffing detained persons to fixed objects. However, a specific provision was subsequently included in the 2008 Police Act<sup>15</sup> allowing a detained person to be shackled to "a suitable object" for up to two hours if he/she physically attacked a police officer, endangers his/her own life, damaged property or attempted to escape.

The delegation noted that several police establishments visited were still equipped with fixtures for attaching persons, and it was surprised to find such fixtures located inside secure holding rooms of some of the police establishments visited (e.g. Hradec Kralové Police Headquarters) as well as in establishments where designated holding cells were available (e.g. Kladno and Rychnov nad Kněžnou). The information gathered suggests that the practice of shackling detained persons often went beyond the scope of Section 25 of the Police Act (i.e. on the basis of a mere presumption that the person concerned might display behaviour referred to in that provision). Moreover, a number of detained persons interviewed by the delegation claimed that they had been handcuffed to wall fixtures for prolonged periods (in some cases, for up to eight hours), at times in uncomfortable positions.

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<sup>14</sup> Most recently, in paragraph 13 of the report on the 2006 visit (CPT/Inf (2007) 32).

<sup>15</sup> Section 25, paragraph 1.

**The CPT calls upon the Czech authorities to remove without delay wall fixtures for attaching persons from all police establishments and, more generally, to take effective measures to stamp out the practice of persons held by the police being attached to fixed objects. Every police facility where persons may be deprived of their liberty should be equipped with one or more rooms designated for detention purposes.**

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

## **B. Foreign nationals held under aliens legislation**

26. The delegation visited two establishments at Prague-Ruzyně International Airport where foreign nationals may be held under aliens legislation, namely the new premises of the Reception Centre for Asylum-Seekers (located in the transit zone) and the Aliens Police Station.

### **1. Airport Reception Centre for Asylum-Seekers**

27. The Airport Reception Centre, which is administered by the Refugees Facilities Administration of the Ministry of the Interior, accommodates all foreign nationals who are subject to an airport asylum procedure. With an official capacity of 45 places, it was accommodating two male asylum-seekers (one Cuban and one Iraqi) at the time of the visit.

According to the relevant legislation<sup>16</sup>, every foreign national who has applied for international protection upon their arrival at an international airport shall be placed in the Airport Reception Centre. Within five days, the Department for Asylum and Migration Policy has to decide whether or not the person concerned is allowed to enter the territory (pending examination of the application for international protection). Vulnerable foreign nationals (such as unaccompanied minors, a parent or family with a handicapped child, severely disabled persons, pregnant women or victims of torture or other violence) shall be granted entry into the territory and placed in an open accommodation centre. A decision on the merits of an application for international protection shall be taken within four weeks (upon submission of the application). If the application is rejected, the foreign national concerned may appeal (with suspensive effect) against the decision within seven days before the competent court. If the court does not take a decision within 30 days, the foreign national concerned must be granted entry into the territory. If the appeal is rejected by the court, the person concerned must remain in the Airport Reception Centre, until he/she is removed from the Czech Republic. In any event, foreign nationals cannot be held in the Centre for more than 120 days.

28. The CPT wishes to emphasise that its delegation gained a very favourable impression of the conditions under which asylum-seekers were held in the Airport Reception Centre and of the manner in which foreign nationals were treated by staff.

29. Material conditions in the accommodation area (ten bedrooms, including two child-friendly rooms) were of a high standard. Further, foreign nationals could always move freely within the Centre and had access to an open exercise yard throughout the day. They were also offered a range of recreational activities (e.g. indoor sports) and had access to radio and television.

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<sup>16</sup> See, in particular, Section 73 of the Asylum Act.

30. As regards health care, the Centre was visited by a doctor twice a week, and a full-time nurse was present during the day from Mondays to Fridays. In addition, the Airport Medical Service (Meditrans) was available for any urgent interventions. All newly-arrived foreign nationals were subjected to a comprehensive medical screening (including for tuberculosis and syphilis).

31. It is praiseworthy that foreign nationals always benefited from the presence of an interpreter during interviews with the asylum authority and the first contact with the social worker. In addition, interpretation services were provided via the telephone. Moreover, the Centre was visited twice a week by an NGO which provided legal assistance, and information sheets on the house rules were available in a variety of foreign languages.

32. Finally, the arrangements for allowing foreign nationals to have contact with the outside world were adequate. A pay telephone<sup>17</sup> was accessible at all times, and foreign nationals also had free access to the Internet.

## 2. Aliens Police Station at Prague-Ruzyně International Airport

33. The Aliens Police Station at Prague-Ruzyně International Airport had one holding room, where persons could be held for a period of up to six hours.

The delegation noted that a record was kept of instances of persons being deprived of their liberty in the aliens police station. However, it remained somewhat unclear to what extent persons held in this police station benefited from the fundamental safeguards against ill-treatment. **The CPT trusts that the Czech authorities will take steps to ensure that the recommendations made in paragraphs 15 to 19 are also implemented at the Aliens Police Station at Prague-Ruzyně International Airport.**

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<sup>17</sup> Upon admission, every foreign national was offered one telephone call free of charge. In addition, they were provided with telephone cards by visiting NGOs. Foreign nationals could also receive telephone calls from outside.

## C. Penitentiary establishments for adults

### 1. Preliminary remarks

34. The delegation carried out full visits to Hradec Králové Remand Prison and Pardubice Prison and targeted visits to Prague-Ruzyně Prison and Teplice Remand Prison (focusing mainly on the situation of remand prisoners).

*Hradec Králové Remand Prison* was opened in 1938<sup>18</sup>. With an official capacity of 421 places, it was accommodating, at the time of the visit, a total of 471 prisoners: 292 sentenced prisoners (including seven women) and 179 male remand prisoners (including two juveniles).

*Pardubice Prison* was constructed at the end of the 19<sup>th</sup> century as a prison for women. In 2004, it was transformed into a prison for sentenced male prisoners. The establishment also accommodates disabled prisoners and other prisoners with special health-care needs from the entire region<sup>19</sup>. With an official capacity of 665 places, it was holding 729 prisoners at the time of the visit.

*Prague-Ruzyně Prison* was initially designed as a remand prison but nowadays operates as an establishment for both remand and sentenced prisoners; it also has a special unit for prisoners who are subject to a judicial expulsion order and are awaiting their removal from the country<sup>20</sup>. The establishment's official capacity is 776 places. At the time of the visit, it was accommodating a total of 770 prisoners: 380 sentenced prisoners (325 men and 55 women), 369 on remand (including 343 men, 24 women and two male juveniles) and 21 male deportation detainees.

*Teplice Remand Prison*, which was opened in 2001, has an official capacity of 167 places. At the time of the visit, it was accommodating 151 male prisoners (39 sentenced and 101 on remand, including two juveniles).

35. The CPT notes that, since the 2006 visit, the entire prison population in the Czech Republic has grown from 19,564 to 21,984, while the overall design capacity has slightly increased from 18,876 to 19,471<sup>21</sup>. Thus, the phenomenon of overcrowding has become more acute with an increase in the total occupancy level from 104% to 113%. The delegation was informed that this trend was mainly a consequence of recent changes to the criminal legislation which induced courts to impose prison sentences more frequently and often for longer periods. In contrast, it is noteworthy that, in recent years, the number of remand prisoners has decreased by almost 10%<sup>22</sup>.

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<sup>18</sup> The establishment also comprises a semi-open detached unit in Pouchov (on the outskirts of Hradec Králové); the latter unit was not visited by the delegation.

<sup>19</sup> The delegation was informed that more than 200 prisoners had serious health problems and were not fit for work.

<sup>20</sup> Moreover, the prison has a semi-open detached unit in a former monastery in Prague where female prisoners were trained and/or employed as auxiliaries in a nursing home which is located on the same premises. This unit was not visited by the delegation.

<sup>21</sup> While the number of sentenced prisoners has increased significantly.

<sup>22</sup> From 2,709 in 2006 to 2,459 in 2010.

As indicated in paragraph 34, two of the establishments visited, namely Hradec Králové and Pardubice Prisons, were affected by severe overcrowding. The delegation was informed that, in some other prisons in the country, the total number of prisoners exceeded the establishments' official capacity by 40 to 50%. In other words, the living space per prisoner was often far below the official standard of 4 m<sup>2</sup> per person in multi-occupancy cells.

**The CPT recommends that the Czech authorities redouble their efforts to bring about an end to overcrowding and make sure that the above-mentioned legal standard of 4 m<sup>2</sup> of living space per prisoner is effectively implemented in practice, taking also into account Recommendation Rec(99)22 of the Committee of Ministers of the Council of Europe concerning prison overcrowding and prison population inflation, as well as Recommendation Rec(2003)22 on conditional release (parole).**

## 2. Ill-treatment

36. The delegation received no allegations of ill-treatment of prisoners by prison officers at Pardubice and Teplice Prisons. However, a few allegations of physical ill-treatment of prisoners (such as slapping) were heard at Hradec Králové Prison. Further, at Hradec Králové and Prague-Ruzyně Prisons, a number of remand prisoners claimed that they had been subjected to verbal abuse by prison officers.

**The CPT recommends that the management at Hradec Králové and Ruzyně Prisons remind their staff that all forms of ill-treatment of prisoners (including verbal abuse) are not acceptable and will be punished accordingly.**

37. In accordance with the relevant regulations, every prison had its own Prevention and Complaints Unit which was responsible, *inter alia*, for the handling of allegations and complaints of ill-treatment by staff. In this regard, the CPT must express its serious misgivings about the fact that members of the above-mentioned units acted as judicial police officers and were entrusted to initiate and conduct criminal investigations (under the supervision of the competent prosecutor) against other prison officers of the same establishment<sup>23</sup>. Criminal investigative actions included the taking of statements of potential victims and perpetrators and the collection of other evidence. The present system can easily undermine the (perceived) independence and thus the effectiveness of the criminal investigation.

Consequently, the CPT welcomes the plans of the Czech authorities to transfer the responsibility for carrying out criminal investigations against prison officers to a body which is totally independent of the prison service. In this regard, reference is made to the remarks made in paragraph 12.

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<sup>23</sup> In the event that a prison governor or deputy governor was involved in a case, the criminal investigation would be carried out by the Prevention Unit of the Inspection Department of the Directorate General of the Prison Service.

38. At Pardubice Prison, the delegation heard a number of allegations of inter-prisoner violence (in particular, in Block D); prisoners interviewed by the delegation indicated that instances of inter-prisoner violence were often not reported to staff and thus remained undetected. Further, at Prague-Ruzyně Prison, the delegation noted that a number of incidents of inter-prisoner violence (including cases of rape) had been recorded and investigated by staff in 2010.

The CPT acknowledges the efforts made by the management of the establishments visited to prevent incidents of inter-prisoner violence. In particular, in accordance with Ministry of Justice Instruction No. 82/2006 on the prevention of violence among remand and sentenced prisoners, vulnerable prisoners (i.e. those with low body weight and those who were mentally or physically weak) were identified, closely monitored by staff and examined every two weeks by a doctor. In addition, particularly vulnerable prisoners were accommodated in a separate cell or unit. Moreover, prisoners prone to violence towards other prisoners were also classified and subjected to enhanced supervision. It should also be added that a number of prisoners themselves indicated that prison officers usually intervened promptly and in a resolute manner whenever violent episodes were brought to their attention.

That said, it is highly problematic that, at Pardubice Prison, there were no staff present in the detention units (several of which were accommodating more than one hundred prisoners) from 7 p.m. until the following morning, and the staff presence was insufficient during the day as well. According to the management of the establishment, officers on patrol would pass by the detention units only once every two hours. The establishment's unit for vulnerable prisoners was constantly operating at full capacity (14 places), and the delegation was informed that the actual number of prisoners in need of protection was significantly higher. Thus, vulnerable prisoners could often be accommodated in that unit only for a period of three to six months before being transferred to another detention unit<sup>24</sup>.

