



CPT/Inf (99) 7

**Report to the Government of the Czech Republic
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 16 to 26 February 1997

The Czech Government has requested the publication of this visit report and of its interim and follow-up reports in response. The responses of the Czech Government are set out in document CPT/Inf (99) 8.

Strasbourg, 15 April 1999

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Copy of the letter transmitting the CPT'S report

Strasbourg, 15 July 1997

Dear Mr KÝr,

In pursuance of Article 10, paragraph 1, of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment, I have the honour to enclose herewith the report to the Government of the Czech Republic drawn up by the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) after its visit to the Czech Republic from 16 to 26 February 1997. The report was adopted by the CPT at its 33rd meeting, held from 23 to 27 June 1997.

I would draw your attention in particular to paragraph 118 of the report, in which the Committee requests the Czech authorities to provide an interim and a follow-up report on action taken upon its report. The CPT would ask, in the event of the latter reports being forwarded in Czech, that they 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.

Finally, I would be grateful if you could acknowledge receipt of this letter.

Yours faithfully,

Claude NICOLAY
President of the European Committee for
the prevention of torture and inhuman
or degrading treatment or punishment

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Preface

As the European Committee for the prevention of torture and inhuman or degrading treatment or punishment is a relatively new institution, knowledge of its mandate and functions is inevitably limited. The CPT has therefore deemed it appropriate to begin the first of its reports to each Party by setting out some of the Committee's salient features. This should prove particularly helpful in differentiating the basis and aims of the CPT from those of two other Council of Europe supervisory bodies within the field of human rights: the European Commission and European Court of Human Rights.

Unlike the Commission and the Court, the CPT is not a judicial body empowered to settle legal disputes concerning alleged violations of treaty obligations (i.e. to determine claims *ex post facto*).

The CPT is first and foremost a mechanism designed to **prevent ill-treatment from occurring**, although it may also in special cases intervene after the event.

Consequently, whereas the Commission's and Court's activities aim at "conflict solution" on the legal level, the CPT's activities aim at "conflict avoidance" on the practical level.

This being so, the guiding maxim for the CPT when performing its obligations must be to "extend the widest possible protection against abuses, whether physical or mental" (quotation from the 1979 UN Code of conduct for law enforcement officials as well as from the 1988 Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, both adopted by the General Assembly).

The CPT's activities are based on the concept of co-operation (Article 3 of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment). The CPT's task is not to publicly criticise States, but rather to assist them in finding ways to strengthen the "cordon sanitaire" that separates acceptable and unacceptable treatment or behaviour. In fulfilling this task the CPT is guided by the following three principles:

- i) that the prohibition of ill-treatment of persons deprived of their liberty is absolute,
- ii) that ill-treatment is repugnant to the principles of civilised conduct, even if used in milder forms, and
- iii) that ill-treatment is not only harmful to the victim but also degrading for the official who inflicts or authorises it and ultimately prejudicial to the national authorities in general.

The CPT first of all explores the prevailing factual situation in the countries it visits. In particular it:

- i) examines the general conditions in establishments visited;
- ii) observes the attitude of law enforcement officials and other staff towards persons deprived of their liberty;
- iii) interviews persons deprived of their liberty in order to understand how they perceive (i) and (ii) and hear any specific grievances they may have;
- iv) examines the legal and administrative framework on which the deprivation of liberty is based.

Subsequently, the CPT reports to the State concerned, giving its assessment of all the information gathered and providing its observations. In this regard, it should be recalled that the CPT does not have the power to confront persons expressing opposing views or to take evidence under oath. If necessary, it recommends measures designed to prevent the possible occurrence of treatment that is contrary to what reasonably could be considered as acceptable standards for dealing with persons deprived of their liberty.

In carrying out its functions, the CPT has the right to avail itself of legal standards contained in not only the European Convention on Human Rights but also in a number of other relevant human rights instruments (and the interpretation of them by the human rights organs concerned). At the same time, it is not bound by the case law of judicial or quasi-judicial bodies acting in the same field, but may use it as a point of departure or reference when assessing the treatment of persons deprived of their liberty in individual countries.

To sum up, the principal differences between the CPT and the European Commission and European Court of Human Rights are:

- i) the Commission and the Court have as their primary goal ascertaining whether breaches of the European Convention on Human Rights have occurred. By contrast, the CPT's task is to prevent abuses, whether physical or mental, of persons deprived of their liberty from occurring; it has its eyes on the future rather than the past;
- ii) the Commission and Court have substantive treaty provisions to apply and interpret. The CPT is not bound by substantive treaty provisions, although it may refer to a number of treaties, other international instruments and the case law formulated thereunder;
- iii) given the nature of their functions, the Commission and the Court consist of lawyers specialising in the field of human rights. The CPT consists not only of such lawyers but also of medical doctors, experts in penitentiary questions, criminologists, etc;
- iv) the Commission and Court only intervene after having been petitioned through applications from individuals or States. The CPT intervenes ex officio through periodic or ad hoc visits;
- v) the activities of the Commission and Court culminate in a legally binding finding as to whether a State has breached its obligations under a treaty. The CPT's findings result in a report, and, if necessary, recommendations and other advice, on the basis of which a dialogue can develop; in the event of a State failing to comply with the CPT's recommendations, the CPT may issue a public statement on the matter.

I. INTRODUCTION

A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to the Czech Republic from 16 to 26 February 1997.

The visit formed part of the CPT's programme of periodic visits for 1997.

2. The delegation consisted of the following members of the CPT:

- Mr Bent SØRENSEN (Head of the delegation);
- Mr Rudolf MACHACEK;
- Mr John OLDEN;
- Ms Maria SCIBERRAS.

The delegation was assisted by:

- Ms Marianne KASTRUP, Head of the Department of Psychiatry at Hvidovre Hospital, Denmark (expert);
- Ms Sonja SNACKEN, Professor of Criminology and Sociology of Law at the Free University of Brussels, Belgium (expert);
- Ms Regina HOFMANOVÁ (interpreter);
- Ms Helena MATEJČKOVÁ (interpreter);
- Mr Vladimír OLEXA (interpreter);
- Mr Tomáš OPOČENSKÝ (interpreter);
- Mr Michal STAŠA (interpreter).

The delegation was also accompanied by the following members of the CPT's Secretariat:

- Mr Mark KELLY;
- Mr Jan MALINOWSKI.

B. Establishments visited

3. The delegation visited the following places of detention:

Police establishments

- Police holding facilities, Bratislavská 13-15, Brno
- Police Headquarters, Kongresová 2, Prague 4
- Jižní Město I Police Station, Steinerova 604, Prague 4
- Košíře Police Station, Ostrovského 3, Prague 5
- Smíchov Police Station, Štefánikova 13, Prague 5
- District Investigation Department, Františka Křížka 24, Prague 7

- Police Headquarters, Havlíčkova 10, Šumperk

Prisons

- Mírov Prison
- Prague-Pankrác Remand Prison

Detention centres for minors

- Brno-Hlinky Diagnostic Institute for Children
- Moravský Krumlov Educational Institute for Children and Minors

C. Consultations held by the delegation

4. In addition to meeting with the local officials in charge at the places visited, the delegation held consultations with national authorities and with representatives of non-governmental organisations and other persons active in areas of concern to the CPT.

A list of the national authorities and non-governmental organisations with which the delegation held consultations is set out in Appendix II to this report.

D. Co-operation encountered during the visit

5. The CPT's delegation was received by Mrs Parkánová, Minister of Justice, by Messrs. Koptiva and Valvoda, Deputy Ministers of the Interior, by Mrs Demlovou, Deputy Minister of Defence and by Mr Dvouletý, Deputy Minister of Health. Those meetings were conducted in a spirit of full co-operation. The delegation also held fruitful consultations with senior officials of those Ministries, both at the outset and at the end of the visit.

6. The CPT's delegation enjoyed immediate access to all of the establishments visited, including to places which had not been notified in advance of the Committee's intention to carry out a visit. In this context, the CPT is grateful to the Ministries concerned for having provided members of the delegation with credentials.

7. The delegation found that management and staff at local level were well informed about the Committee's mandate and prepared to offer the delegation every facility necessary for its work. In this respect, the two-day information meeting on the CPT organised by the Prison Service of the Czech Republic in January 1997, and the timely dissemination by the Czech authorities of information on the CPT's mandate to all relevant establishments, contributed significantly to the excellent co-operation enjoyed by its delegation throughout the visit to the Czech Republic.

8. The CPT also wishes to express its sincere appreciation for the considerable assistance provided to its delegation by the Government's liaison officer, Mr Aleš Kýr, Head of the Secretariat of the Director General of the Prison Service, not only during but also before and after the CPT's visit to the Czech Republic. The Committee is also grateful for the assistance provided by Mr Karel Hron of the Police Praesidium, Mr Miloš Kusý of the Ministry of Education, Mr Jan Doležal of the Ministry of Defence and Mrs Dana Kuklová of the Ministry of Health.

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

9. During the meeting held with the Czech authorities at the end of the visit, the CPT's delegation invoked Article 8, paragraph 5, of the Convention and made an immediate observation in respect of the prolonged holding on police premises of foreigners awaiting expulsion.

The delegation drew attention, in particular, to the situation of such foreigners being held in the Police Headquarters detention facility at Kongresová in Prague. The persons concerned were being held in cells which had no access to natural light, and were being offered nothing which resembled a regime; the detention facility was not even in a position to offer them outdoor exercise. Thus, they spent the whole day locked in their cells with nothing to occupy their time; a situation which could - and did - last for up to 30 days (in terms of Section 15 of the Police Act). The delegation stressed that this was completely unacceptable, and called upon the Czech authorities to take immediate action to find alternative premises in which to accommodate this category of detained persons.

The above-mentioned immediate observation was subsequently confirmed in writing and the Czech authorities were requested to provide a detailed response within three months.