**The CPT recommends that the Czech authorities pursue their efforts to combat the phenomenon of inter-prisoner violence at Pardubice and Prague-Ruzyně Prisons, in the light of the above remarks. In particular at Pardubice, staffing levels should be reviewed in order to ensure more effective supervision of detention areas.**

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As regards the regime offered to inmates in the unit for vulnerable prisoners, see paragraph 43.

### 3. Conditions of detention

#### a. material conditions

39. Material conditions in detention areas (in terms of state of repair, access to natural light and artificial lighting and ventilation) were generally satisfactory in all the establishments visited. The delegation gained a positive impression of the conditions in the units for disabled and chronically ill prisoners at Pardubice Prison. That said, in several other detention units at Pardubice Prison, toilets and showers were in a poor state of repair. **The CPT recommends that this deficiency be remedied.**

40. At Hradec Králové Prison, a number of cells were grossly overcrowded (e.g. up to three prisoners in a cell of 8 m<sup>2</sup> and up to seven prisoners in a cell measuring some 18 m<sup>2</sup>); at Pardubice Prison, several detention units with a capacity of some 60 places were accommodating more than one hundred prisoners (especially in Block D). In this regard, **reference is made to the recommendation in paragraph 35.**

41. At Hradec Králové and Prague-Ruzyně Prisons, the delegation received a number of complaints from prisoners about the insufficient quantity of food provided. **The CPT recommends that the Czech authorities review the provision of food in both establishments visited.**

42. Finally, the CPT is very concerned about the austerity measures which have recently been introduced and which were progressively being implemented in various prisons.

The most severe repercussions were observed by the delegation at Pardubice Prison, where prisoners' access to showers had been reduced from one shower per day to one shower per week. As a result, prisoners (including those who worked) no longer had access to warm running water for six days of the week. In addition, power from electrical sockets was only available for about one hour in the morning and one to two hours in the evening. Heating in the detention areas and prisoners' access to artificial lighting were not affected by these measures.

The situation was, for the time being at least, more favourable in the other establishments visited, where prisoners could usually take a shower at least twice a week and had regular access to warm running water. However, at Hradec Králové, the same electricity saving policy was applied as in Pardubice. Thus, prisoners had only limited possibilities to watch television or listen to the radio (unless they were able to purchase battery-run devices).

**The CPT recommends that the Czech authorities take immediate steps at Pardubice Prison and, where appropriate, in other prisons, to ensure that all prisoners are able to take a shower at least twice a week and more frequently if the circumstances warrant, taking into account the European Prison Rules<sup>25</sup>.**

**Further, the Committee recommends that the Czech authorities revise their policy regarding the power supply in prisons and extend the periods during which prisoners and, in particular, those subjected to a strict regime, have access to electricity in their cells.**

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<sup>25</sup> Rule 19.4 reads as follows: "Adequate facilities shall be provided so that every prisoner may have a bath or shower, at a temperature suitable to the climate, if possible daily but at least twice a week (or more frequently if necessary) in the interest of general hygiene."



b. regime

43. The regime offered to male sentenced prisoners at Pardubice Prison was generally satisfactory. Prisoners could usually move freely within their detention unit, and a range of purposeful activities was available. The delegation gained a particularly favourable impression of the special activity programmes provided to inmates in the unit for vulnerable prisoners. The establishment also ran a regional vocational training centre, where prisoners could attend a two-year tailoring course offering a recognised diploma (with some 40 participants at the time of the visit) and several five-month training courses on painting, ceramics, computing, languages, etc.

44. The CPT appreciates the efforts made by the management in the other establishments visited to organise out-of-cell activities for male remand prisoners (such as sports, access to a television room, etc.) and to transfer as many of them as possible to a more open detention regime.

That said, it is regrettable that the great majority of remand prisoners remained locked up in their cells for 23 hours per day, the only occupation being watching television, reading and playing board games.

45. For female prisoners (both sentenced and on remand) at Hradec Králové and Prague-Ruzyně Prisons, the situation was particularly unsatisfactory, as they were all subjected to an impoverished regime of the kind just described, without the prospect of progressing to a more open regime.

**The CPT recommends that the Czech authorities redouble their efforts to improve the programme of activities offered to male remand prisoners and female prisoners (both sentenced and on remand) at Hradec Králové, Prague-Ruzyně and Teplice Prisons and, where appropriate, at other prisons in the Czech Republic.** As has been highlighted by the CPT in previous visit reports, the aim should be to ensure that all prisoners, including those on remand, are able to spend a reasonable part of the day outside their cells engaged in purposeful activities of a varied nature (work, preferably with a vocational value; education; sport; recreation/association). The longer the period for which remand prisoners are detained, the more developed should be the activities which are offered to them.

46. The CPT must also express its concern about the regime of juvenile remand prisoners in the remand prisons visited. In particular, at Prague-Ruzyně Prison, there were no regular out-of-cell activities other than one hour of outdoor exercise per day, while, at Teplice Prison, juveniles could usually play table-tennis for up to two hours per day (in addition to one hour of outdoor exercise). The situation was more favourable - but still not satisfactory - at Hradec Králové Prison where juveniles could, as a rule, spend some six hours outside their cells and had access to various sports activities and computing classes.

**The CPT recommends that steps be taken as a matter of priority at Hradec Králové, Prague-Ruzyně and Teplice Prisons and, where appropriate, in other prisons, to develop a programme of purposeful out-of-cell activities throughout the day for juvenile prisoners which are tailored to their needs (such as education, sport and recreation).**

47. In all the remand prisons visited, the number of juveniles was usually very low, and efforts were made by the management to group them together in the same cell (without any adult prisoners). That said, it is a matter of concern that, at Prague-Ruzyně and Teplice Prisons, every juvenile shared a cell with several adult prisoners<sup>26</sup>.

The Committee wishes to recall that, given the inherent risks of domination and exploitation, juveniles who are exceptionally held in a prison for adults must always be accommodated separately from adult prisoners. In the case of there being only one or very few juvenile prisoners, they should be offered opportunities to participate in out-of-cell activities with adults, under appropriate supervision by staff, and should not be left locked up alone in a cell for extended periods of time.

**The CPT recommends that these precepts be effectively implemented at Hradec Králové, Prague-Ruzyně and Teplice Prisons and, where appropriate, in other prisons in the Czech Republic.**

48. Prague-Ruzyně Prison also had a special unit for foreign nationals who were subject to a judicial expulsion order. In principle, such persons were supposed to benefit from an open door regime. However, at the time of the visit, 11 out of 21 of them were in fact held in a strict regime and remained locked up in their cells for 23 hours per day (due to the fact that the unit for deportation detainees did not have sufficient capacity). Such a state of affairs is not acceptable. **The CPT recommends that steps be taken at Ruzyně Prison to ensure that an open door regime is implemented for all deportation detainees and that recreational activities are organised for them.**

49. At Prague-Ruzyně Prison, the existing outdoor exercise yards were extremely small, and the delegation received many complaints from prisoners that they were obliged to take outdoor exercise in cramped conditions. **The CPT recommends that the outdoor exercise facilities at Ruzyně Prison be enlarged so as to enable prisoners to exert themselves physically.**

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<sup>26</sup> According to staff, because the juveniles had to be separated from each other after a fight.

#### 4. Health care

50. The health-care staff at Hradec Králové Remand Prison consisted of two full-time doctors (one of whom spent approximately half of his working time looking after the health-care needs of staff), a part-time dentist (two to three hours, three days per week) and a part-time psychiatrist (two hours a week), as well as five full-time nurses and one part-time dental nurse. The establishment also employed a radiologist and a radiographer on a part-time basis.

At Pardubice Prison, the health-care team comprised three general practitioners (two working full-time and one half-time; one half-time post being vacant at the time of the visit), one full-time dentist and eight full-time nurses (including one dental nurse). The establishment was no longer attended by a psychiatrist<sup>27</sup>. Thus, prisoners who were in need of psychiatric care had to be transferred to Brno Prison Hospital or a local general hospital.

Prague-Ruzyně Prison had three full-time general practitioners (one of whom spent most of her time looking after staff), two part-time dentists (the equivalent of one full-time post), a part-time psychiatrist (16 hours per week), a part-time gynaecologist (four hours per week), and a part-time dermato-venereologist (four hours per week). In addition, ten full-time nurses (one of whom was engaged exclusively to look after the health-care needs of staff and one who also worked as a dental nurse) and one part-time radiographer worked in the establishment.

Teplice Prison employed one part-time doctor (an infectious diseases specialist who was present three days a week) and two full-time nurses. There was no regular attendance by a psychiatrist.

51. As regards medical staff, the resources in terms of general practitioners could be considered adequate if doctors were in a position to spend all their working time looking after the health-care needs of prisoners. However, given the fact that the actual working time devoted to prisoners was significantly lower, it is not surprising that the delegation received a number of complaints from prisoners (in particular, at Hradec Králové Remand Prison) about delays in gaining access to the medical services. More generally, the CPT has misgivings about the practice of prison doctors treating both prisoners and staff. Such a dual responsibility could be to the detriment of the quality of care provided and could also lead to a conflict of interest, which might ultimately compromise the (perceived) professional independence of prison doctors. **The CPT therefore encourages the Czech authorities to put an end to the practice of prison doctors treating both prisoners and prison staff in Czech prisons.**

Further, **the Committee wishes to receive confirmation that the vacant part-time doctor's post at Pardubice Prison has been filled.**

52. It is a matter of concern that Pardubice and Teplice Prisons were not visited by a psychiatrist; in this context, it should be noted that some 130 prisoners at Pardubice Prison were described by health-care staff as having mental health problems. **The CPT recommends that steps be taken as a matter of priority to ensure that both establishments are visited, on a regular basis, by a psychiatrist.**

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<sup>27</sup> Until June 2010, a psychiatrist had been contracted for eight hours per week.

53. Nursing staffing levels were clearly insufficient at Hradec Králové Remand Prison, Pardubice and Prague-Ruzyně Prisons, given the establishments' size and the profile of the inmate population (i.e. a high percentage of remand prisoners at Hradec Králové and Ruzyně and of prisoners with special health-care needs at Pardubice). Further, there were no health-care staff present at night in any of the establishments visited (to be precise, from 3 p.m. until the morning of the following day) or weekends. Thus, prisoners frequently had to be transferred to outside hospitals and prison officers regularly had to distribute psychotropic drugs and other medication to inmates.

**The CPT recommends that the nursing staff resources be significantly increased at Hradec Králové, Pardubice and Prague-Ruzyně Prisons.**

Further, the Committee recommends that appropriate steps be taken to ensure that in all prisons in the Czech Republic:

- a qualified nurse is present every day of the week, including weekends; this should *inter alia* make it possible to avoid the need for the distribution of medication to prisoners by custodial staff;
- a person competent to provide first aid, preferably a qualified nurse, is always present on the premises, including at night.

54. Health-care facilities and the supply of medication were on the whole adequate in all the establishments visited.

55. As regards medical screening, newly-arrived prisoners were usually examined by a nurse and a doctor within 24 hours of their admission in all the establishments visited<sup>28</sup>. At Prague-Ruzyně Prison, prisoners who had arrived from another prison were seen on arrival by a nurse who reported to the prison doctor. In all the establishments visited, injuries observed upon admission were usually well-documented, together with the statements of the prisoner concerned and the doctor's conclusions.

56. The CPT welcomes the fact that, in all the establishments visited, medical examinations upon admission routinely included screening for transmissible diseases (such as tuberculosis, hepatitis and syphilis). However, as was the case during previous visits, a number of prisoners complained that they had not been informed about the reasons for blood tests and the results thereof. **The CPT reiterates its recommendation that the Czech authorities ensure that pre- and post-test discussion takes place with all prisoners in relation to blood and other medical tests, in order to enable them also to give a valid consent to the tests.**

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Both doctors and nurses entered relevant information into a standardised admission form, which also contained body diagrams onto which visible injuries and scars could be marked.

57. The delegation received a number of complaints from foreign prisoners (in particular, at Prague-Ruzyně Prison) that, due to the lack of interpreters, they had great difficulties in communicating with health-care staff or a psychologist. **The CPT recommends that steps be taken at Prague-Ruzyně Prison and, where appropriate, in other Czech prisons, to ensure that, whenever doctors are unable to communicate with inmates during medical examinations/consultations due to language problems, the persons concerned benefit from the services of a professional interpreter.**

58. At Pardubice Prison, the delegation observed that prisoners were engaged as nursing assistants to care for the needs of the more dependent prisoners (in particular, in Blocks D and H). The duties of these prisoner nursing assistants included prompting prisoners to take their medication and providing assistance with personal hygiene to those prisoners unable to wash themselves (including incontinent inmates).

In the CPT's view, the tasks of nursing assistants should, as a rule, not be delegated to other prisoners, but should be performed by suitable staff. **The Committee recommends that the current practice at Pardubice Prison and, where appropriate, in other prisons be reviewed accordingly.**

59. In all the establishments visited, health-care records by prison doctors, psychiatrists and nurses were generally comprehensive and well-kept. That said, it is regrettable that no "trauma register" was kept at Prague-Ruzyně Prison (unlike in the other establishments visited). **Steps should be taken to remedy this shortcoming.**

60. The CPT welcomes the fact that the confidentiality of medical examinations was generally respected at Pardubice and Prague-Ruzyně Prisons.

However, at Hradec Králové Remand Prison and Teplice Prison, medical examinations were frequently carried out in the presence of prison officers. Further, at Prague-Ruzyně Prison, the delegation observed that, in the duty office of prison officers of one detention unit, the list of prisoners displayed on a notice board contained specific information on who among the prisoners of that unit was HIV positive and/or suffering from hepatitis C.

**The CPT calls upon the Czech authorities to take steps to ensure that, at Hradec Králové Remand Prison and Teplice Prison and, where appropriate, in other prison establishments, all medical examinations of prisoners are conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of prison officers.**

Further, **the Committee recommends that steps be taken at Prague-Ruzyně Prison to ensure that medical data are no longer accessible to non-medical staff.**

## 5. Other issues

### a. staff

61. As was the case during previous visits, the delegation observed that, in all the establishments visited, relations between custodial staff and prisoners were rather formal and distant. In practice, it was mainly educators who communicated with prisoners. In this regard, the CPT recalls that the development of constructive and positive relations between staff and inmates, based on the notions of dynamic security and care, would enhance control and security and render the work of prison officers more rewarding.

**The Committee reiterates its recommendation that prison officers in all prisons be encouraged to interact more with prisoners and that they be provided with training in order to acquire the necessary inter-personal skills to develop such communications.**

62. In several of the prisons visited, the delegation received complaints from senior staff about a shortage of educators. At the same time, the CPT notes that educators constantly fulfilled a multitude of different tasks, including ones which, in the Committee's view, should normally fall within the responsibility of custodial staff (such as handling of prisoners' requests to make telephone calls, personally monitoring telephone conversations or checking prisoners' correspondence). **The CPT would like to receive the Czech authorities' comments on this matter.**

63. At Pardubice Prison, the delegation noted that, in every detention unit, an inmate had been appointed by the management as "prisoner co-ordinator" (following an election by fellow inmates of the same unit, for a term of up to several years). The delegation interviewed several of these "co-ordinators". They saw their role in acting as "deputy educators", being responsible, among others, for the maintenance of good order and cleanliness in the detention unit and for solving problems between prisoners. Further, they indicated that they could propose to educators the imposition of disciplinary sanctions. Every three months all the co-ordinators met together with the governor to discuss prisoners' wishes, daily problems, etc.

The CPT has no objection in principle to a system of inmate representation which facilitates the participation of prisoners in matters relating to the general conditions of imprisonment (which is also in line with the European Prison Rules<sup>29</sup>). However, the system put in place at Pardubice Prison is fundamentally flawed. The partial abrogation of the responsibility for order and security - which properly falls within the ambit of custodial staff - is not acceptable. It exposes weaker prisoners to the risk of exploitation by fellow inmates and could lead to inter-prisoner violence and intimidation<sup>30</sup>. **The Committee recommends that the Czech authorities take appropriate measures in all prisons to ensure that no prisoner is entrusted with tasks relating to the maintenance of good order and control.**

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<sup>29</sup> See Rule 50 and the Commentary to this rule.

<sup>30</sup> See also Rule 62 of the European Prison Rules and the Commentary to the aforementioned rule.

b. discipline

64. The CPT notes that resort to severe disciplinary sanctions (such as solitary confinement) was very rare in all the establishments visited.

That said, the delegation observed that, on several occasions, measures with a punitive effect had been imposed on prisoners without any formal procedure. By way of example, a remand prisoner met by the delegation at Prague-Ruzyně Prison claimed that, after having been initially placed for several weeks in a unit with an open-door regime, he had been transferred, from one day to the next and without any explanation, to a unit with a strict regime. When discussing this case with the management of the prison, the delegation was informed that several fellow inmates of the prisoner concerned had lodged a complaint about him and that, for this reason, it had been decided to transfer him to another cell in a unit with a closed regime. Apparently, this decision had been taken by the management alone, without the involvement of the establishment's regime commission and without the prisoner having been given a chance to express his views. **The CPT would like to receive the Czech authorities' comments on this matter.**

65. As regards formal disciplinary measures, the CPT has misgivings about the fact that prisoners (sentenced and on remand) who were subjected to the sanction of solitary confinement were, as a rule, not allowed to receive visits (except from a lawyer) or to make telephone calls.

In this connection, the CPT wishes to stress that disciplinary punishment of prisoners should not involve a total prohibition of family contact and that any restrictions on family contact as a punishment should be imposed only when the offence relates to such contact<sup>31</sup>. **The CPT recommends that the legal provisions governing disciplinary sanctions be revised accordingly.**

66. Further, in accordance with the existing regulations, prisoners who were punished with solitary confinement were not allowed to have reading material (other than legal, educational and religious literature) in the disciplinary cell<sup>32</sup>. **The CPT invites the Czech authorities to abolish the aforementioned restriction regarding access to reading matter for prisoners subjected to the disciplinary sanction of solitary confinement.**

67. From the consultation of disciplinary registers and files, as well as from consultations with prisoners and staff, it transpired that disciplinary procedures were usually carried out in a satisfactory manner in all the establishments visited. Depending on the severity of the sanction, disciplinary sanctions could be imposed by an educator, the special pedagogue, the head of execution of sentences or the Director.

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<sup>31</sup> See also Rule 60.4 of the European Prison Rules and Rule 95.6 of the European Rules for juvenile offenders subject to sanctions or measures, as well as the commentaries on these Rules.

<sup>32</sup> Remand prisoners were also allowed to read newspapers.

However, it is regrettable that, in contradiction to the European Prison Rules<sup>33</sup>, prisoners were entitled to lodge an appeal against a disciplinary sanction only to the immediate superior of the person who had imposed the sanction, but not to an independent higher authority. **The CPT recommends that the Czech authorities introduce a possibility for prisoners to appeal against disciplinary sanctions to a competent and independent higher authority and that the relevant legal provisions be amended accordingly.**

68. In accordance with the relevant regulations, in all the establishments visited, prisoners subject to the sanction of placement in a disciplinary cell were seen prior to their placement by the doctor, whose signature was required to certify whether the prisoner was fit to undergo the punishment. During their placement in a disciplinary cell, prisoners were seen by a doctor once a week.

In this connection, the CPT wishes to stress once again that medical practitioners working in prison act as the personal doctors of prisoners, and ensuring that there is a positive doctor-patient relationship between them is a major factor in safeguarding the health and well-being of prisoners. Obliging prison doctors to certify that prisoners are fit to undergo punishment is scarcely likely to promote that relationship. This point was recognised in the revised European Prison Rules; indeed, the rule in the previous version of the Rules, stipulating that prison doctors must certify that a prisoner is fit to sustain the punishment of disciplinary confinement, has now been removed. On the other hand, a prison's health-care service should be very attentive to the situation of prisoners placed in disciplinary cells (or any other prisoner held under conditions of solitary confinement). In this regard, all disciplinary placements should be immediately brought to the attention of the health-care service.

**The CPT recommends that the role of prison doctors in relation to disciplinary matters be reviewed, in the light of the above remarks. In so doing, regard should be had to the European Prison Rules (in particular, Rule 43.2)<sup>34</sup> and the comments made by the Committee in its 15<sup>th</sup> General Report (see paragraph 53 of CPT/Inf (2005) 17).**

69. Material conditions in disciplinary cells were generally adequate (in terms of size, access to natural light and equipment) and do not call for any particular comments.

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<sup>33</sup> See Rule 61.

<sup>34</sup> Rule 43.2 reads: "The medical practitioner or a qualified nurse reporting to such a medical practitioner shall pay particular attention to the health of prisoners held under conditions of solitary confinement, shall visit such prisoners daily, and shall provide them with prompt medical assistance and treatment at the request of such prisoners or the prison staff."



c. contact with the outside world

70. The CPT recalls the importance it attaches to the maintenance of prisoners' contacts with family and friends, in particular, in the context of their social rehabilitation.

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

However, the information gathered during the visit suggested that, in all the establishments visited, the practice of routinely controlling the contents of correspondence of both remand and sentenced prisoners was widespread. The CPT fully acknowledges the need to verify that correspondence does not contain illicit articles. However, the routine practice of reading letters without any concrete suspicion that they might jeopardise an ongoing investigation or that their contents are illegal appears to be disproportionate<sup>35</sup>. **The CPT would like to receive the Czech authorities' comments on this matter.**

71. In accordance with the relevant regulations, prisoners could receive visits from family members for three hours per month. Sentenced prisoners could have either one three-hour visit or several shorter visits totalling three hours, while remand prisoners could only receive two visits of 1 ½ hours per month (usually under open conditions). Under certain circumstances (for instance, when a prisoner has gained credits for "good behaviour"), the monthly visit entitlement was increased to five hours.

In the CPT's view, all prisoners should be entitled to at least one visit per week. Moreover, it is not acceptable that prisoners (both sentenced and on remand) can only receive visits from persons other than next-of-kin "in justified cases". **The Committee recommends that the Czech authorities review the arrangements for prisoners' visits, in the light of the preceding remarks.**

72. According to the relevant regulations, sentenced prisoners may also be authorised to receive visits without being monitored by staff<sup>36</sup>. However, it would appear that, in practice, such visits were never granted. **The CPT would like to receive the comments of the Czech authorities on this matter.**

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<sup>35</sup> See also the Commentary to Rule 24 of the European Prison Rules.

<sup>36</sup> At Hradec Králové Prison, the delegation gained a positive impression of the visiting facilities designed for unsupervised visits.

73. As regards prisoners' access to the telephone, the situation remains unacceptable. According to the relevant regulations, both sentenced and remand prisoners were allowed to make telephone calls only "in justified cases". Thus, it was left to the discretion of the educator in charge of the unit whether to grant requests for a telephone call submitted by prisoners. In practice, requests were approved more frequently in the case of sentenced prisoners (often one call per week), while requests from remand prisoners were usually accepted far less frequently. Further, it is regrettable that requests for telephone calls were often rejected when the prisoner concerned had already been authorised a visit during the same week. Some allegations were also received from remand prisoners that their requests to call their lawyer had been rejected.