10. In a letter dated 2 May 1997, Mr Oldřich Tomášek, the Police President of the Czech Republic, informed the Committee that foreigners awaiting expulsion are in future to be held in special detention centres; the Ministry of the Interior is currently taking the necessary legislative and practical steps to establish such centres. In the meantime, "an agreement with the Prison Service of the Czech Republic, concerning utilisation of their capacity near Prague is being prepared. This capacity should be 80 places meeting demands for the detention of persons for up to 30 days (social background, exercise yard, sports activities, etc.)".

The CPT welcomes the action which is being taken by the Czech authorities and **trusts that the aforementioned plans to provide alternative accommodation for this category of detained persons will be implemented forthwith.**

In this connection, **the CPT would like to receive detailed information about the envisaged special detention centres for foreigners awaiting expulsion (legal basis; location and capacity of each centre; date of entry into service; material conditions; regime; staff training, etc.).**

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Police establishments

1. Preliminary remarks

11. The CPT's delegation visited seven police establishments in the Czech Republic: the Police Holding Facilities in Brno, the Police Headquarters, three police stations and a District Investigation Department in Prague, and the Police Headquarters in Šumperk.

12. Persons detained by the police in the Czech Republic may be held in police custody for a period of up to 24 hours, after which they must be either released or brought before a judge, who has a further 24 hours in which to decide whether or not to order their remand in custody. All persons who are remanded in custody are transferred to a remand prison.

2. Torture and other forms of ill-treatment

13. The CPT's delegation heard no allegations of torture of persons detained by the police in the Czech Republic; further, no other evidence of such treatment was found by the delegation during the visit.

The delegation did meet a number of persons who alleged that they had been slapped and punched by police officers whilst on police premises. Such allegations were also received from other sources. None of the persons interviewed by the delegation bore marks or injuries consistent with their allegations; however, given the time that had elapsed since the ill-treatment alleged, any injuries which they might have sustained would almost certainly have healed.

14. Particular reference might be made to the case of a remand prisoner met in Prague-Pankrác Remand Prison, who alleged that, on numerous occasions between April and June 1995, he had been removed from the prison for questioning on police premises in Prague. He claimed that, during certain of those questioning sessions, plainclothes police officers had struck him on the back of the head with the flat of the hand, punched him in the stomach, and threatened him with a pistol.

The delegation was able to confirm from official records that the person concerned had indeed been removed from prison on the authority of the police some fourteen times between the dates in question. In respect of certain of those occasions, it appeared that no formal record had been kept of the purpose of his removal from prison, or of any official action taken during his presence on police premises.

15. **The CPT recommends that senior police officers deliver to their subordinates the clear message that the ill-treatment of detained persons is not acceptable and will be the subject of severe sanctions.**

As regards, more particularly, the removal of inmates from prison by the police, from the standpoint of the prevention of ill-treatment, **it would be far preferable for further questioning of persons committed to prison to take place in prison rather than on police premises.** The return of prisoners to police premises for whatever purpose should only be sought and authorised when it is absolutely unavoidable; consequently, **the CPT recommends that such a measure require the express authorisation of the competent judicial authority.**

Further, **the Committee recommends that, in respect of every occasion on which inmates are removed from prison at the request of the police, a formal record be kept of the purpose of their removal, and of all measures (e.g. questioning, identification parades, etc.) taken during their presence on police premises.**

16. Czech law contains a number of specific provisions penalising ill-treatment by State officials (cf. inter alia Section 259a of the Criminal Code). In addition, a range of formal legal safeguards are in principle available to detained persons (these are discussed later in this report, cf. paragraphs 25 to 35). However, it should be emphasised that legal and other technical safeguards - while important - will never be sufficient; the best possible guarantee against ill-treatment is for its use to be unequivocally rejected by police officers. **It follows that the provision of suitable education on human rights questions and of adequate professional training is an essential element of any strategy for the prevention of ill-treatment.**

In this regard, **the CPT would like to receive detailed information on the human rights education and professional training - both initial and ongoing - which is provided to police officers in the Czech Republic.**

17. Naturally, one of the most effective means of preventing ill-treatment by police officers lies in the diligent examination of complaints of such treatment and, where appropriate, the imposition of suitable disciplinary and/or penal sanctions.

According to the statistical information covering the years 1995 and 1996 with which the CPT has been supplied, 1996 has seen a significant increase in the number of criminal offences of which police officers are suspected, in particular as regards the offences of abuse of authority (under Section 158 of the Criminal Code¹), and causing physical injury (under Sections 221 and 222 of the Criminal Code). The great majority of the police officers concerned have already been formally charged with criminal offences. By contrast, as regards disciplinary proceedings, there have been fewer "well-founded" complaints concerning the use of physical violence/coercive measures by the police in 1996 than in 1995.

The CPT would like to receive regularly-updated information on this subject from the Czech authorities.

¹

Which provides that: "(1) A public official who, intending to damage another, or to acquire unauthorised gains for himself or for another person, a) exercises his functions in an illegal manner, b) exceeds his authority, or c) fails to fulfil his official duties, will be punished with imprisonment for a period of from six months to three years, or by being dismissed from his functions."

3. Conditions of detention in police establishments

a. introduction

18. Custody by the police is in principle of relatively short duration. Consequently, physical conditions of detention cannot be expected to be as good in police establishments as in other places of detention where persons may be held for lengthy periods. However, certain elementary material requirements should be met.

All police cells should be clean, be of a reasonable size for the number of persons they are used to accommodate, and have adequate lighting (i.e. sufficient to read by, sleeping periods excluded) and ventilation; preferably, cells should enjoy natural light. Further, cells should be equipped with a means of rest (e.g. a chair or bench), and persons obliged to stay overnight in custody should be provided with a clean mattress and clean blankets.

Persons in custody should be allowed to comply with the needs of nature when necessary in clean and decent conditions, and be offered adequate washing facilities. They should have ready access to drinking water and be given food at appropriate times, including at least one full meal (i.e. something more substantial than a sandwich) every day. Persons held for extended periods (24 hours or more) should, as far as possible, be offered outdoor exercise every day.

b. situation in the establishments visited

19. The cells seen in the Police Headquarters detention facilities in Brno, Prague and Šumperk provided acceptable conditions for short-term custody of persons suspected of criminal offences. The cells were of a reasonable size for the number of persons they were used to accommodate, had adequate lighting and ventilation, and were fitted with means of rest (including mattresses) and lavatories.

20. The other Prague police stations visited offered poorer conditions of detention. The Košíře and Smíchov Police Stations in Prague 5 were each equipped with bar-fronted waiting rooms, furnished only with benches. Jižní Město I Police Station had no detention facilities whatsoever; persons taken into custody were kept in the entrance hallway, in general handcuffed to a bench. Despite the fact that detained persons could spend the night on the premises concerned, no mattresses or blankets were available in any of these establishments.

The conditions prevailing in the above-mentioned establishments at the time of the delegation's visit render them unsuitable for use as overnight accommodation for detained persons. The CPT also wishes to stress that detainees should not be kept shackled to a piece of furniture in full view of persons visiting a police station; proper cellular accommodation should be provided.

21. The CPT recommends that conditions of detention in the police establishments visited by its delegation be reviewed, in the light of the remarks made in paragraph 20.

More generally, it recommends that the Czech authorities take steps to ensure that all police detention facilities in the Czech Republic comply with the criteria set out in paragraph 18.

22. At the time of the visit, the Police Headquarters detention facilities in Brno and Prague were also being used to hold for prolonged periods foreigners awaiting expulsion. The situation which the CPT's delegation found in the latter establishment has already been addressed (cf. paragraph 9). With regard to the Brno Police Headquarters, as was the case in Prague, foreigners awaiting expulsion could spend up to thirty days in its detention facility. Such persons were locked two to c. 9m² cells for virtually the whole day, without access to natural light, and with nothing to occupy their time. The establishment did have an exercise yard to which certain foreigners were on occasion given access, but it was clear that this facility was underused.

23. The CPT wishes to stress that, in general, police holding facilities are not in a position to offer out-of-cell activities to detainees, and, in consequence, cannot be said to be satisfactory places in which to detain, for periods of longer than a few days, foreigners awaiting expulsion.

Moreover, the administration of a detention facility for foreigners creates particular problems. Firstly, there will inevitably be communication problems due to linguistic barriers. Secondly, many foreigners will find the fact that they have been detained, when they are not suspected of any criminal offence, difficult to accept. Thirdly, there is a risk of tension between the different nationalities involved. It follows that supervisory staff must be carefully selected and receive appropriate training. As well as possessing well-developed qualities in the field of interpersonal communication, such staff should be familiarised with the different cultures of the detainees and at least some of them should have appropriate language skills. The police officers at the police detention facilities in Brno and Prague readily admitted that they did not fulfil these criteria.

24. In the light of the above, the CPT recommends that, as a matter of urgency, the Czech authorities find more appropriate premises in which to accommodate foreigners awaiting expulsion and allocate the task of supervising such detainees to suitably qualified staff. Further, efforts should be made to develop a programme of activities for the persons concerned (including outdoor exercise, access to radio/television and newspapers/magazines as well as other appropriate means of recreation).

4. Safeguards against ill-treatment

a. introduction

25. The CPT attaches particular importance to three rights for persons deprived of their liberty by the police:

- the right of those concerned to inform a close relative or another third party of their choice of their situation,
- the right of access to a lawyer,
- the right of access to a doctor.

The CPT considers that these three rights are fundamental safeguards against the ill-treatment of persons deprived of their liberty, which should apply from the very outset of custody (that is, from the moment when those concerned are obliged to remain with the police).

26. Furthermore, in the view of the CPT, persons taken into police custody should be expressly informed, without delay and in a language they understand, of all their rights, including those referred to above.

b. notification of custody

27. In terms of Section 14(4) of the Police Act (Law No. 283/1991), "on apprehension, and at the request of the person apprehended, the police officer is obliged to communicate this fact to ... any person determined by the apprehended person". The CPT's delegation found that, in practice, apprehended persons were placed in a position to exercise this right.