**The CPT recommends that the Czech authorities make the necessary arrangements to ensure that both remand and sentenced prisoners are granted regular and frequent access to the telephone.**

d. security-related issues

74. In all the establishments visited, instances of resort to physical force or means of restraint (such as handcuffs) *in response* to violent and/or recalcitrant behaviour by prisoners were recorded in a special register. As regards the *preventive* use of special security measures (for instance, during out-of-cell movements or escorts outside the establishment), orders to apply such measures were usually issued on the basis of individual risk assessments. However, these orders were recorded only in the individual files of the prisoners concerned, but not in a central register. **The CPT recommends that such a register be established in every prison.**

75. As regards the application of special security measures, the situation of two remand prisoners met by the delegation at Prague-Ruzyně Prison gave rise to particular concern. Both prisoners were systematically handcuffed to a belt and escorted by two or three officers with a guard dog during all out-of-cell movements. They even remained handcuffed during outdoor exercise and when meeting their lawyers behind a glass partition. The delegation was informed that two suspected accomplices of these prisoners were being held under the same conditions at Pankrác Prison. One of the two prisoners at Ruzyně Prison had been kept in almost total isolation for about a year.

During the end-of-visit talks, the delegation acknowledged that special security measures may be required in respect of these four prisoners (in the light of the information it had received from the management of the prison). However, it also stressed that the combined use of the aforementioned security measures inside a secure environment appeared to be disproportionate. In particular, the use of guard dogs inside the detention area can only be regarded as a means of intimidating the prisoners concerned. The delegation welcomed the fact that initial steps towards lessening the severity of the regime applied had been taken by the prison administration in respect of one of the prisoners, who was now allowed to associate with three other prisoners in a television room and during outdoor exercise. The delegation called upon the Czech authorities to put an end to the use of guard dogs when escorting the above-mentioned prisoners (or any other inmate) inside prison. In addition, it requested the Czech authorities to carry out regular individual risk assessments in respect of all four prisoners, with a view to alleviating as much as possible the severity of the regime and security measures currently in place.

76. By letter of 15 November 2010, the Czech authorities provided the following information:

“Extraordinary security measures, to which the four remand prisoners are subjected, were adopted on the basis of very serious findings by the Prison Service, Police of the Czech Republic, as well as the presiding judge of the Municipal Court in Prague, who requested the adoption of such aggravated security measures. Extraordinary security measures currently exist for two of the accused, the measures for the remaining two were reduced in June 2010 and in October 2010. The decision to maintain or to reduce extraordinary security measures was adopted on the basis of individual risk assessment of the individual concerned. The extraordinary security measures taken in accordance with the Act No. 555/1992 on Prison Service and Judicial Guard of the Czech Republic and correspond to the highest possible dangerousness of those accused (determination to escape by any means, including hostage taking or murder of transferring or escorting members of the Prison Service).”

77. The CPT takes note of this information; **it would like to receive more detailed information on the security measures currently applied in respect of the above-mentioned prisoners.**

Further, **the Committee recommends that the Czech authorities take appropriate steps at Prague-Pankrác and Ruzyně Prisons and, where appropriate, in other establishments in the Czech Republic to ensure that:**

- **dogs are no longer used when escorting prisoners within the confines of a prison;**
- **prisoners are not handcuffed during meetings with their lawyer.**

78. The delegation was puzzled when observing the manner in which a group of newly-arrived prisoners was admitted at Pardubice Prison. All prisoners were escorted by prisoner officers from the admission area directly to the relevant detention units, and on the way they had to walk through the central area of the detention block where prison dogs were placed – and barked – whenever one of the prisoners passed by. When asked whether this kind of “reception” served any other purpose than intimidating newly-arrived prisoners (as well as other prisoners who could hear the barking from their cells), prison officers interviewed by the delegation openly replied in the negative. In the CPT’s view, the above-mentioned practice is quite simply unacceptable. **The Committee recommends that an end be put to it immediately.**

79. The CPT has misgivings about the practice observed in several establishments visited of custodial officers openly carrying truncheons and handcuffs within the detention areas.

As already stressed in the report on the 2006 visit, the visible wearing of such devices in a prison setting could well be seen as a sign of weakness rather than one of strength, demonstrating a lack of confidence in the ability of prison officers to control a situation without possible recourse to a weapon. On the other hand, prison officers who are properly trained in control and restraint techniques (i.e. manual control) are in a position to choose the most appropriate response when confronted by difficult situations, thereby significantly reducing the risk of injuries to both prisoners and staff. Moreover, such skills will complement and reinforce the confidence of prison officers in interacting with prisoners (see paragraph 61).

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

80. In several establishments visited, the delegation observed that prison officers were also carrying pepper spray canisters within the detention areas<sup>37</sup>. The CPT considers that, given the potentially harmful effect of using this substance, such devices should not form part of the standard equipment of custodial staff and should not be used in confined spaces. Whenever recourse is had to pepper spray, there should be clearly defined safeguards in place. In particular, detainees exposed to pepper spray should be granted immediate access to a medical doctor and should be supplied immediately with means to reverse the effects effectively and rapidly. **The Committee recommends that the policy as regards the use of pepper spray be reviewed in all prisons in the Czech Republic, in the light of the above remarks.**

81. According to the relevant regulations, agitated prisoners or prisoners at risk of self-harm could be segregated from other prisoners and held in a security/crisis cell for a period of up to 24 hours. In accordance with the relevant regulations, placements in such cells were recorded in a register and the prisoners concerned were usually allowed to have one hour of outdoor exercise and were regularly monitored by staff (every 15 minutes).

That said, at Pardubice Prison, several prisoners claimed that they had been held in a security cell for several days without being provided with a mattress (but only a blanket) and without being allowed to take outdoor exercise<sup>38</sup>. **The CPT wishes to receive the Czech authorities' comments on this point.**

82. At Hradec Králové and Pardubice Prisons, leather belts were available to physically restrain agitated prisoners. According to staff, these belts had not been used in recent years. There was no specific register for recording the use of restraint equipment, and the delegation gained the impression that staff were lacking guidance as to the procedures to be followed in the event that such restraint were to be used.

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

- **the resort to immobilisation is immediately brought to the attention of a doctor and recorded in a special register;**
- **the persons concerned are continuously and directly monitored by a suitably trained member of staff.**

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<sup>37</sup> None of the staff members interviewed by the delegation could recall a single case of having had recourse to it.  
<sup>38</sup> In the establishment's register on the use of the security cell, it was indicated that the prisoners concerned had spent up to 72 hours in the cell, with an interruption of one hour every 24 hours.

e. complaints procedures

83. While inmates could lodge a complaint to the prison governor and the Prevention Unit of the Directorate General of the Prison Service, many prisoners interviewed by the delegation expressed a profound lack of confidence in the existing complaints system, fearing reprisals if they lodged a complaint. This issue needs to be addressed, as a well-functioning complaints system is in the interest of all parties; it can serve as a valuable source of information for prison management about potential problems in the establishment as well as allaying tension among prisoners by ensuring that their concerns are treated seriously and, where appropriate, that suitable remedies are proposed.

**The CPT recommends that appropriate steps be taken in all the establishments visited to reinforce prisoners' confidence in lodging complaints.**

84. In certain of the establishments visited (in particular, at Hradec Králové and Pardubice), the delegation noted a certain confusion in the various registers for complaints, requests or appeals. On several occasions, complaints were handled as requests, requests as appeals, appeals as requests or complaints. **Steps should be taken to remedy this deficiency.**

**D. Establishments for placement under the 2003 Juvenile Justice Act**

**1. Preliminary remarks**

85. The Juvenile Justice Act, which entered into force in 2003, differentiates between children (aged between 12 and 15) and young persons (aged between 15 and 18) and it distinguishes between three types of measure: educative (such as the imposition of “educative obligations” and “educative restrictions”), protective (“protective upbringing”) and penal measures (which include, inter alia, “community service”, “financial penalty” and “imprisonment”); of these measures, only imprisonment and protective upbringing entail deprivation of liberty in a closed institution.

In addition to the above-mentioned measures, juveniles may be subjected to protective treatment and preventive detention, in conformity with the relevant provisions of the Penal Code. In this respect, recent media reports indicate that the Czech authorities have prepared legislation which authorises the imposition of the measure of protective treatment indefinitely, rather than until the age of 18 as had previously been the case<sup>39</sup>. **The CPT would like to receive detailed information as regards the above-mentioned draft legislation (including the intended date of entry into force, the legal safeguards and the estimated number of juveniles that will be affected by the legislation).**

86. The Juvenile Justice Act promotes non-custodial measures above custodial sentences. Indeed, statistics on the imposition of prison sentences suggest a decrease in the number of prison sentences since the entry into force of the Juvenile Justice Act: from 14% of all measures imposed in 1995 to 7% in 2006<sup>40</sup>.

87. In the course of the 2010 visit, the delegation visited the units for sentenced juveniles at Všeřdy Prison (under the responsibility of the Ministry of Justice) and the Dečín-Boletice Educational Institute for Young Persons and Children (under the responsibility of the Ministry of Education). When visiting the latter establishment, the delegation focused on the living conditions and treatment of juveniles held in the forensic ward (all subject to the measure of protective upbringing) and of children held in the closed unit for extreme behavioural problems<sup>41</sup>.

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<sup>39</sup> See, for instance, “Underage criminals may be isolated for life under new bill”; Prague Daily Monitor, 16 February 2011.

<sup>40</sup> See Helena Válková, Jana Hulmáková “Czech Republic” in *Juvenile Justice Systems in Europe. Current situation and Reform Developments*, Vol. 1 (2010), page 254, Frieder Dünkel, Joanna Grzywa, Philip Horsfield, Ineke Pruin (eds), Forum Verlag Godesberg, Mönchengladbach.

<sup>41</sup> As regards the situation of juvenile remand prisoners held at Hradec Králové, Prague-Ruzyně and Teplice Prisons, see paragraphs 46 and 47.

## 2. Units for juveniles at Všeřrdy Prison

88. Všeřrdy Prison is a low-security prison for male sentenced prisoners, located in close vicinity to the city of Chomutov. The prison was opened in 1960 and had a capacity of 599 places, of which, at the time of the visit, 201 were for placements under the 2003 Juvenile Justice Act. The establishment had two units for sentenced juveniles (Units 3 and 4) in two stand-alone two-storey blocks. At the time of the visit, 141 juveniles were being accommodated there.

89. Juveniles<sup>42</sup> held at Všeřrdy Prison are subject to the rules and regulations contained in the 1999 Imprisonment Act (as amended) and the 1999 Imprisonment Decree (as amended). Specific provisions for juveniles are laid down in Sections 60 to 65 of the 1999 Imprisonment Act<sup>43</sup> and Sections 55 and 82 to 88 of the 1999 Imprisonment Decree<sup>44</sup>. In this context, many of the remarks and recommendations made by the CPT as regards penitentiary establishments for adults also apply to the juvenile units of Všeřrdy Prison, including those regarding disciplinary punishment.

### a. ill-treatment

90. The delegation received several allegations of physical ill-treatment of juveniles by prison staff. These allegations consisted mainly of slaps and blows with a baton. It appeared that the main purpose of the alleged ill-treatment was to impose order and discipline.

It is never acceptable for prison staff to resort to ill-treatment; in a detention facility for young persons in particular, staff should set an example by solving conflicts by means other than resort to violence. **The CPT recommends that the management at Všeřrdy Prison deliver the clear message to prison officers that all forms of ill-treatment are not acceptable and will be punished accordingly.**

91. The CPT is particularly concerned about the number and seriousness of allegations of inter-prisoner violence which its delegation received during the visit. Many of the young persons interviewed claimed that within the juvenile units the strongest inmates imposed their will on the others, subjecting them to physical violence whenever they wished. Such violence consisted mainly of punches and beatings with various objects, such as a broomstick.

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<sup>42</sup> According to translations in the possession of the CPT, the 1999 Imprisonment Act uses the term “juvenile” for a person aged between 15 and 18, while the Juvenile Justice Act refers to a “young person”. In the remainder of the report, the CPT will employ the term “juveniles” when referring to a person aged between 15 and 18.