However, no similar right is extended to persons who may be brought to a police station either "to give an explanation" (under Section 12, paragraph 8 of the Police Act), or for the purpose of establishing their identity (under Section 13, paragraph 5 of the Police Act). Such persons can be obliged to remain with the police until those measures have been completed.

The CPT recommends that all persons deprived of their liberty by the police in the Czech Republic - for whatever reason - be granted the right to notify a close relative or third party of their choice of their situation.

28. The Police Act does not make provision for the possibility to delay notification of custody, and the delegation was told by senior police officers that it was not possible for the police to delay the exercise of this right. Nevertheless, serving police officers in certain of the establishments visited admitted that, in practice, notification of custody could be delayed if the relevant criminal investigation department considered that this was necessary in the interests of the investigation concerned.

The CPT fully accepts that the exercise by an apprehended/arrested person of the right to have the fact of his custody notified to a relative or other third party may have to be made subject to exceptions designed to protect the interests of justice. However, any such exceptions should be well-defined and they should be applied for as short a time as possible.

The CPT recommends that any possibility exceptionally to delay the exercise of the right to have the fact of one's custody notified to a relative or other third party be clearly circumscribed and made subject to appropriate safeguards (e.g. any such delay to be recorded in writing together with the reasons therefor and to require the approval of a senior officer or public prosecutor).

c. access to a lawyer

29. In the Czech Republic, the right to have access to a lawyer becomes effective as from the moment when an apprehended person is formally charged with an offence, as from which time he acquires the status of a "detained person".

According to Section 76, paragraph 6 of the Code of Criminal Procedure (Law No. 141/1961), "the detained person has the right to nominate a defence counsel and to receive advice even during the period of detention. He is also entitled to demand that his defence counsel be present during questioning ...". Further, according to the detailed Instructions on criminal procedure which have been issued to the Czech police, "the investigator will ... give him effective help in enabling him to telephone a lawyer listed in the telephone directory or named in the court lists"². Those Instructions also make clear that such persons have the right to consult with a lawyer in private³.

The CPT's delegation found that, in practice, persons who had been formally charged with an offence were placed in a position to exercise this right without delay.

30. However, it appeared that access to a lawyer was rarely - if ever - granted to persons at other stages of police custody (e.g. whilst obliged to remain with the police under Sections 12 or 13 of the Police Act), or whilst apprehended (under Section 14 of the Police Act) but prior to being charged with an offence. In other words, persons might be obliged to remain with the police for many hours, without being accorded the right of access to a lawyer.

² cf. the Instructions for Investigators and Police Authorities in the Police Force of the Czech Republic Concerning Criminal Procedure, NMV 82/1995 (hereinafter "the Instructions"), Article 35, paragraph 4.

³ cf. Article 50 of the Instructions.

The CPT wishes to stress that, in its experience, it is during the period immediately following deprivation of liberty that the risk of intimidation and ill-treatment is greatest. Consequently, the possibility for persons taken into police custody to have access to a lawyer during that period is a fundamental safeguard against ill-treatment. The existence of that possibility will have a dissuasive effect on those minded to ill treat detained persons; moreover, a lawyer is well placed to take appropriate action if ill-treatment actually occurs.

The Committee recommends that all persons deprived of their liberty by the police in the Czech Republic - for whatever reason - be granted the right of access to a lawyer, as from the very outset of their custody.

d. access to a doctor

31. As far as the CPT's delegation was able to ascertain, Czech law contains no formal provisions on the right of persons detained by the police to have access to a doctor.

In practice, if a person held in police custody requested to see a doctor, or police officers formed the view that a detainee required medical attention, a doctor would be called from the nearest police medical service (which was staffed on a 24 hour basis). At the Prague Police Headquarters, all detainees who spent the night in a police cell were medically examined by a doctor from the police medical service located within that establishment. Police officers with whom the CPT's delegation spoke indicated that, in principle, they would have no objections to calling a doctor of a detainee's own choice, although it was apparently rare for detainees to make such a request.

The delegation observed that the medical certificates produced by police medical service doctors were, in general, of a high standard. However, it was concerned to note that such certificates were attached to detainees' custody records and in consequence were openly available to police officers.

32. The CPT recommends that specific legal provisions be adopted on the subject of the right of persons in police custody to have access to a doctor. Those provisions should stipulate inter alia that:

- **a person taken into police custody has the right to be examined, if he so wishes, by a doctor of his own choice, in addition to any medical examination carried out by a doctor called by the police authorities;**
- **all medical examinations of persons in custody are to be conducted out of the hearing and - unless the doctor concerned expressly requests otherwise in a given case - out of the sight of police officers;**
- **the results of every examination, as well as any relevant statements by the person in custody and the doctor's conclusions, are to be recorded in writing by the doctor and made available to the person in custody and his lawyer;**
- **the confidentiality of medical data is to be strictly observed.**

e. information on rights

33. The CPT has already indicated the importance it attaches to persons taken into police custody being informed of all their rights, including those referred to in paragraphs 27 to 32 above.

In order to ensure that persons in police custody are duly informed of all their rights, **the CPT recommends that a form setting out those rights in a straightforward manner be systematically given to such persons at the very outset of their deprivation of liberty. The form should be available in an appropriate range of languages. Further, the persons concerned should be asked to sign a statement attesting that they have been informed of their rights.**

f. conduct of police interviews

34. The art of questioning criminal suspects will always be based in large measure on experience. However, the CPT considers that formal guidelines should exist on a number of specific points; the existence of such guidelines will, inter alia, help to underpin the lessons taught during police training.

The aforementioned Instructions to police officers on criminal procedure contain a number of detailed remarks on the legal formalities which are to be observed during police interrogations. However, they currently fail to address a number of issues of direct relevance to the prevention of ill-treatment.

Consequently, **the CPT recommends that the above-mentioned Instructions be revised in order to deal, inter alia, with the following: the systematic informing of the detainee of the identity (name and/or number) of those present at the interrogation; the permissible length of an interrogation; rest periods between interrogations and breaks during an interrogation; places in which interrogations may take place; whether the detainee may be required to remain standing while being questioned; the questioning of persons who are under the influence of drugs, alcohol or medicine, or who are in a state of shock. It should also be stipulated that a systematic record be kept of the times at which interrogations start and end, the persons present during each interrogation and any request made by the detainee during the interrogation.**

The position of specially vulnerable persons (for example, the young, those who are mentally disabled or mentally ill) should be subject to specific safeguards.

g. custody registers

35. The custody registers seen by the CPT's delegation in the police establishments visited were of variable quality. A proliferation of different forms were being used to record information about detainees, and they were not always correctly completed. Indeed, in certain establishments (most notably in the Police Headquarters at Šumperk), police officers were unable, on the basis of the information which had been recorded, to account for all of the movements of detainees who had recently been held in police custody.

The Committee considers that the fundamental safeguards offered to persons in police custody would be reinforced if a single and comprehensive custody record were to be kept for each person detained, in which would be recorded all aspects of his custody and all the action taken in connection with it (time of and reason(s) for the apprehension; when informed of rights; signs of injury, mental disorder, etc.; contact with and/or visits by a relative, lawyer, doctor or consular officer; when offered food; when questioned; when brought before a judge; when released, etc.).

B. Prisons

1. Introductory remarks

36. **Mírov Prison** is located in a twelfth-century castle adjoining the village of Mírov, which lies some 50 kilometres north west of the town of Olomouc.

The establishment has been used as a place of detention for at least the last 600 years. At various points in its notorious history it has served as a prison for erring servants of the Bishop of Olomouc, as a correctional centre for monks and (during World War II, by the occupying power) as a court and execution centre. In the post-war years "enemies of the State" were held at Mírov, part of which was administered by the secret police as a labour camp.

The establishment now accommodates high security (category C) and maximum security (category D) inmates, and prisoners serving life sentences. A small remand section was added to the prison in 1993. With an official capacity of 276 sentenced and 66 remand prisoners, on the first day of the visit, the prison was holding a total of 439 prisoners (332 sentenced and 107 on remand).

37. **Prague-Pankrác Remand Prison** is located close to the city centre. Opened in 1889 as a prison for remand and sentenced prisoners and as a prison hospital, it has retained those functions until the present day. The prison has an official capacity of 710 remand and 287 sentenced prisoners, and offers 131 prison hospital beds. On the first day of the visit it was holding a total of 1293 prisoners (887 on remand, 305 sentenced and 101 inmates in the prison hospital).

38. The legal framework governing the treatment of prisoners in the Czech Republic varies according to whether the inmates concerned are sentenced or on remand. In each case, the law is contained in an Act of Parliament⁴, supplemented by more detailed instructions set out in a By-Law issued by the Minister of Justice⁵.

⁴ In respect of sentenced prisoners, in the Code Governing the Execution of Incarceration - the "ZVOS" (Act 59/1965 of 17 June 1965, as amended); in respect of remand prisoners, in the Code Governing the Execution of Pre-Trial Detention - the "ZVV" (Act 293/1993 of 10 November 1993).

⁵ On 21 April 1994, the Minister of Justice issued (in terms of Section 72 of the ZVOS) a By-Law on the Code Governing the Execution of Incarceration - the "ZVTOS", and (in terms of Section 31 of the ZVV) a By-Law on the Code Governing the Execution of Pre-Trial Detention - the "ØVV".

2. Torture and other forms of ill-treatment

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

However, a number of allegations were heard of the disproportionate use of force and, in particular, of the infliction by prison officers of baton blows, including upon inmates who had been restrained. The delegation also heard a number of allegations of prison officers having slapped, punched or kicked inmates in their charge.

It is also noteworthy that, in March 1996, the Head of the Department of Control and Prevention at the Prison Service Headquarters made the following comments on the annual statistics concerning criminal offences of which prison officers are suspected: "... the officers' discipline continues to be unsatisfactory and their level of legal knowledge remains low. Even with the expertise of new officials, thanks to the turnover of prison staff, they are still not at a level where they would be able to cope with complicated situations which they encounter in the line of duty".

40. The existence of the problem of the disproportionate use of force was corroborated by other documents seen by the CPT's delegation, which - in a number of cases - included medical evidence. By way of illustration, reference might be made to the following cases:

case 1: a patient in the prison hospital at Prague-Pankrác Remand Prison stated that, on 16 February 1997, a prison officer had discovered tobacco in the locker next to the hospital bed in which she lay. When she had tried to resist the officer's attempt to confiscate the tobacco, he had struck her twice with a baton. The officer concerned admitted that he had used his baton on the prisoner, and a medical certificate completed shortly after the incident recorded: "a bruise at the level of the left scapula, and another bruise at the left side of the neck, slightly lower, both bruises of about 3 x 10 cm. The finding corresponds to the use of coercive means as described".

case 2: a prisoner at Prague-Pankrác Remand Prison claimed that, on 8 January 1997, following a verbal altercation with prison guards, he had been forcibly removed from an exercise yard and his hands had been handcuffed behind his back. He alleged that, whilst handcuffed, he had been beaten with a baton by a prison officer. A medical certificate completed shortly after the alleged incident recorded: "use of coercive means - truncheon - on the chin ... inside the mouth on the left side a small injury of about 0.6cm not requiring a suture. Otherwise without swellings, no haematomas. On the forearm, four superficial marks of about 10cm".

case 3: a prisoner at Prague-Pankrác Remand Prison alleged that, on 11 June 1996, following a verbal altercation with prison guards, he had been forcibly removed from his cell and his hands had been handcuffed behind his back. He alleged that, whilst handcuffed, prison officers had struck him on the face and neck, kicked him in the ribs, stomach and testicles, and dealt baton blows to his back.

A medical certificate completed shortly after the alleged incident recorded: "today he allegedly attacked prison guards, and therefore an intervention was made against him. He complains about pain on the right side of the chest, in the area of the 7th rib. The pain does not increase with coughing. About 6 haematomas on the back - after the use of a truncheon."

case 4: an inmate held at Mírov Prison complained that, on 3 February 1997, a prison officer punched him on the mouth with a gloved fist. A medical certificate completed shortly after the alleged incident recorded: "says that he was punched in the face by the guard ..., he complains about a headache and a pain in the upper lip. Objectively, I found a light swelling on the left side of the upper lip, with no apparent lesion. It is a light injury, and the indicated mechanism of its origin can be neither fully excluded nor confirmed".

41. The Committee recognises that prison staff will on occasion have to use force to control violent and/or recalcitrant prisoners. However, the force used should be no more than is reasonably necessary (in this connection, cf. also paragraph 78).

As regards, more particularly, the use of batons, the CPT considers that the use of such means of coercion to deal with aggressive and/or recalcitrant behaviour is only permissible if it is absolutely necessary to safeguard the physical integrity of staff or other inmates or to prevent serious damage to property. There can never be any justification for using batons against - or otherwise striking - a prisoner who has been brought under control.

The CPT recommends that prison officers be reminded of these precepts. More generally, the Committee recommends that the relevant national and local authorities deliver the clear message that the ill-treatment of prisoners is not acceptable and will be dealt with severely.

42. The existence of effective mechanisms for examining prisoners' complaints is a fundamental safeguard against ill-treatment in prisons. Prisoners should have avenues of complaint open to them both within and outside the context of the prison system, including the possibility of confidential access to an appropriate authority. Czech law makes formal provision for such a possibility⁶; however, the CPT is concerned by the manner in which prisoners' complaints are, in practice, processed.

⁶ Prisoners have the possibility to forward their complaints to "bodies of the State administration of the Czech Republic" (cf. Section 15 (1) of the ZVOS and section 20 of the ZVV).

Firstly, it appears that complaints submitted by prisoners to the central complaints department of the Department of Prisons are routinely returned for processing to the internal complaints department of the prison to which the complaint related. Secondly, the designated prison officer in charge of a prison's internal complaints department enjoys specific legal authority to act as both investigating officer and adjudicator in respect of prisoners' complaints against his fellow officers, including in cases involving suspicion of criminal behaviour by prison officers⁷. At Mírov Prison, the CPT's delegation was shown a number of cases involving allegations of criminal conduct by prison officers, in respect of which a duly-designated prison officer had issued a final decision (exonerating the prison officers concerned), without the involvement of either police or prosecuting authorities. Thirdly, the manner in which hearings into prisoners' complaints are conducted could easily dissuade them from pursuing their grievances. In particular, inmates are routinely offered the opportunity to withdraw their complaints, failing which they are required formally to declare that, if their complaints are to be adjudged unfounded, they accept that will themselves be liable to criminal prosecution⁸. At Mírov Prison, every prisoner who had complained about the conduct of prison staff in 1997 had subsequently decided to withdraw his complaint.

It is also noteworthy in this context that, of the 59 nationwide complaints about physical abuse by prison officers in respect of which decisions were reached during 1995 and the first half of 1996, not a single complaint was considered to be well-founded.

In the light of its delegation's findings, **the Committee recommends that the Czech authorities conduct a review of the procedures currently used to process prisoners' complaints, with a view to ensuring that they offer appropriate guarantees of independence and impartiality, and do not discourage persons who may have been ill-treated from pursuing a complaint.**

43. Of course, the best possible guarantee against the ill-treatment of prisoners is a properly-trained prison officer, who is capable of adopting an appropriate attitude in his relations with inmates.

The CPT's delegation noted that, in both of the establishments visited, relations between custodial staff and inmates were of a somewhat formal and distant nature. In particular, it appeared that (by contrast with the "educators"), uniformed staff regarded verbal communication with inmates as being a somewhat marginal aspect of their work. Moreover, the persistence of a number of demeaning practices (such as requiring prisoners to stand facing a wall whilst waiting for prison staff to attend to them) did little to improve staff-inmate relations.

7

Under Section 12 (2) of the Code of Criminal Procedure (Law No. 141/1961), "the term "police authorities" refers to the Police Authorities of the Czech Republic. The same position is enjoyed by Members of the Military Police in procedures concerning criminal offences committed by members of the armed forces, and by the qualified authorities of the Prison Services in procedures concerning criminal offences committed by members of the same Services" [emphasis added]. By contrast, complaints regarding alleged criminal conduct by prisoners are, in every case, referred to the police (cf. Article 2 (2) of Director General's Order No. 15 of 1994).

8

The relevant part of the declaration under Section 10 (2) of Law No. 555/1992, which is read to prisoners making a complaint, is as follows: "I was also informed that if I knowingly give incorrect or incomplete statements, I can be prosecuted for withholding information in accordance with section 166 of the Penal Code (or for an offence against the State under section 21 (1) (b) or (f) of Law No. 200/1990), or for false accusation in accordance with section 174 of the Penal Code, or for infringing another person's rights in accordance with section 209 of the Penal Code".

It follows that the provision of suitable training on human rights questions and of adequate professional training is an essential element of any strategy for the prevention of ill-treatment. **The CPT would like to receive detailed information on the provision of human rights education and professional training - both initial and ongoing - for prison officers in the Czech Republic.**

Further, **the Committee considers that an aptitude for interpersonal communication should be a major factor in the process of recruiting prison officers and that, during the induction and in-service training of such officers, considerable emphasis should be placed on acquiring and developing interpersonal communication skills. Building positive relations with prisoners should be recognised as a key feature of a prison officer's vocation.**

3. Conditions of detention in the prisons visited

a. material conditions

44. Czech law includes formal provisions regarding the material conditions which are to be offered to sentenced and remand prisoners. According to Section 11 of the ZVOS, accommodation for sentenced prisoners shall provide an area of at least 3.5 m² per prisoner, and every prisoner shall be allocated a bed and sufficient space to store personal possessions. Section 9 of the ZVV repeats those provisions as regards remand prisoners; further, it provides that cells for remand prisoners shall be: "equipped with a table and an adequate number of chairs, as well as amenities separated from the remaining part of the cell by an opaque screen. Electric lighting and a call system shall be installed in each cell". **The CPT would like to be informed of whether these latter requirements also apply to sentenced prisoners.**

45. Were it to have been maintained at reasonable levels of occupancy, most of the cellular accommodation seen by the CPT's delegation in the prisons visited would have been capable of offering acceptable material conditions of detention. In particular, the great majority of cells were furnished to a reasonable standard, and adequately-lit and ventilated. Moreover, prisoners had ready access to a lavatory at all times, including at night.

However, at **Mírov Prison**, up to 23 sentenced prisoners were being held in dormitories measuring some 70 m², and up to 18 in dormitories of approximately 60 m². A high level of occupancy was also observed in the prison's remand section, where up to 3 inmates were being held in cells measuring some 8.5 m².

Cell occupancy levels were also unsatisfactory at **Prague-Pankrác Remand Prison**, where many remand prisoners were being held 3 to cells measuring around 10 m². In the prison's admission unit, up to 4 remand prisoners could be accommodated for prolonged periods in cells measuring some 8.5 m². Sentenced inmates fared slightly better; however, in certain cells 7 convicted prisoners were being accommodated in some 24 m².

46. It is clear that - even in terms of the modest standard currently set by Czech legislation - overcrowding is widespread in both of the establishments visited. Moreover, the Committee understands that similar cell occupancy levels are to be found in many other prisons in the Czech Republic. Decisive action will be required to address this situation.

47. Firstly, the existing standard of 3.5 m² per prisoner in multiple-occupancy cells does not offer a satisfactory amount of living space, in particular in cells of a relatively small size. **The CPT recommends that the standard be raised.**

The CPT also recommends that:

- **cells measuring 8 m² or less accommodate no more than one prisoner (save in exceptional cases when it would be inadvisable for a prisoner to be left alone);**
- **any cells measuring less than 6 m² be taken out of service as prisoner accommodation.**

48. Secondly, concrete measures will be required to bring the prison population into balance with available inmate accommodation. In this respect, the CPT was informed that there were plans to build a number of new prison establishments, as well as to extend certain existing establishments.