<sup>43</sup> These provisions mainly concern rewards and disciplinary punishment. Imprisoned young persons may be subjected to a five-day period of solitary confinement, a punishment which was apparently never imposed on juveniles at Všeřrdy Prison.

<sup>44</sup> These Sections mainly concern classification. Upon their arrival at Všeřrdy Prison, all juveniles are classified into one of four “personality” categories. Within a certain category, the imprisoned juveniles are initially awarded Step II privileges. In the course of their stay, privileges may either be added (they are promoted to Step I) or taken away (they are demoted to Step III), depending on their behaviour. The privileges involved relate principally to priority access to the gym, items to buy in the prison’s tuck shop, room decoration and length of time they are authorised to watch television.

Further, various incidents of humiliation, including of a sexual nature, were reported to the delegation. Most allegations related to the juveniles held on the ground floor of Unit 4, but allegations of inter-prisoner violence were also received in respect of Unit 3 and the establishment's school, where a large number of juveniles and adult prisoners mingled freely under the supervision of a single prison officer.

92. The delegation gained the impression that inter-prisoner violence was a characteristic of prison life at the units for juveniles, resulting from the combined effect of an absence of meaningful activities for the majority of inmates and the inability to exercise adequate staff supervision, due to low staffing numbers and the layout of the living areas.

This unfavourable situation appears to have been exacerbated by various other aspects such as, inter alia, the deeply ingrained hierarchical "institutional" culture amongst juveniles, in which the perpetrators of sexually motivated offences and murder were held in particularly low esteem, and the fact that games for money, food and cigarettes were the main pastimes. According to some of the delegation's interlocutors, regional and ethnic divisions played an important role in stirring up violence amongst juveniles.

Given the layout of the juvenile units<sup>45</sup>, the number of custodial staff assigned to each juvenile section, with only one prison officer on duty at each of the sections at any one time, is insufficient to provide adequate surveillance, in particular in respect of those sections accommodating a high number of juveniles without work or schooling, such as were found on the ground floor of Unit 4. As a consequence, staff appeared to be struggling to keep peace and order.

Similar remarks could be made in respect of the school. With one single prison officer for 130 students, the school was not properly supervised, which is illustrated by the fact that a considerable number of juveniles informed the delegation that they had discontinued their education or vocational training after having been bullied by adult prisoners whilst at school<sup>46</sup>.

93. The management of Všeřdy Prison was aware of the high incidence of bullying at the units for Juveniles, and had taken certain counter-measures. For instance, CCTV-cameras had been installed in the central corridor of all the sections. Furthermore, particularly vulnerable juveniles were assigned to a single-occupancy "crisis cell" where they were allowed to associate only under staff supervision. In addition, juveniles classified as being prone to violence towards others underwent an intensive, 12-week therapeutic programme ("TP21 Junior")<sup>47</sup>. When injuries were detected, they were recorded and investigated by the prison's internal investigations department<sup>48</sup>. Moreover, prison officers had taken the initiative of visually examining juveniles considered to be at risk of inter-prisoner violence<sup>49</sup> every second week.

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<sup>45</sup> A grille gate separated the detention area from the entrance and the staff quarters. From their area behind the gate, staff were unable to monitor the entire detention area.

<sup>46</sup> See paragraph 91.

<sup>47</sup> At the time of the CPT's visit, some ten juveniles were participating in this programme.

<sup>48</sup> The delegation was informed that in 2009 there had been approximately 30 of these cases.

<sup>49</sup> In contrast to the other prisons visited by the delegation, the Ministry of Justice Instruction No. 82/2006 was not being applied at Všeřdy Prison as it was considered to be no longer in force.



94. The CPT acknowledges the efforts made by the management of Všeřdy Prison to combat the problem of inter-prisoner violence. However, additional measures are needed. In particular, attention should be paid to matters such as staffing, the layout of the accommodation, training programmes for staff and activities for those who do not have work or receive education. Further, there was no special regime for juveniles classified as vulnerable. Juveniles placed in a crisis cell received little attention from staff, including health-care staff, and spent most of their time in isolation. **The CPT recommends that the Czech authorities draw up an integrated action plan to combat inter-prisoner violence in the units for juveniles at Všeřdy Prison, in the light of the remarks made in paragraphs 91 to 94.**

b. conditions of detention

95. The material conditions in the units for juveniles were generally acceptable; the multi-occupancy rooms (with two to five beds) were of sufficient size, clean and had good access to natural light. However, they were austere; it was only in the rooms of the most well-behaved juveniles on the first floor of Unit 4 that efforts had been made to create a less carceral environment, with plants, wall decorations and curtains. Since the bedrooms were open all night, there were no problems of access to the toilet.

In certain sections, maintenance was required. For example, the bathroom on the ground floor of Unit 3 suffered from water damage due to a leakage on the top floor, and on the upper floor of Unit 3, a window had remained broken for some time. **The CPT trusts that these deficiencies will be remedied.**

96. The delegation received many complaints from juveniles that the quantity of food was insufficient and that they were not given enough time to eat their meals. It was also claimed that in order to have more time to eat and to ensure that they received sufficient food, stronger inmates pushed their way to the front of the food queue, to the detriment of the weaker inmates. **The CPT recommends that the Czech authorities review both the quantity of food given to the juveniles at Všeřdy Prison and the time allocated for them to consume their meals.**

97. As regards the regime, both the 1999 Imprisonment Act (as amended) and the 1999 Imprisonment Decree (as amended) emphasise that the core objective of custodial sentences for juveniles is rehabilitation through education and vocational training.

Všeřdy Prison had a well-equipped school which was attended by both adult prisoners and juveniles in mixed-age classes. The school offered secondary education, as well as vocational training, inter alia, in gardening, carpentry, cooking and locksmithing, of either three months' or two years' duration. However, only 65 out of the 141 juveniles were receiving education or vocational training.

For some of the juveniles who did not attend school, jobs had been made available, including cleaning and kitchen work. However, by far the majority of these juveniles remained on their section all day, with no activities apart from some group therapy, television, table tennis and one hour of outdoor exercise. For example, on the ground floor of Unit 4, only three of the 26 juveniles were following an educational course or had work. The delegation observed a certain reluctance on the part of the management to invest resources in juveniles who displayed a lack of motivation to take part in activities.

The CPT wishes to recall that a lack of purposeful activities is harmful for juveniles, as well as for their physical and social environment. As part of the duty of care which rests upon the Czech authorities, the Committee considers that additional steps are needed to provide a range of meaningful activities for all juveniles held at Všehrdu Prison. The Czech authorities should increase the number of non-custodial staff assigned to the units for juveniles, which at present consists of a social worker, two educators and one psychologist per unit.

**The CPT recommends that the Czech authorities develop a programme of purposeful activities, tailored to their needs (such as work, education, sport and recreation), for all juveniles at Všehrdu Prison.**

### **3. Dečín-Boletice Educational Institute for Young Persons and Children**

98. The Dečín-Boletice Educational Institute for Young Persons and Children is a home for boys who have been placed under the provisions of the Juvenile Justice Act. The Institute is spread out over several premises in Dečín and its immediate surroundings. The two units visited by the delegation were situated in different locations: the forensic ward was in the city of Dečín and the closed unit for children with extreme behavioural problems in the nearby village of Boletice.

At the time of the visit, the Institute was accommodating 104 boys (aged between six and 18 years). 18 inmates were involuntarily placed in the institution under the measure of protective upbringing: ten of them were accommodated in the forensic ward (including four juveniles who had absconded and were at large) and three were accommodated in the closed unit for children with extreme behavioural problems (including two children who were at large). Five residents placed involuntarily under the measure of protective upbringing were in a remand prison after having committed subsequent offences.

99. The delegation received no allegations of ill-treatment of inmates by staff of the Educational Institute. Furthermore, no indications of bullying amongst the children and juveniles accommodated in this facility were found.

100. The material conditions in the two units visited were satisfactory. The six juveniles on the forensic ward shared two large bedrooms, one bedroom containing four beds and one room containing two beds. The seven rooms in the unit for children with extreme behavioural problems were originally designed for double occupancy, but were only being used for one child. The rooms were clean and light, but austere. All of them had been equipped with an “en-suite” bathroom. However, some of the call bells were out of order and with the doors locked, children in these rooms who were in distress at night, apparently had difficulty contacting staff. **The CPT recommends that the call bells in the unit for children with extreme behavioural problems be repaired.**

101. The regime was generally satisfactory: all children and juveniles received education five days a week, could pursue recreational activities and were entitled to regular home leave. However, the CPT has some concerns as regards the induction of new children on the unit for children with extreme behavioural problems. It appeared to the delegation that children as young as eleven years of age were left to their own devices in a locked room at night, which created great distress amongst some of them, especially for the first few nights. **The CPT recommends that the Czech authorities develop a proper induction procedure for all children and juveniles placed in an institution under the provisions of the Juvenile Justice Act.**

## **E. Psychiatric establishments**

### **1. Preliminary remarks**

102. The CPT's delegation visited for the first time the Horní Beřkovice Psychiatric Hospital, situated some 40 km north-west of Prague. The hospital opened in 1890 and consists of several two-storey pavilions on large grounds. With an overall capacity of 567 places, it was accommodating 515 patients at the time of the visit, of whom 89 had been admitted on an involuntary basis (including 79 forensic patients under the penal law measure of "protective treatment" and ten patients under the provisions of the Civil Procedure Code<sup>50</sup>). The delegation focused mainly on the closed wards: no. 421 (the admission ward for non-agitated male patients); no. 433 on the ground floor (the admission ward for agitated male patients); no. 433 on the first floor (a ward for patients under the penal measure of protective treatment) and no. 471 (a ward for men with addiction problems).

103. The delegation received no allegations and found no other indications of ill-treatment of patients by staff, or of violence amongst patients at Horní Beřkovice Psychiatric Hospital.

104. The Czech Republic still does not have a comprehensive mental health law governing the treatment and legal position, including rights and obligations, of psychiatric patients. In 2008, a draft law on health-care services and their provision, which covered issues of mental health, had been submitted to Parliament as part of a package of legislative proposals on health-care reform. However, in 2009, the package was withdrawn from the parliamentary agenda. The Czech authorities informed the CPT that it intended to resubmit the draft health-care legislation, including as regards mental health, to Parliament in June 2011.

In the absence of a comprehensive legal framework for mental health, matters such as involuntary hospitalisation, involuntary treatment and the use of means of restraint are regulated in various legal instruments, including the Civil Procedure Code, the Criminal Code, the 1966 Law on the Care for People's Health and various ministerial regulations.

105. The CPT must express its concern about the legal situation of a number of patients at Horní Beřkovice Psychiatric Hospital. Despite the fact that they had signed a form upon arrival giving their consent to hospitalisation, these patients were being accommodated in closed wards and were not free to leave; in other words, they were *de facto* involuntary patients, being deprived of the benefit of any of the safeguards which accompany the initial involuntary placement procedure.

In this regard, the Committee wishes to underline that voluntary patients should always be free to leave a hospital. If it is considered that a given patient, who has been voluntarily admitted and who subsequently expresses a wish to leave the hospital, still requires inpatient care, then the involuntary civil placement procedure provided by the law should be fully applied.

**The CPT recommends that the legal status of "voluntary" patients kept on closed wards at Horní Beřkovice Psychiatric Hospital be reviewed, in the light of the preceding remarks.**

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<sup>50</sup> See also paragraph 118.

106. The announced<sup>51</sup> recasting of the Civil Code, which apparently involved a revision of provisions on guardianship, has followed a path similar to the mental health legislation; in 2009, the Czech Parliament removed the draft Civil Code from its agenda. At the time of the visit, it was not clear when the text would be rescheduled for debate<sup>52</sup>. **The CPT would like receive, in due course, information as concerns the guardianship provisions of the redrafted Civil Code.**

## **2. Patients' living conditions and treatment**

107. Despite the somewhat grim appearance of the accommodation blocks from the outside, the living conditions were generally satisfactory in the wards visited by the delegation: they were in a good state of repair, spacious, pleasantly decorated and clean.

Having said this, patients' accommodation in the wards visited consisted mainly of large-capacity dormitories. In the CPT's view, such dormitories may have a counter-therapeutic, institutionalising effect on patients and compromise their privacy and safety. For these reasons, it is generally held that large-capacity dormitories are not compatible with current standards of accommodation for psychiatric in-patients. For security reasons, CCTV had been installed in many of the dormitories, further reducing patients' privacy. **The CPT recommends that the Czech authorities strive to phase out large-capacity dormitories at Horní Beřkovice Psychiatric Hospital and, where appropriate, in other psychiatric establishments.**

108. In principle, all patients were allowed at least one hour of outdoor exercise per day: certain wards, including Ward no. 433, possessed a fenced-off garden for this purpose. Moreover, many of the patients were permitted to leave the closed wards to walk in the hospital grounds or even to visit the neighbouring village. However, in the absence of a shelter, patients on the first floor of Ward no. 433 were not allowed in the garden during inclement weather, although they could access the small balconies. The same arrangements applied to newly-arrived patients for the first few days, as well as to patients who had attempted to abscond<sup>53</sup>. **The CPT recommends that the Czech authorities make suitable arrangements for all patients accommodated in the Horní Beřkovice Psychiatric Hospital whose state of health so permits to benefit from outdoor exercise, including during inclement weather.**

109. The CPT does not have any particular concerns as regards the treatment received by patients. The delegation observed that all patients had an individual treatment plan and benefited from various types of treatment in addition to pharmacotherapy, such as psychotherapy and occupational therapy.

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<sup>51</sup> See page 52 of the Czech authorities' response to the report on the 2006 visit (CPT/Inf (2007) 33).

<sup>52</sup> The Prague Daily Monitor reported on 9 February 2011 that the current Minister of Justice envisages that a new Civil Code will enter into force in 2013, "HN: Czech experts are preparing new breakthrough Civil Code, Prague Daily Monitor, 9 February 2011.

<sup>53</sup> See also the Annual Report on the Activities of the Defender of Rights, Public Defender of Rights/Ombudsman, 2009, page 79.

### 3. Restraint of agitated and/or violent patients

110. In 2009, the Ministry of Health issued new “Methodological Guidelines on the use of restraints”, which provide for an exhaustive list of means of restraint to be applied as a measure of last resort in order to prevent a patient from causing harm to him/herself or to others. At present, the Guidelines are non-binding. However, the CPT understands that they will be incorporated into the new health legislation.

111. In comparison with the 2005 Guidelines, some matters important to the CPT have been introduced. For instance, Article 1 (4) of the 2009 Guidelines stipulates that any emergency use of restraints applied without prior authorisation from a doctor (“SOS restraint”) must be promptly notified to a doctor. Further, in conformity with a specific recommendation made by the Committee after the 2006 visit, the mandatory registration of instances of use of means of restraint, including information on observations regarding the state of health of the patient involved, was introduced under Article 1 (8).

However, in other respects, the 2009 Methodological Guidelines appear to be a step in the wrong direction. For instance, contrary to the 2005 Guidelines, the 2009 Guidelines do not state that restrained patients should be placed away from direct contact with other patients. Further, the procedure under which the use of restraint of a voluntary patient has to be reported to court has been removed. **The CPT recommends that the matters raised in the above paragraph be included in the Methodological Guidelines if they are not yet covered by law.**

112. The use of net-beds in social care homes and psychiatric hospitals has led to controversy and their subsequent phasing out in various Council of Europe member States. For its part, the Czech Republic has not introduced a full ban on the use of net-beds, but rather a partial ban: net-beds have been banned from social care homes, but continue to be considered an appropriate means of restraint for psychiatric patients. The CPT has difficulty understanding such a divergence in approach, in particular as several psychiatric hospitals in the Czech Republic have already ceased using net-beds, including Horní Beřkovice Psychiatric Hospital. **The CPT recommends that the Czech authorities pursue a policy of putting an end to the use of net-beds in psychiatric hospitals at the earliest opportunity.**

113. It is of serious concern to the CPT that the 2009 Methodological Guidelines appear to accept that patients be subjected to means of restraint for extended periods. The CPT must emphasise that in its opinion applying means of restraint for days on end cannot have any medical justification. **The CPT recommends that the Czech authorities amend the 2009 Methodological Guidelines accordingly.**

114. During the 2010 visit, the delegation was made aware of various cases of very long-term use of mechanical means of restraint. One of the most serious cases concerns a woman, who, in 2005, was transferred from a social care home to Kroměříž Psychiatric Hospital, due to the fact that she had developed the habit of swallowing metal objects<sup>54</sup>. The hospital proved unable to prevent this patient from swallowing such objects other than by means of the application of restraints (straps and a straightjacket). Since her admission to hospital, the woman had been restrained, frequently for extensive periods, allegedly with the effect that she gradually became debilitated and eventually lost the capacity to walk. It was only after several interventions by the Czech Ombudsman that the situation began to improve: the woman was assigned a special assistant and received psychological treatment. As a result, she is apparently no longer under restraint and is once again able to walk. The delegation was informed that she would be transferred back to a social care home under strict conditions.

The apparent availability of alternatives to the long-term use of mechanical restraint, sheds serious doubts as to its appropriateness in respect of the above-mentioned patient, both in general and under the terms of the 2005 and 2009 Methodological Guidelines. **The CPT recommends that the Czech authorities carry out an in-depth investigation into the prolonged application of mechanical restraints on the above-mentioned woman (including the reasons for – and overall length of – the application of restraints, the procedures followed to decide on their application and prolongation, as well as the availability of alternatives to means of restraint).** Further, **the Committee would like to receive up-to-date information about the current state of affairs in respect of this woman, including her accommodation and whether she has been restrained in the last twelve months and, if so, for how long.**

115. The means of restraint in use at the Horní Beřkovice Psychiatric Hospital included belts, seclusion and chemical restraint, all listed in the 2009 Methodological Guidelines. The delegation was told that the hospital continued to report to the court any resort to means of restraint, despite the rule to this effect having been abolished; according to the CPT's interlocutors, the court had never undertaken any action following such notification. In addition, patients who exhibited unruly behaviour in an open unit could be transferred to a closed unit; this measure was not reported to a court.

116. At the Horní Beřkovice Psychiatric Hospital, the application of means of restraint was generally well recorded. It was clear from computerised registers that resort to means of restraint was infrequent, but that patients could exceptionally be subjected to mechanical restraint for several days. In such cases, the restraint was apparently frequently interrupted. The delegation was told that restraints were removed when the patient was asleep, needed to comply with the needs of nature or was given food and drink. These frequent interruptions raise questions about the need for continuation of the restraint. **The CPT would like to receive the comments of the Czech authorities on this point.**

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<sup>54</sup> See "Annex to the report of the Public Defender of Rights for the Fourth Quarter of 2009" "Case Reports of Long-Term Restraint of Free Movement" under A) The case of J.J. (31 years), page 18.

117. When resort to means of mechanical restraint was considered necessary, seclusion rooms were used. The delegation was told that patients restrained by belts in Ward no. 421 were always continuously and directly supervised by a member of staff physically present in the room. This was not the case in Ward no. 433, where only CCTV was used. The delegation noted that the nursing room was opposite the seclusion room and that nurses, when present, were in visual contact with a restrained patient. However, this is not an adequate solution. Patients under restraint lie in full view of other patients passing along the corridor and indirect visual surveillance alone does not allow staff to remain in close contact with the patients and thus maintain a therapeutic relationship.

In the CPT's view, there should always be continuous and direct supervision in the form of a member of the health-care staff present in the room with a restrained patient, who can offer immediate human contact with the patient concerned and reduce his/her anxiety. Further, a patient should not be restrained in the full view of other patients.

**The CPT recommends that these precepts be fully implemented at Horní Beřkovice Psychiatric Hospital and, where appropriate, in other psychiatric hospitals in the Czech Republic.**

#### **4. Safeguards**

118. As was the case during previous visits to the Czech Republic, patients may be subjected to involuntary hospitalisation under either Section 191 a-g of the Civil Procedure Code<sup>55</sup> or, in the case of mentally ill offenders, following the imposition of the penal law measure of protective treatment, in conformity with Section 99 of the Criminal Code.

As regards the latter measure, in its 2002 visit report, the CPT assessed the legal safeguards surrounding protective treatment, and recommended that the Czech authorities provide an automatic review of the measure at regular intervals. The CPT is pleased to find that this recommendation was implemented in the 2009 Criminal Code: Section 99 (6) of the Code indicates that a court may impose "protective treatment" for a maximum of two years. If the measure has not been brought to an end before the expiration of that period, the measure may be prolonged by periods lasting a maximum of two years each, in theory indefinitely.

119. Involuntary treatment continues to be regulated by Section 23 (4) of the 1966 Law on the Care for People's Health. This provision has not changed since the 2006 visit.

At the time of the 2006 visit, the CPT observed that the legislation in place was frequently interpreted as if consent to treatment was not required in the event of involuntary hospitalisation<sup>56</sup>. The CPT is pleased to note that this did not appear to be the case in the Horní Beřkovice Psychiatric Hospital: patients were apparently provided with relevant information concerning their condition and treatment, including the medication prescribed for them.

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<sup>55</sup> For a description of the procedure, see paragraph 120 of the report on the 2006 visit (CPT/Inf (2007) 32).

<sup>56</sup> See paragraph 129 of the report on the 2006 visit.



However, as has already been reported by the Czech Ombudsman<sup>57</sup>, the relevant paper forms have not yet been adapted and patients continue to sign general consent forms. **The CPT recommends that for all medical interventions that require patients' consent, a specific form be introduced, which should stipulate that full information about the treatment has been received by the patient and that the patient has the right to withdraw consent previously given. These precepts should also be included in the future mental-health legislation.**

120. Patients at Horní Beřkovice Psychiatric Hospital were given a copy of the Hospital's house rules upon admission, and there was an obligation for staff to familiarise the patients with the content of these rules. The CPT welcomes this state of affairs.

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<sup>57</sup> See also the Annual Report on the Activities of the Defender of Rights, Public Defender of Rights/Ombudsman, 2009; page 80.

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

121. Following recommendations made by the CPT in the reports on the 2008 and 2009 ad hoc visits to the Czech Republic, the Czech authorities stated their intention to “revisit the resort to surgical castration in the treatment of sex offenders.”<sup>58</sup> More specifically, the delegation was informed that, by the end of June 2011, a study would be prepared by the Ministry of Health and the Office of the Human Rights Commissioner, which would form the basis for a government decision on whether or not to continue with the use of surgical castration.

The CPT was also informed that an important element in the above-mentioned study would be the opinion of the international medical community as concerns surgical castration as a treatment method for sex offenders. By letter of 21 October 2010, the Czech authorities submitted to the Vienna-based International Association for the Treatment of Sexual Offenders (IATSO), the main standard setting body for the treatment of sexual delinquents, a series of questions related to the application of surgical castration, including whether, in the view of IATSO, “surgical castration in connection with the treatment of sex offenders is a degrading treatment”. In his reply of 26 November 2010, IATSO’s founding president stated that in the Association’s opinion surgical castration in the context of treatment of sex offenders was a degrading treatment as “it is burdened with the ancient oriental aspect of punishment and a mutilating form of treatment, while there are adequate alternatives available”. In his letter, the IATSO founding president also stated that surgical castration violated the fundamental rights protected by the European Convention for the Protection of Human Rights and Fundamental Freedoms.

122. Awaiting a final decision on a possible abolition of the intervention, the Czech authorities regrettably decided not to introduce a moratorium, as had been requested by the CPT. In consequence, surgical castration of sex offenders continues to be practised in the Czech Republic, albeit less frequently than before. According to the Czech authorities, in the first eight months of 2010, three sex offenders had undergone an operation. Moreover, the delegation was informed that certain psychiatric hospitals had stopped the practice altogether.