For its part, the CPT considers it unlikely that providing additional accommodation will, in itself, provide a lasting solution to the problem of overcrowding. Indeed, a number of European States have embarked on extensive programmes of prison building, only to find their prison populations rising in tandem with the increased capacity acquired by their prison estates. By contrast, in those countries which enjoy relatively uncrowded prison systems, the existence of policies to limit and/or modulate the number of persons being sent to prison has tended to be an important element in maintaining the prison population at a manageable level.

In this context, reference might usefully be made to Committee of Ministers' Recommendation R (92) 17 concerning consistency in sentencing, and more particularly to recommendation B 5(i), according to which "custodial sentences should be regarded as a sentence of last resort, and should therefore be imposed in cases where, taking due account of other relevant circumstances, the seriousness of the crime would make any other sentence clearly inadequate"⁹.

The CPT recommends that the Czech authorities develop and implement a strategy designed to bring about a permanent end to overcrowding, taking into account the above remarks.

⁹

The Explanatory Memorandum to Recommendation R (92) 17, inter alia provides the following commentary on this recommendation: "In view of the clear adoption by the Council of Europe of the policy of restraint in the use of imprisonment, this might be a topic suitable for legislative restrictions on sentencers. But, whatever the method used to implement the policy, it should be linked with more detailed guidance for judges. In order to ensure consistent answers to the question, "which varieties of offence are too serious for non-custodial sanctions?", consideration should be given to the development of criteria."

49. Prague-Pankrác Remand Prison also serves as a transit facility for prisoners awaiting court appearances in Prague and/or transfers elsewhere in the prison system. Such prisoners may be held for periods of several hours in a series of cells, known as the "escort area", in the basement of "E" building.

At the time of the visit, the CPT's delegation found that up to 17 prisoners were crammed into unfurnished cells measuring less than 10 m². Even though the prisoners concerned were being held in such conditions for relatively short periods of time, such a situation is completely unacceptable.

The CPT recommends that, as a matter of urgency, steps be taken significantly to reduce the occupancy levels in the "E" building escort cells at Prague-Pankrác Remand Prison, and to equip those cells with means of rest.

b. regime

50. The regimes which are offered to prisoners in the Czech Republic vary according to the inmates' formal legal status (i.e. sentenced or on remand) and security classification (low, medium, high or maximum security).

The ZVOS provides that the purpose of imprisonment is to prevent sentenced prisoners from engaging in further criminal activities and to "educate them for proper life as a citizen"¹⁰. In furtherance of that rehabilitative aim, sentenced prisoners are to be offered educational and cultural activities, as well as work of vocational value¹¹. Those activities are to form part of "resocialisation programmes", adapted to the security status of the prison concerned; such programmes are to be subject to regular review¹².

Czech law makes less fulsome reference to the subject of regime activities for remand prisoners. In terms of the ZVV, prisoners on remand may "... order books, subscribe to the daily newspapers and magazines ... borrow and play games, as well as borrow fiction and specialised publications including legal publications from the prison library"¹³. "A remand prisoner may work if he/she so requests, within the scope of work opportunities of the prison"¹⁴.

51. At **Mírov Prison**, the regime activities offered to sentenced prisoners in security categories C (high security) and D (maximum security) varied according to the prison's internal classification scheme, under which each category had been subdivided into three levels (C1-3 and D1-3).

¹⁰ cf. Section 1(1) of the ZVOS.

¹¹ cf. Section 2 of the ZVOS.

¹² cf. Sections 5 and 8 of the ZVOS, and section 9 of the ZVTOS.

¹³ cf. Section 17 of the ZVV.

¹⁴ cf. Section 19 of the ZVV.

At level D3 (the most restrictive category), activities were limited to one hour of daily outdoor exercise (except on foggy days) and watching television in a common room for up to eight hours a day on week days. Prisoners at level D2 could, in addition, watch television at weekends, and had access to a fitness room once a week. Level D1 prisoners benefitted from all level D2 privileges and could visit the fitness room twice a week. When not participating in such activities, all category D inmates were locked in their cells. The regime activities offered to sentenced prisoners in security category C followed a similar pattern, the most significant difference being that their cell doors were left unlocked for periods of time which lengthened as they progressed from category C3 to C1.

Educational activities were offered on only a sporadic basis, the establishment's sports facilities were poor (consisting of one fitness room and two roughly-surfaced exercise yards), and only 50% of sentenced prisoners were offered work.

52. Czech law currently requires that life sentenced prisoners always be kept apart from other sentenced inmates¹⁵. As a result, inmates serving life sentences at Mírov were subject to an even more impoverished regime. Apart from daily outdoor exercise, they spent their time watching television, listening to the radio or reading in their cells. They had no access to educational activities and, at the time of the visit, were not being offered work. These are particularly serious failings: life sentenced prisoners should be among the first to be offered such opportunities.

53. Long-term imprisonment is widely considered to have a number of desocialising effects upon inmates. In addition to becoming "institutionalised", such prisoners may experience a range of psychological problems (including loss of self-esteem and impairment of social skills) and have a tendency to become increasingly detached from the world into which they will almost certainly eventually be released. In the view of the CPT, the regimes which are offered to prisoners serving long sentences should seek to compensate for these effects in a positive and proactive way.

Prisoners serving lengthy sentences (including life sentences) should have access to a wide range of **purposeful activities of a varied nature** (work, preferably with vocational value; education; sport; recreation/association). Moreover, they should be able to exercise a degree of **choice** over the manner in which their time is spent, thus fostering a sense of autonomy and personal responsibility. Additional steps should be taken to lend **meaning** to their period of imprisonment; in particular, the provision of individualised custody plans and appropriate psycho-social support are important elements in assisting such prisoners to come to terms with their period of incarceration and to prepare for release. Further, the negative effects of institutionalisation upon prisoners serving long sentences will be less pronounced, and they will be better equipped for release, if they are able effectively to maintain **contact with the outside world**; the CPT's detailed remarks on that subject (cf. paragraphs 63 to 71) are of special relevance to this category of inmate.

¹⁵ cf. Section 63 of the ZVOS, and section 92(3) of the ZVTOS.

54. Clearly, the regimes which are currently being offered to long-term prisoners at Mírov fall far short of meeting the criteria set out above. **The Committee recommends that the Czech authorities take urgent steps to develop the regimes offered to such prisoners, taking due account of the remarks made in paragraphs 51 and 52 and of the criteria identified in paragraph 53.**

As regards, more particularly, life-sentenced prisoners, the CPT can see no justification for them being kept apart from other prisoners serving lengthy sentences.

55. The CPT's delegation found that sentenced prisoners at **Prague-Pankrác Remand Prison** benefitted from a broadly satisfactory programme of activities (including education, sport and recreation/association).

It was particularly noteworthy that some 80% of sentenced prisoners at Pankrác were employed.

56. Neither the remand unit at **Mírov** nor **Prague-Pankrác Remand Prison** were in a position to offer remand prisoners anything which remotely resembled a regime.

At both establishments, inmates on remand spent the vast majority of every day locked in overcrowded cells with little or nothing to occupy their time. Prison staff with whom the delegation spoke took the view that the current law on remand imprisonment afforded them little scope to develop regime activities for remand prisoners.

The CPT recommends that a thorough examination of possible means of improving the regime activities offered to remand prisoners be undertaken without delay; the aim should be to ensure that all remand prisoners in the Czech Republic are able to spend a reasonable part of the day (i.e. eight hours or more) outside their cells, engaged in purposeful activities of a varied nature (work, preferably with vocational value; education; sport; recreation/association).

57. As regards more particularly the imprisonment of juveniles (i.e. those aged 15-18), the CPT is pleased to note the ambitious goals set out in the relevant laws¹⁶. Much emphasis is placed on mitigating the detrimental effects of incarceration and on promoting rehabilitation, inter alia by providing juveniles with educational, as well as sporting and other organised or association activities. Further, a preference is expressed for "open-type departments" for juveniles (i.e. units where an open-door policy is applied).

Efforts were being made to meet these goals in respect of juveniles remanded in custody at **Prague-Pankrác Remand Prison**; however, it emerged from the delegation's conversations with both staff and inmates that, at best, the prison could offer some four hours of daily out of cell activities.

The CPT recommends that efforts be made to improve the regime offered to juveniles at Prague-Pankrác Remand Prison. The aim should be to provide juveniles with a full range of educational, recreational and other purposeful activities of a rehabilitative nature. Physical education should constitute a significant element of their regime.

¹⁶ cf. inter alia Section 52 of the ZVOS, Section 79 of the ZVTOS and Section 72 of the ØVV.

4. Medical issues

58. The CPT's delegation formed a generally favourable opinion of the medical services in Mírov Prison and Prague-Pankrác Remand Prison, including in the Prison Hospital located within the latter establishment.

The staffing level at Mírov Prison was in principle satisfactory; however, at the time of the visit there was a vacant general practitioner post, which was apparently shortly to be filled. **The CPT would like to receive confirmation that this has now been done.** At Prague-Pankrác Remand Prison, the number of doctors (including specialists) and other health care workers employed, as well as their hours in attendance in the establishment were sufficient. Further, the premises occupied by the health care services and the level of equipment were satisfactory in both establishments. In general, the delegation was impressed by the professional competence displayed by the doctors and other medical staff. It is also noteworthy that few complaints were received from prisoners about health-care services.

To sum up, the delegation was satisfied that the level of care provided to prisoners was of an adequate standard and, more particularly, comparable to that which would be available to persons in the community at large. In consequence, the Committee has few detailed comments to make on the medical issues examined during the visit.

59. The Committee's principal concern is that medical confidentiality was not being observed in a satisfactory manner in either Mírov or Prague-Pankrác Remand Prison.

At **Mírov**, the CPT's delegation observed that prison officers were virtually always present during medical consultations/examinations. Further, the delegation learned that, on a recent occasion, a prison officer had been present at a medical consultation/examination during which the prisoner concerned had made allegations of physical ill-treatment by prison staff. The CPT considers that such a situation - which is apparently not in contradiction with current Czech law - is in flagrant breach of the principle that medical confidentiality should be observed in prisons in the same way as in the community. Consequently, **the CPT recommends that steps be taken to ensure that all medical examinations of prisoners (whether on arrival or at a later stage) are conducted out of the hearing and - unless the doctor concerned expressly requests otherwise in a given case - out of the sight of prison officers.**

At **Prague-Pankrác Remand Prison**, whilst prison officers were rarely, if ever, present during medical consultations/examinations, they could have access to certain medical records. The Committee wishes to stress, in this respect, that keeping medical files should be a doctor's responsibility, and that only qualified members of the prison's health-care team should have access to such records.