To date, Section 27a of the 1966 Law on the Care for People’s Health remains the legal basis for the application of surgical castration of sex offenders. In addition, in March 2010, the non-binding “Recommended Procedure for Surgical Castration in Relation to Sexual Offences Motivated by Paraphilias”<sup>59</sup> was introduced in order to streamline decision-making as regards the intervention. The CPT was informed that the Recommended Procedure will be part of the package of health-care legislation to be (re-)introduced in Parliament. As regards the Recommended Procedure, the CPT regrets that its remarks made in the report on the 2008 ad hoc visit to the Czech Republic have not been taken into account. For instance, the Recommended Procedure allows for the castration of persons who have not committed a serious offence, but who are considered to be at risk of committing such an offence. Further, the Recommended Procedure does not contain an obligation to seek alternatives before resorting to castration. Moreover, the exact role, its mandate and mode of operation of the expert committee pursuant to Section 27a (1) of the 1966 Law on the Care for People’s Health remains unclear.

123. In the light of the above, **the CPT once again calls upon the Czech authorities to immediately discontinue the application of surgical castration in the context of treatment of sex offenders.**

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<sup>58</sup> See CPT/Inf (2010) 23; under “3. conclusion”.

<sup>59</sup> Journal of the Ministry of Health, no. 1/2010.

## **APPENDIX I**

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

#### **Consultations held by the delegation and co-operation**

##### comments

- the CPT trusts that the Czech authorities will take appropriate measures to ensure that, during future visits, delegations are able to interview detained persons in private without delay in all the establishments visited (paragraph 5).

#### **Police establishments**

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

##### recommendations

- police officers throughout the Czech Republic to be reminded, at regular intervals, that all forms of ill-treatment of detained persons are not acceptable and will be the subject of severe sanctions. Police officers should also be reminded that no more force than is strictly necessary should be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can be no justification for striking them (paragraph 10).

##### comments

- the independence and impartiality of investigations into allegations of police ill-treatment would be reinforced if all complaints were to be forwarded automatically to the Inspection of the Ministry of the Interior and if it were up to the latter to decide (under the supervision of a prosecutor) as to whether the case should be the subject of a criminal investigation (paragraph 11).

##### requests for information

- up-to-date information as regards the planned reform of the Inspection of the Ministry of the Interior, including the draft law which has been prepared for this purpose (paragraph 12);
- in respect of the period from 1 January 2009 to the present:
  - (a) the number of complaints of ill-treatment made against police officers and the number of criminal/disciplinary proceedings which have been instituted as a result;
  - (b) the number of criminal investigations which have been instituted by the Inspection of the Ministry of the Interior on its own initiative into possible instances of police ill-treatment;
  - (c) the outcome of the proceedings referred to in (a) and (b) and an account of any criminal/disciplinary sanctions imposed on police officers in those cases (paragraph 13).

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

### recommendations

- the legal provisions relating to the right of notification of custody to be amended so as to reflect the precepts set out in paragraph 15 (i.e. any exceptions to that right designed to protect the legitimate interests of the investigation to be clearly defined and applied for as short a time as possible, and any delay to be recorded in writing together with the reasons, and to require the express approval of a senior police officer unconnected with the case at hand or a prosecutor), and the practice in all police establishments to be revised accordingly (paragraph 15);
- steps to be taken in all police establishments to ensure that, save for highly exceptional circumstances when the matter is urgent, whenever a detained person has made a request to have a lawyer present, police officers should always delay the questioning for a reasonable time until the arrival of the lawyer (paragraph 16);
- a fully-fledged and properly funded system of legal aid for all persons in police custody who are not in a position to pay for a lawyer to be developed as a matter of priority. This system should be applicable as from the very outset of police custody, irrespective of the severity of the offence allegedly committed (paragraph 17);
- the Czech authorities to take steps to ensure that, in all police establishments, medical examinations of detained persons are conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of law enforcement officials (paragraph 18);
- steps to be taken in all police establishments to ensure that medical data are no longer accessible to non-medical staff (paragraph 18);
- the Czech authorities to take steps to ensure that a form setting out in a straightforward manner all the rights of persons in police custody (i.e. to notify a family member or another third person and to have access to a lawyer and a doctor) is systematically given to such persons immediately upon their arrival at a police establishment. This form should be available in an appropriate range of languages. Further, the persons concerned should be asked to sign a statement attesting that they have been informed of their rights, and the date and time of the signature should be recorded (paragraph 19).

### comments

- steps should be taken to ensure that persons held in police custody are provided with feedback on whether it has been possible to notify a close relative or other person of their detention (paragraph 15).

## **Conditions of detention**

### recommendations

- the Czech authorities to take immediate steps to improve material conditions of detention at Kladno-Kročehlavý District Police Headquarters, in the light of the remarks made in paragraph 21 (paragraph 21);
- ventilation in the cells at Prague Kongresová Police Headquarters to be improved (paragraph 21);
- the necessary steps to be taken at Prague Kongresová Police Headquarters and, as far as possible, in other police establishments to ensure that persons detained for 24 hours or more are offered at least one hour of outdoor exercise per day (paragraph 23);
- the Czech authorities to remove without delay wall fixtures for attaching persons from all police establishments and, more generally, to take effective measures to stamp out the practice of persons held by the police being attached to fixed objects. Every police facility where persons may be deprived of their liberty should be equipped with one or more rooms designated for detention purposes (paragraph 25).

### comments

- the CPT trusts that the Czech authorities will take the necessary measures to ensure that all persons deprived of their liberty by the police are given food at the appropriate times and have ready access to drinking water (paragraph 22);
- closed-circuit video surveillance should not replace the regular inspection of police custody cells by custodial staff (paragraph 24);
- in the event of a person in custody acting in a violent manner, the use of handcuffs may be justified. However, the person concerned should not to be shackled to fixed objects but instead be kept under close supervision in a secure setting and, if necessary, medical assistance should be sought (paragraph 25).

## **Foreign nationals held under aliens legislation**

### comments

- the CPT trusts that the Czech authorities will take steps to ensure that the recommendations made in paragraphs 15 to 19 are also implemented at the Aliens Police Station at Prague-Ruzyně International Airport (paragraph 33).

## **Penitentiary establishments for adults**

### **Preliminary remarks**

#### recommendations

- the Czech authorities to redouble their efforts to bring about an end to overcrowding and make sure that the legal standard of 4 m<sup>2</sup> of living space per prisoner is effectively implemented in practice, taking also into account Recommendation Rec(99)22 of the Committee of Ministers of the Council of Europe concerning prison overcrowding and prison population inflation, as well as Recommendation Rec(2003)22 on conditional release (parole) (paragraph 35).

### **Ill-treatment**

#### recommendations

- the management at Hradec Králové and Ruzyně Prisons to remind their staff that all forms of ill-treatment of prisoners (including verbal abuse) are not acceptable and will be punished accordingly (paragraph 36);
- the Czech authorities to pursue their efforts to combat the phenomenon of inter-prisoner violence at Pardubice and Prague-Ruzyně Prisons, in the light of the remarks made in paragraph 38. In particular at Pardubice, staffing levels should be reviewed in order to ensure more effective supervision of detention areas (paragraph 38).

### **Conditions of detention**

#### recommendations

- toilets and showers to be repaired in several detention units at Pardubice Prison (paragraph 39);
- occupancy levels at Hradec Králové and Pardubice Prisons to be reduced in order to ensure that prisoners accommodated in multi-occupancy cells are provided with a living space of at least 4 m<sup>2</sup> per person (paragraph 40);
- the Czech authorities to review the provision of food at Hradec Králové and Prague-Ruzyně Prisons (paragraph 41);
- the Czech authorities to take immediate steps at Pardubice Prison and, where appropriate, in other prisons, to ensure that all prisoners are able to take a shower at least twice a week and more frequently if the circumstances warrant, taking into account Rule 19.4 of the European Prison Rules (paragraph 42);
- the Czech authorities to revise their policy regarding the power supply in prisons and to extend the periods during which prisoners and, in particular, those subjected to a strict regime, have access to electricity in their cells (paragraph 42);

- the Czech authorities to redouble their efforts to improve the programme of activities offered to male remand prisoners and female prisoners (both sentenced and on remand) at Hradec Králové, Prague-Ruzyně and Teplice Prisons and, where appropriate, at other prisons in the Czech Republic (paragraph 45);
- steps to be taken as a matter of priority at Hradec Králové, Prague-Ruzyně and Teplice Prisons and, where appropriate, in other prisons to develop a programme of purposeful out-of-cell activities throughout the day for juvenile prisoners which are tailored to their needs (such as education, sport and recreation) (paragraph 46);
- steps to be taken at Hradec Králové, Prague-Ruzyně and Teplice Prisons and, where appropriate, in other prisons to ensure that juveniles who are exceptionally held in a prison for adults are always accommodated separately from adult prisoners. In the case of there being only one or very few juvenile prisoners, they should be offered opportunities to participate in out-of-cell activities with adults, under appropriate supervision by staff, and should not be left locked up alone in a cell for extended periods of time (paragraph 47);
- steps to be taken at Ruzyně Prison to ensure that an open door regime is implemented for all deportation detainees and that recreational activities are organised for them (paragraph 48);
- the outdoor exercise facilities at Ruzyně Prison to be enlarged so as to enable prisoners to exert themselves physically (paragraph 49).

## **Health care**

### recommendations

- steps to be taken as a matter of priority to ensure that Pardubice and Teplice Prisons are visited, on a regular basis, by a psychiatrist (paragraph 52);
- the nursing staff resources to be significantly increased at Hradec Králové, Pardubice and Prague-Ruzyně Prisons (paragraph 53);
- appropriate steps to be taken to ensure that in all prisons in the Czech Republic:
  - a qualified nurse is present every day of the week, including weekends; this should *inter alia* make it possible to avoid the need for the distribution of medication to prisoners by custodial staff;
  - a person competent to provide first aid, preferably a qualified nurse, is always present on the premises, including at night(paragraph 53);
- the Czech authorities to ensure that pre- and post-test discussion takes place with all prisoners in relation to blood and other medical tests, in order to enable them also to give a valid consent to the tests (paragraph 56);

- steps to be taken at Prague-Ruzyně Prison and, where appropriate, in other Czech prisons, to ensure that, whenever doctors are unable to communicate with inmates during medical examinations/consultations due to language problems, the persons concerned benefit from the services of a professional interpreter (paragraph 57);
- steps to be taken at Pardubice Prison and, where appropriate, in other prisons, to ensure that the tasks of nursing assistants (such as prompting prisoners to take their medication and providing assistance with personal hygiene to those prisoners unable to wash themselves, including incontinent inmates) are, as a rule, performed by suitable staff and not delegated to other prisoners (paragraph 58);
- a “trauma register” to be established at Prague-Ruzyně Prison (paragraph 59);
- the Czech authorities to take steps to ensure that, at Hradec Králové Remand Prison and Teplice Prison and, where appropriate, in other prison establishments, all medical examinations of prisoners are conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of prison officers (paragraph 60);
- steps to be taken at Prague-Ruzyně Prison to ensure that medical data are no longer accessible to non-medical staff (paragraph 60).

#### comments

- the CPT encourages the Czech authorities to put an end to the practice of prison doctors treating both prisoners and prison staff in Czech prisons (paragraph 51).

#### requests for information

- confirmation that the vacant part-time doctor’s post at Pardubice Prison has been filled (paragraph 51).