The CPT recommends that the Czech authorities take appropriate steps to ensure that the strict confidentiality of medical data is guaranteed at Prague-Pankrác Remand Prison.

60. In both prisons visited, newly-admitted prisoners were in principle medically screened within 24 hours of their arrival. That screening involved inter alia the physical examination of the prisoner and the recording of any injuries displayed by him, together with any allegations made by him concerning the origin of the injuries and, where relevant, his complaints about the manner in which he had been treated while in the custody of the police. The CPT welcomes this practice, which is a key element in the prevention of ill-treatment.

61. The CPT considers that prison health care services should regularly provide information to both prisoners and prison staff on transmissible diseases (in particular hepatitis, AIDS, tuberculosis, and skin diseases). With particular regard to AIDS, appropriate counselling and support should be provided before and - if necessary - after any HIV screening test. Prison staff should receive training about the preventive measures to be taken and the attitude to adopt towards those who are HIV-positive, and be given appropriate instructions on non-discrimination and confidentiality.

The CPT would like to receive further information about the approach adopted to these matters in the Czech Republic.

62. Suicide prevention is another matter falling within the purview of a prison's health care service. It should ensure that there is an adequate awareness of this subject throughout the establishment, and that appropriate procedures are in place.

Medical screening on arrival, and the reception process as a whole, has an important role to play in this context; performed properly, it could identify at least certain of those at risk and relieve some of the anxiety experienced by all newly-arrived prisoners. Further, prison staff, whatever their particular job, should be made aware of (which implies being trained in recognising) indications of suicidal risk. In this connection, it should be noted that the periods immediately before and after trial and, in some cases, the pre-release period, involve an increased risk of suicide.

A person identified as a suicide risk should, for as long as necessary, be kept under a special observation scheme. Further, such persons should not have easy access to means of killing themselves (cell window bars, broken glass, belts or ties, etc.). Steps should also be taken to ensure a proper flow of information - both within a given establishment and, as appropriate, between establishments (and more specifically between their respective health care services) - about persons who have been identified as potentially at risk.

The CPT would like to receive further information about the approach adopted to these questions in the Czech Republic.

5. Other issues of relevance to the CPT's mandate

a. contact with the outside world

63. It is very important for prisoners to be able to maintain good contact with the outside world. Above all, they must be given the opportunity to safeguard their relations with their family and friends, and especially with their spouse or partner and their children. The continuation of such relations can be of critical importance for all concerned, particularly in the context of prisoners' social rehabilitation. The guiding principle should be to promote contact with the outside world; any restrictions on such contacts should be based exclusively on security concerns of an appreciable nature or considerations linked to available resources. This is in line with a number of recommendations in the 1987 European Prison Rules, particularly rule 43, sub-paragraph 1 and rule 65, point c.

64. According to Czech law, sentenced prisoners are entitled to a visit of a minimum of two hours at least every three (category A or B prisoners) or six (category C or D prisoners) weeks¹⁷. The delegation's findings suggest that the minimum visiting entitlement for sentenced prisoners was being respected. Moreover, it was not uncommon for visits to last for longer than two hours, and for certain sentenced prisoners to be allowed more frequent visits. It should also be noted that visits to sentenced prisoners took place in open conditions, allowing a degree of physical contact between the prisoner and his visitors.

By contrast, remand prisoners are entitled to a thirty minute visit every three weeks¹⁸ (every week in the case of juveniles¹⁹). Czech law also stipulates that such visits are to be supervised by prison staff. The CPT's delegation observed that, in practice, most visits to remand prisoners took place under closed conditions (inmates and visitors were separated by a glass screen).

65. In the view of the CPT, the visiting entitlement for remand prisoners (the equivalent of 10 minutes per week) is not sufficient to allow them to maintain good relations with their families and friends. Further, the visiting entitlement of sentenced prisoners in categories C and D is far from ideal. **The CPT recommends that the visiting entitlements of such prisoners be increased.**

66. As regards visiting facilities, the CPT sees no justification for the present system, under which the majority of remand prisoners are systematically denied physical contact with their visitors, during the often lengthy periods spent awaiting trial. Closed visiting arrangements might be necessary in certain circumstances, but should not constitute the rule. Consequently, **the CPT invites the Czech authorities to review the visiting arrangements for remand prisoners in order to ensure that they are in principle able to receive visits under reasonably open conditions.**

67. In view of the risk of collusion, visits to certain remand prisoners had to be authorised by the competent court and supervised by an official appointed by the court (in the bulk of cases, a police officer from the relevant criminal investigation department). The CPT's delegation heard a certain number of complaints about lengthy delays before those inmates were able to receive a visit.

The CPT would like to receive the comments of the Czech authorities on this question.

68. At Mírov Prison, inmates could apply to receive extended unsupervised visits, to enable them to maintain family and personal (including sexual) relations. The room which had been set aside for that purpose was quite adequate.

The Committee considers that granting such visits is a constructive measure, and **invites the Czech authorities to extend this practice throughout the prison system.**

¹⁷ cf. Section 12(2) of the ZVOS, and Section 16 of the ZVTOS. Weekly visits are foreseen for sentenced juveniles (cf. Section 55 of the ZVOS).

¹⁸ cf. Section 14 of the ZVV.

¹⁹ cf. Section 26 of the ZVV.

69. The CPT also wishes to call attention to the geographical isolation of Mírov Prison, which requires that close attention be given to the organisation of visits at that establishment. In this connection, the CPT's delegation was concerned to learn that a significant proportion of prisoners serving long sentences - and the majority of prisoners serving life sentences - had no visitors.

The Committee recommends that the Czech authorities draw up special rules on visiting arrangements at Mírov (and any other similarly-isolated prisons in the Czech Republic). Such rules should inter alia address the length of visits, the arrangements under which they take place and possible forms of assistance to visitors, with a view to ensuring that the location of the establishment(s) concerned does not place an additional burden on prisoners' visitors.

70. As regards correspondence, there is no limit on the number of letters that prisoners may send (at their own cost) or receive²⁰. However, all such correspondence²¹ may be read by the prison authorities and can in certain cases (involving suspicion of collusion/commission of a criminal act) be forwarded to the competent judicial authority for approval before being transmitted to the prisoner. Many remand prisoners complained that the control of their correspondence could entail lengthy delays; prison staff confirmed that such delays did indeed take place, particularly when clearance had to be obtained from the competent court.

The CPT invites the Czech authorities to examine whether the control of prisoners' correspondence is causing excessive delays and, if appropriate, to take remedial action. More generally, the CPT considers that the present system of monitoring prisoners' correspondence could well represent a wasteful use of staff resources.

71. The CPT also wishes to emphasise the importance of giving prisoners (especially those who do not receive regular visits) access to telephones. Czech law currently makes no such provision, and prisoners did not in principle have access to a telephone. At Mírov, the prison director could authorise a telephone call by a prisoner in exceptional circumstances (e.g. a death in the family); at Prague-Pankrác Remand Prison, an educator would make a telephone call on behalf of a prisoner if he considered that an inmate's request to that effect was "reasonable or justified".

The CPT recommends that the Czech authorities take steps to provide prisoners with access to telephones. Obviously, telephone contacts by inmates could, if necessary, be subject to appropriate monitoring procedures.

²⁰ cf. Section 12(1) of the ZVOS and Section 13 of the ZVV.

²¹ With the exception of letters to (and from) lawyers, official bodies and international human rights organisations.

b. outdoor exercise

72. The requirement that prisoners be allowed at least one hour of outdoor exercise every day is regarded by the CPT as a fundamental safeguard for prisoners. Such a requirement is already enshrined in Czech law²²; however, at the time of the visit, this minimum outdoor exercise entitlement was not always guaranteed.

At Mírov Prison, outdoor exercise for sentenced prisoners was suspended on foggy days (an apparently not infrequent occurrence in the hills of North Moravia). At Prague-Pankrác Remand Prison, the delegation was told that remand prisoners were deprived of their outdoor exercise entitlement if an insufficient number of staff were present in the establishment (which apparently was the case on certain weekends). Complaints were also heard from newly-arrived inmates being held in the admissions unit in the latter establishment to the effect that - at best - they were offered outdoor exercise only once every few days. Finally, patients being cared for at the prison hospital were offered no opportunity to go outside.

The CPT recommends that the Czech authorities take immediate steps to ensure that all inmates are offered at least one hour of outdoor exercise every day. This requirement should also be met as regards patients being held in prison health-care facilities, unless there are medical reasons to the contrary.

73. The exercise facilities seen by the CPT's delegation were, in general, of an acceptable standard; however, those for remand prisoners at Prague-Pankrác Remand Prison were not large enough to enable prisoners to exert themselves physically. **The CPT recommends that this deficiency be remedied.**

c. discipline

74. The disciplinary sanctions²³ which may be imposed upon prisoners range from reprimand to solitary confinement of up to five days (for juveniles), ten days (for remand prisoners or female prisoners, although women who are pregnant cannot be subjected to solitary confinement as a sanction) and twenty days (for sentenced prisoners). All sentenced prisoners subject to disciplinary confinement can continue to receive visits, and certain may be allowed to continue to work for the duration of the sanction.

The delegation gathered no evidence of excessive resort to disciplinary sanctions in the establishments visited.

²² cf. Section 11(3) of the ZVOS and Section 18(2) of the ZVV.

²³ cf. Section 20 of the ZVOS, and Section 22 of the ZVV. In addition to disciplinary sanctions, a system of rewards exists in respect of sentenced prisoners (cf. Section 19 of the ZVOS), while remand prisoners may be placed in a "more lenient regime" (cf. Section 8 of the ZVV).

75. In both prisons visited, the disciplinary cells were of an adequate size and were equipped with at least a wooden bed, some storage space, a wash basin and a lavatory. However, the state of repair of the disciplinary cells and of their equipment left something to be desired. In particular, certain contained fixtures and fittings which could easily be used by a distressed prisoner to inflict injuries upon himself.

Sentenced prisoners placed in a disciplinary cell were apparently only entitled to receive a blanket, but no mattress, whereas remand prisoners were provided with suitable bedding. **The CPT recommends that sentenced prisoners who are held overnight in disciplinary cells be provided with mattresses.**

Further, **the CPT recommends that the applicable regulations be amended in order to allow all persons placed in a disciplinary cell to have access to reading matter.**

76. Finally, the CPT considers that prisoners upon whom disciplinary sanctions are imposed should benefit from appropriate procedural safeguards (right to be informed of the reasons for the measure, right to present their views and right of appeal). Czech law makes adequate provision for such safeguards²⁴, and the delegation's observations suggested that, in practice, they were being made available to prisoners.

d. inspection procedures

77. The CPT attaches particular importance to regular visits to all prison establishments by an independent body (for example, a visiting committee or a judge with responsibility for carrying out inspections) with authority to receive - and, if necessary, take action on - prisoners' complaints and to visit the premises. During such visits, the persons concerned should make themselves "visible" to both the prison authorities and staff and the prisoners. They should not limit their activities to seeing prisoners who have expressly requested to meet them, but should take the initiative by visiting the establishments' detention areas and entering into contact with inmates.

Judges in the Czech Republic are entitled to visit sentenced prisoners, to speak with them in private and to review their situation; however, there is apparently no similar provision as regards remand prisoners. Further, in the course of its visit, the CPT's delegation received no indication that such judges actually carried out visits within the detention areas of prisons.

The CPT invites the Czech authorities to establish a system of visits by an independent body to prisons for both sentenced and remand prisoners, taking into account the above remarks.

²⁴ cf. Section 21 of the ZVOS and Section 23 of the ZVV.

e. means of coercion

78. The CPT has already stressed that no more force than is reasonably necessary should be used to control violent and/or recalcitrant prisoners, and has indicated the very limited circumstances in which the use of batons may be permissible (cf. paragraph 41). The Committee has noted that Czech law also permits the use of the following means of coercion against prisoners: self-defence techniques, wrist escort chains and handcuffs, restraint belts with or without handcuffs, incapacitating gas, electric shock devices, dogs, water cannons/guns, explosive devices causing temporary blindness, hitting with the butt of a weapon, threat of the use of firearms, and warning shots²⁵.

In the view of the CPT, this list includes certain means (hitting with the butt of a weapon, the use of electric shock devices) which should never be used in a prison, and others (incapacitating gas, explosive devices) the use of which within detention facilities could only be justified under very exceptional circumstances.

The CPT recommends that the Czech authorities revise the list of authorised means of coercion in the light of these remarks. Further, it would like to receive information about the conditions under which prison officers are authorised to use means of coercion, and about the training which they receive in the use of such means.

79. In both of the establishments visited, every instance of use of means of coercion was recorded in a central register, and inmates against whom such means had been used were offered a medical examination without delay. All such records were systematically reviewed by senior members of staff.

The Committee welcomes this approach; however, it wishes to stress the importance of access to effective avenues of complaint for prisoners against whom means of coercion have been used. Implementation of the CPT's earlier recommendation on this subject (cf. paragraph 42) will be an important means of enhancing the safeguards which are offered to such prisoners.

²⁵ cf. Section 17 of Law No. 555/1992.

C. Detention centres for minors

1. Introduction

80. Under Czech law, juveniles (aged 15 to 18) may - in the context of criminal proceedings - be committed to a detention centre for minors rather than to prison (if this is considered to be in the interest of the education of the young person concerned). Further, children aged 12 or over, but under 15 (who, under the law, are not criminally responsible) may - in the course of civil proceedings - be placed in such a detention centre; this also applies to children under the age of 12 who have committed a serious offence²⁶.

In addition, children and juveniles who have not committed criminal offences, can be placed in a detention centre for minors when their current environment poses a serious risk for them or is affecting adversely their development "from either a physical or moral standpoint"²⁷.

81. Once the competent judge has ordered the placement of a minor in a detention centre, it is for a diagnostic institute to assess whether that minor should be placed in an open or in a closed establishment. Minors can also be admitted for assessment at the request of their parents or guardians (i.e. so-called voluntary admissions).

82. The CPT's delegation visited two detention centres for minors in the Czech Republic.

Brno-Hlinky Diagnostic Institute received young persons of both sexes, in principle aged 3 to 15 (although the admission of very young children appeared to be rare). The delegation was informed that the period of assessment at the Diagnostic Institute lasted two months, though a minor could remain there for a maximum of three months on the basis of a provisional order, awaiting a final court decision. The Institute has a capacity of 36 and, at the time of the visit, it accommodated 29 minors aged 7 to 16, including nine girls.

Moravský Krumlov Educational Institute admitted girls from the age of twelve, for placements which could last until the person concerned reached majority (18 years old). A decision to place a minor in the establishment could be reviewed at any time by the competent judge following an application to that effect by the inmate's family, or at the initiative of the social worker responsible for the case; further, the establishment's director could authorise the early or provisional discharge of an inmate. A stay beyond the age of 18 was also possible, to allow the inmate to complete her education. All of the 48 places available at the Educational Institute were filled. However, at the time of the visit, several girls had been discharged on a provisional or trial basis.

²⁶ cf. inter alia Sections 11, 76, 84 and 86 of the Penal Code.

²⁷ cf. Section 45 of the Family Act.

83. On the whole, the centres for minors visited appeared to make suitable provision for the material, educational and rehabilitative needs of their residents. Particular reference should be made to the fact that both establishments had an adequate number of care workers, teachers and social workers (at both establishments the ratio of such staff to residents was approximately 1:2). Further, at Brno-Hlinky Diagnostic Institute, the staff also included two psychologists and a child development specialist, who played a key role in the task of assessing the young persons held there.

Notwithstanding those positive findings, the CPT considers that there is still room for improvement in respect of a number of the matters addressed in the following paragraphs.

2. Torture and other forms of ill-treatment

84. The CPT's delegation heard no allegations of torture of inmates by staff at either of the detention centres for minors visited, or in other such establishments in the Czech Republic.

85. The CPT's delegation was in general impressed by the nature of relations between staff at the **Brno-Hlinky Diagnostic Institute** and the minors being cared for there. This impression was confirmed by the positive remarks concerning that establishment and its staff made not only by its residents, but also by girls met at Moravský Krumlov who had previously spent some time at Brno-Hlinky. There were a few allegations of slaps. However, the delegation gained the distinct impression that the establishment's staff were professional and committed to their work; it noted in particular that they adopted an understanding attitude, making themselves accessible to the children and providing guidance.

86. By contrast, several girls at **Moravský Krumlov Educational Institute** claimed that residents were often slapped by staff, including by the establishment's director, and that on occasion they were treated somewhat roughly in other respects. Inmates also complained of having been publicly humiliated by prurient comments allegedly made by certain members of staff.

87. The CPT wishes to underline that all forms of physical chastisement of detained minors should be avoided. It is axiomatic that publicly to humiliate a minor would be equally objectionable.

In the light of its delegation's findings, **the CPT recommends that management and staff at Moravský Krumlov Educational Institute be reminded of these precepts.**

88. More generally, in view of the particular characteristics and needs of the inmates concerned, **the staff working in detention centres for minors should be carefully selected, and receive professional training, both during induction and on an ongoing basis. Further, they should benefit from appropriate external support and supervision in the exercise of their duties. The management of such centres should be entrusted to persons with advanced leadership skills, who have the capacity to respond in an effective manner to the complex demands placed upon them by inmates and staff.**

89. Effective complaints and inspection procedures are basic safeguards against ill-treatment in detention centres for minors. Residents in such centres should have avenues of complaint open to them, both within and outside the establishments' administrative system, and be entitled to confidential access to an appropriate authority. The CPT attaches particular importance to regular visits to detention centres for minors by an independent body (for example, a visiting committee or a judge for minors) with authority to receive - and, if necessary, take action on - residents' complaints and to inspect the accommodation and facilities.

In the Czech Republic, this role is performed by the Ministry of Education Inspectorate, which has competence to visit all educational establishments/schools in the country. **The Committee would like to receive further information about the work of this Inspectorate, together with details of any other avenues of complaint to which detained minors have access.**

3. Conditions of detention

90. **Brno-Hlinky Diagnostic Institute's** premises were in a good state of repair and provided sufficient living space for residents.

Children were distributed between suitably-equipped dormitories according to age and sex (girls, younger boys and older boys). The facilities available in the establishment for daytime activities were also quite adequate (classrooms, activities rooms). In principle, children were taken to sporting facilities (e.g. swimming pool, skating ring, football ground) or for walks on a daily basis, and could play games on the Institute's premises, both indoors and outside.

Nonetheless, certain of the older boys spoken to complained about limited access to outdoor exercise and to sport. Complaints were also heard of inadequacy of the level of tuition, resulting from the range of ages and knowledge of children called upon to attend a particular class or schooling group.

91. Residents at **Moravský Krumlov Educational Institute** were distributed between four units, providing dormitory accommodation, and into three groups for education/tuition purposes, i.e. primary school, special education and vocational training (which led to the acquisition of a recognised qualification).

Material conditions offered at the Educational Institute were of an even higher standard than at Brno-Hlinky Diagnostic Institute. Each accommodation unit provided ample space, and residents were allowed to organise their environment according to their own preferences. Further, several two or three-bed units were available for girls who required less supervision.

Inmates were offered a variety of organised activities during the day, and were also given free association time. The establishment possessed suitable facilities for this purpose, including a sports hall and outdoor facilities. However, certain inmates complained that, other than supervised walks, they had limited opportunities to participate in sporting activities (whether indoors or outside).