### **Other issues**

#### recommendations

- prison officers in all prisons to be encouraged to interact more with prisoners and to be provided with training in order to acquire the necessary inter-personal skills to develop such communications (paragraph 61);
- the Czech authorities to take appropriate measures in all prisons to ensure that no prisoner is entrusted with tasks relating to the maintenance of good order and control (paragraph 63);
- the legal provisions governing disciplinary sanctions to be revised so that disciplinary punishment of prisoners does not involve a total prohibition of family contact and that any restrictions on family contact as a punishment is imposed only when the offence relates to such contact (paragraph 65);



- the Czech authorities to introduce the possibility for prisoners to appeal against disciplinary sanctions to a competent and independent higher authority and the relevant legal provisions to be amended accordingly (paragraph 67);
- the role of prison doctors in relation to disciplinary matters to be reviewed, in the light of the remarks made in paragraph 68. In so doing, regard should be had to the European Prison Rules (in particular, Rule 43.2) and the comments made by the CPT in its 15<sup>th</sup> General Report (see paragraph 53 of CPT/Inf (2005) 17) (paragraph 68);
- the Czech authorities to review the arrangements for prisoners' visits in order to ensure that all prisoners (both sentenced and on remand) are entitled to at least one visit per week and that they are generally allowed to receive visits also from persons other than next-of-kin (paragraph 71);
- the Czech authorities to make the necessary arrangements to ensure that both remand and sentenced prisoners are granted regular and frequent access to the telephone (paragraph 73);
- a central register for recording orders to apply special security measures as a preventive measure (for instance, during out-of-cell movements or escorts outside the establishment) to be established in every prison (paragraph 74);
- the Czech authorities to take appropriate steps at Prague-Pankrác and Ruzyně Prisons and, where appropriate, in other establishments in the Czech Republic to ensure that:
  - dogs are no longer used when escorting prisoners within the confines of a prison;
  - prisoners are not handcuffed during meetings with their lawyer (paragraph 77);
- an immediate end be put to the practice observed at Pardubice Prison of placing dogs in the central area of the detention block when escorting newly-arrived prisoners to the detention areas (paragraph 78);
- the Czech authorities to take steps to ensure that prison officers are no longer systematically equipped with truncheons and handcuffs or that such devices are concealed from view (paragraph 79);
- the policy as regards the use of pepper spray to be reviewed in all prisons in the Czech Republic, in the light of the remarks made in paragraph 80 (paragraph 80);
- the Czech authorities to take the necessary steps to ensure that whenever prisoners are immobilised with instruments of mechanical restraint (such as straps):
  - the resort to immobilisation is immediately brought to the attention of a doctor and recorded in a special register;
  - the persons concerned are continuously and directly monitored by a suitably trained member of staff (paragraph 82);
- appropriate steps to be taken in all the establishments visited to reinforce prisoners' confidence in lodging complaints (paragraph 83).

comments

- the Czech authorities are invited to abolish the legal restrictions regarding access to reading matter for prisoners subjected to the disciplinary sanction of solitary confinement (paragraph 66);
- steps should be taken in the establishments visited (in particular, at Hradec Králové and Pardubice) to ensure that complaints, requests and appeals are properly processed and recorded (paragraph 84).

requests for information

- the Czech authorities' comments on the issues concerning educators referred to in paragraph 62 (paragraph 62);
- the Czech authorities' comments on the delegation's observation that, on several occasions, measures with a punitive effect had been imposed on prisoners without any formal procedure (as described in paragraph 64) (paragraph 64);
- the Czech authorities' comments on the CPT's remarks concerning the routine practice of reading prisoners' letters (paragraph 70);
- the Czech authorities' comments on the implementation in practice of the possibility for sentenced prisoners to have unsupervised visits (paragraph 72);
- detailed information on the security measures currently applied in respect of the four remand prisoners referred to in paragraphs 75 and 76 (paragraph 77);
- the Czech authorities' comments on the allegations received from several prisoners at Pardubice Prison that they had been held in a security cell for several days without being provided with a mattress (but only a blanket) and without being allowed to take outdoor exercise (paragraph 81).

## **Establishments for placement under the 2003 Juvenile Justice Act**

### **Preliminary remarks**

#### requests for information

- detailed information on the draft legislation which provides for the imposition of the measure of protective treatment on juveniles for an indefinite duration, i.e. beyond the age of 18 (including the intended date of entry into force, the legal safeguards and the estimated number of juveniles that will be affected by the legislation) (paragraph 85).

### **Units for juveniles at Všehrdy Prison**

#### recommendations

- the management at Všehrdy Prison to deliver the clear message to prison officers that all forms of ill-treatment are not acceptable and will be punished accordingly (paragraph 90);
- the Czech authorities to draw up an integrated action plan to combat inter-prisoner violence in the units for juveniles at Všehrdy Prison, in the light of the remarks made in paragraphs 91 to 94 (paragraph 94);
- the Czech authorities to review both the quantity of food given to the juveniles at Všehrdy Prison and the time allocated for them to consume their meals (paragraph 96);
- the Czech authorities to develop a programme of purposeful activities, tailored to their needs (such as work, education, sport and recreation), for all juveniles at Všehrdy Prison (paragraph 97).

#### comments

- the CPT trusts the deficiencies observed in Unit 3 of Všehrdy Prison (for example, water leakages in the bathroom on the ground floor, broken window on the upper floor) will be remedied (paragraph 95).

### **Dečín-Boletice Educational Institute for Young Persons and Children**

#### recommendations

- the call bells in the unit for children with extreme behavioural problems to be repaired (paragraph 100);
- the Czech authorities to develop a proper induction procedure for all children and juveniles placed in an institution under the provisions of the Juvenile Justice Act (paragraph 101).

## **Psychiatric establishments**

### **Preliminary remarks**

#### recommendations

- the legal status of “voluntary” patients kept on closed wards at Horní Beřkovice Psychiatric Hospital to be reviewed, in the light of the remarks made in paragraph 105 (paragraph 105).

#### requests for information

- on the guardianship provisions of the redrafted Civil Code, once adopted (paragraph 106).

### **Patients’ living conditions and treatment**

#### recommendations

- the Czech authorities to strive to phase out large-capacity dormitories at Horní Beřkovice Psychiatric Hospital and, where appropriate, in other psychiatric establishments (paragraph 107);
- the Czech authorities to make suitable arrangements for all patients accommodated in the Horní Beřkovice Psychiatric Hospital whose state of health so permits to benefit from outdoor exercise, including during inclement weather (paragraph 108).

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

#### recommendations

- the matters raised in paragraph 111 regarding the use of means of restraint to be included in the Methodological Guidelines if they are not yet covered by law (paragraph 111);
- the Czech authorities to pursue a policy of putting an end to the use of net-beds in psychiatric hospitals at the earliest opportunity (paragraph 112);
- the Czech authorities to amend the 2009 Methodological Guidelines with a view to prohibiting the use of means of restraint for extended periods (i.e. several days or more) (paragraph 113);
- the Czech authorities to carry out an in-depth investigation into the prolonged application of mechanical restraints on the woman referred to in paragraph 114 (including the reasons for - and overall length of - the application of restraints, the procedures followed to decide on their application and prolongation, as well as the availability of alternatives to means of restraint) (paragraph 114);

- steps to be taken at Horní Beřkovice Psychiatric Hospital and, where appropriate, in other psychiatric hospitals in the Czech Republic to ensure that:
  - whenever patients are subjected to means of mechanical restraint, there is always continuous and direct supervision in the form of a member of the health-care staff present in the room, who can offer immediate human contact with the patient concerned and reduce his/her anxiety;
  - patients are not restrained in the full view of other patients (paragraph 117).

#### requests for information

- up-to-date information about the current state of affairs in respect of the woman referred to in paragraph 114, including her accommodation and whether she has been restrained in the last twelve months and, if so, for how long (paragraph 114);
- comments on the remarks made by the CPT in paragraph 116 questioning the need for continuation of restraint in certain cases (paragraph 116).

### **Safeguards**

#### recommendations

- for all medical interventions that require patients' consent, a specific form to be introduced which should stipulate that full information about the treatment has been received by the patient and that the patient has the right to withdraw consent previously given. These precepts should also be included in the future mental-health legislation (paragraph 119).

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

#### recommendations

- the Czech authorities to immediately discontinue the application of surgical castration in the context of treatment of sex offenders (paragraph 123).



## APPENDIX II

### **LIST OF THE NATIONAL AUTHORITIES, ORGANISATIONS AND PERSONS WITH WHOM THE DELEGATION HELD CONSULTATIONS**

#### **National authorities**

##### **Ministry of Health**

Martin PLÍŠEK	Deputy Minister of Health
MUDr. Stanislava PÁNOVÁ	Director of the Health Services Department
MUDr. Helena SAJDLOVÁ	Head of the Health Care Department
Ing. Pavel KOCOUREK	Director of the Department of directly-governed health-care establishments
Mgr. Veronika SLOBODOVÁ	Representative of the Legal Department
MUDr. RŮŽENA HAJNOVÁ	Representative of the Sexology Society
MUDr. Martin HOLLÝ	Representative of the Sexology Society

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

Markéta POKORNÁ	Head of the Department for Asylum and Migration Policy
Martin BARTOŇ	Representative of the Immigration Division, Department for Asylum and Migration Policy
Kateřina STEHLÍKOVÁ	Head of International Protection Division, Department for Asylum and Migration Policy
Petr PONDĚLÍČEK	Refugee Facility Administration of the Ministry of Interior, Department of Work with Clients, Head of Division
Benedikt VANGELI	Representative of the Security Policy Department
Plk. Mgr. Viktor ČECH	Deputy of the Police President
Plk. Mgr. Ing. Ivan BÍLEK	Deputy of the Police President for the Field Service
Plk. Mgr. Bc. Miloš BARTOŠ	Head of the Department of General Action of the Inside Control Office
Plk. JUDr. Milan GREGOR	Deputy of the Director of the Department of Public Order Police
Plk. Mgr. Miloslav HROMADA	Head of the Department of Methodology and Co-ordination of the Operation of Services
Pplk. Ing. Bc. Pavel KAMENÍK	Representative of the Department of Methodology and Co-ordination of the Operation of Services
Pplk. Mgr. Petr KOUTNÝ	Representative of the Department of Special Action and Direct Support of the Units

## **Ministry of Justice**

Marek ŽENÍŠEK High State Counsellor plk.	Deputy Minister of Justice
Mgr. Petr DOHNAL High Counsellor plk.	1 <sup>st</sup> Deputy of the Director General of the Prison Service of the Czech Republic
Martin KOCANDA High Counsellor plk.	Head of the Office of the Director General of the Prison Service of the Czech Republic
Mgr. Milan HOSPODKA High Counsellor plk. Ing. Bc. Ivo MRHAL	Director of the Imprisonment and Execution of Custody Department of the Prison Service of the Czech Republic
Commissioner npor. Mgr. Iva PRUDLOVÁ	Director of the Prison and Judicial Guards of the Prison Service of the Czech Republic
	Head of Division of the International Relations Department of the Office of the Director General of the Prison Service of the Czech Republic

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

Ing. David KAFKA	Deputy Minister of Labour and Social Affairs
Mgr. Tereza ČAKRTOVÁ	Head of Division, Social Services and Social Integration Department
Ing. Vratislav VOJNAR	Representative of the Social Services and Social Integration Department
PhDr. Pavel JANEČEK	Head of the Department for EU and International Co-operation
Mgr. Kateřina MACHOVÁ	Representative of the Department for EU and International Co-operation

## **Government Commissioner for Human Rights**

Michael KOCÁB	Government Commissioner for Human Rights, Office of the Government of the Czech Republic
Mgr. Czeslaw WALEK	Director of the Human Rights Section
Mgr. Simona HRSTKOVÁ	Representative of the Secretariat of the Human Rights Council

## **Public Defender of Rights**

Jitka SEITLOVÁ	Deputy Public Defender of Rights
Mgr. Petra ZDRAŽILOVÁ	Head of the National Preventive Mechanism (NPM)



**International Organisations**

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

**Non-governmental organisations**

League of Human Rights

**Other persons**

Prof. Dr. Helena VÁLKOVÁ, criminologist, University of Pilsen.