92. The CPT wishes to stress that physical education should constitute a significant element of the regime offered to all minors deprived of their liberty. In this context, the Committee would suggest that the grounds available in both establishments visited be exploited to provide additional outdoor exercise/sports facilities.

4. Discipline and isolation

93. At **Brno-Hlinky Diagnostic Institute** misbehaviour could entail the obligation to repair the damage caused or the withdrawal of existing privileges (reduction in pocket money, limits imposed on outings or home leave) and a negative remark in the course of the periodic behaviour assessment. The more serious forms of misconduct (escape, physical violence or reluctance to participate in educational or other activities) could also trigger one-to-one discussions with qualified members of staff.

94. In principle, a similar approach was being followed at **Moravský Krumlov Educational Institute**. However, it appeared that less effective use was made of dialogue as a means of resolving conflicts. Indeed, several of the girls spoken to indicated that they felt there was no one they could turn to in the Educational Institute when they felt the need to talk about their problems, and compared this to the entirely different situation they had experienced during their stay at the Brno-Hlinky Diagnostic Institute.

95. Moreover, the CPT's delegation was informed by staff that a girl displaying aggressive behaviour might be placed in an isolation room (furnished with two beds) for a few hours or at most overnight, until she had calmed down. Staff also told the delegation that a fellow inmate could be requested to stay with the girl undergoing an isolation measure, if it was considered that this would be helpful.

The Educational Institute's residents gave a somewhat different account of use of isolation in the establishment. They claimed that isolation was frequently used as punishment, inter alia in respect of certain breaches of the internal rules (e.g. concerning smoking) or in cases of attempted escape (or suspicion thereof). Moreover, inmates spoken to affirmed that isolation could last for several days.

Consultation of the establishment's records did not elucidate the matter; they suggested that placement in isolation was not a particularly frequent occurrence, but provided no information regarding the duration of the measures concerned.

96. The CPT considers that the disciplinary procedure applied in detention centres for minors in the Czech Republic could usefully be developed as regards both formal safeguards and the recording of sanctions imposed. **It recommends that:**

- **a minor be guaranteed the right to be heard on the subject of the offence which he/she is alleged to have committed;**
- **there be a formally recognised right of appeal before a higher authority against sanctions imposed (i.e. to the Director of the establishment, as regards sanctions imposed by other staff, and to an authority external to the establishment, as regards sanctions imposed by the Director);**
- **a register be kept at each establishment, containing full details of all disciplinary sanctions imposed.**

More generally, **the CPT recommends that it be made clear to the authorities responsible for detention centres for minors that the placement of a minor in an isolation room is to be regarded as a wholly exceptional measure.**

5. Medical care

97. Inmates in both establishments had adequate access to medical care, which was provided by general practitioners on an on-call basis. In addition, a full time nurse was employed at Brno-Hlinky Diagnostic Institute, while at Moravský Krumlov Educational Institute several care workers had a nursing qualification. Inmates also had appropriate access to other specialist care, including - in acute cases - to psychiatric care.

The CPT also welcomes the fact that all newly-arrived inmates were medically examined within 24 hours of admission.

98. As regards medical confidentiality, whilst the CPT recognises that care workers in a detention centre for minors have a legitimate interest in the health of the residents in their charge, medical records should always be a doctor's responsibility and only qualified health-care professionals should have access to such records. **The CPT would like to receive confirmation that this approach is being followed in all detention centres for minors in the Czech Republic.**

III. RECAPITULATION AND CONCLUSIONS

A. Police establishments

99. The CPT's delegation heard no allegations of torture of persons detained by the police in the Czech Republic; further, no other evidence of such treatment was found by the delegation during the visit.

The delegation did meet a number of persons who alleged that they had been slapped and punched by police officers whilst on police premises. Such allegations were also received from other sources. None of the persons interviewed by the delegation bore marks or injuries consistent with their allegations; however, given the time that had elapsed since the ill-treatment alleged, any injuries which they might have sustained would almost certainly have healed.

The CPT has recommended that senior police officers deliver to their subordinates the clear message that the ill-treatment of detained persons is not acceptable and will be the subject of severe sanctions.

100. As regards, more particularly, the removal of inmates from prison by the police, from the standpoint of the prevention of ill-treatment, the CPT has stressed that it would be far preferable for further questioning of persons committed to prison to take place in prison rather than on police premises. The return of prisoners to police premises for whatever purpose should only be sought and authorised when it is absolutely unavoidable; consequently, the CPT has recommended that such a measure require the express authorisation of the competent judicial authority.

The Committee has further recommended that, in respect of every occasion on which inmates are removed from prison at the request of the police, a formal record be kept of the purpose of their removal, and of any official action taken during their presence on police premises.

101. During the meeting held with the Czech authorities at the end of the visit, the CPT's delegation invoked Article 8, paragraph 5, of the Convention and made an immediate observation in respect of the prolonged holding on police premises of foreigners awaiting expulsion.

The delegation drew attention, in particular, to the situation of such foreigners being held in the Police Headquarters detention facility at Kongresová in Prague. The persons concerned were being held in cells which had no access to natural light, and were being offered nothing which resembled a regime; the detention facility was not even in a position to offer them outdoor exercise. Thus, they spent the whole day locked in their cells with nothing to occupy their time; a situation which could - and did - last for up to 30 days.

The delegation stressed that this was completely unacceptable, and called upon the Czech authorities to take immediate action to find alternative premises in which to accommodate this category of detained persons.

102. In his reply, the Police President of the Czech Republic informed the Committee that foreigners awaiting expulsion are in future to be held in special detention centres; the Ministry of the Interior is currently taking the necessary legislative and practical steps to establish such centres.

The CPT has welcomed the plans of the Czech authorities to provide alternative accommodation for this category of detained persons and expressed the hope that they will be implemented forthwith. It has requested detailed information about the manner in which those plans are to be implemented.

103. The CPT has also examined the formal safeguards against ill-treatment offered to persons detained by the police (e.g. notification of custody, access to a lawyer, access to a doctor).

It has recommended that all persons deprived of their liberty by the police - including persons brought to a police station in order to "give an explanation" or for the purposes of establishing their identity - be granted the right to notify a close relative or third party of their choice of their situation. Any possibility exceptionally to delay the exercise of that right should be clearly circumscribed and made subject to appropriate safeguards (e.g. any such delay to be recorded in writing together with the reasons therefor and to require the approval of a senior officer or public prosecutor).

The CPT was also concerned to note that persons might be obliged to remain with the police for many hours, without being accorded access to a lawyer. Recalling that it is during the period immediately following deprivation of liberty that the risk of intimidation and ill-treatment is greatest, the Committee has recommended that all persons deprived of their liberty by the police in the Czech Republic - for whatever reason - be granted the right of access to a lawyer, as from the very outset of their custody.

The Committee has also recommended that specific legal provisions be adopted on the subject of the right of persons in police custody to have access to a doctor, including as regards the strict observance of medical confidentiality.

104. A number of other measures designed to provide additional safeguards for persons held by the police have been recommended (a form setting out the rights of such persons to be given to them at the outset of their custody, additional guidance to be produced on the conduct of police interviews, and an individualised custody record to be created for each person detained).

105. The cells seen in the Police Headquarters detention facilities in Brno, Prague and Šumperk provided acceptable material conditions of detention for short-term custody of persons suspected of criminal offences. However, the conditions prevailing in the other Prague police stations visited rendered them unsuitable for use as overnight accommodation for detained persons.

The Committee has recommended that conditions of detention in the police establishments visited by its delegation be reviewed, and that the Czech authorities take steps to ensure that all police detention facilities in the Czech Republic comply with the general criteria set out in its report. The CPT has also stressed that detainees should not be kept shackled to a piece of furniture in full view of persons visiting a police station; proper cellular accommodation should be provided.

B. Prisons

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

However, a number of allegations were heard of the disproportionate use of force and, in particular, of the infliction by prison officers of baton blows, including upon inmates who had been restrained. The delegation also heard a number of allegations of prison officers having slapped, punched or kicked inmates in their charge.

The existence of the problem of the disproportionate use of force was corroborated by documents seen by the CPT's delegation, which - in a number of cases - included medical evidence.

107. The Committee recognises that prison staff will on occasion have to use force to control violent and/or recalcitrant prisoners. However, it has stressed that the force used should be no more than is reasonably necessary.

As regards, more particularly, the use of batons, the CPT has made clear that the use of such means of coercion to deal with aggressive and/or recalcitrant behaviour is only permissible if it is absolutely necessary to safeguard the physical integrity of staff or other inmates or to prevent serious damage to property. There can never be any justification for using batons against - or otherwise striking - a prisoner who has been brought under control.

The CPT has recommended that prison officers be reminded of these precepts, and that the relevant national and local authorities deliver the clear message that the ill-treatment of prisoners is not acceptable and will be dealt with severely.

108. The Committee has also expressed a number of reservations about the manner in which inmates' complaints about the conduct of prison staff are processed, and has recommended that the Czech authorities conduct a review of the procedures currently used to process prisoners' complaints, with a view to ensuring that they offer appropriate guarantees of independence and impartiality, and do not discourage persons who may have been ill-treated from pursuing a complaint.

109. The CPT has laid particular emphasis on the importance of prison officers receiving appropriate training. In this context, it has stressed that building positive relations with prisoners is a key feature of a prison officer's vocation.

110. Were it to have been maintained at reasonable levels of occupancy, most of the cellular accommodation seen by the CPT's delegation in the prisons visited would have been capable of offering acceptable material conditions of detention. In particular, the great majority of cells were furnished to a reasonable standard, and adequately-lit and ventilated. Moreover, prisoners had ready access to a lavatory at all times, including at night.

However, even in terms of the modest standard currently set by Czech legislation, overcrowding was widespread in both of the establishments visited - and similar cell occupancy levels are apparently to be found in many other prisons in the Czech Republic.

111. The CPT has recommended that the existing standard of 3.5m² per prisoner in multiple-occupancy cells be raised; that cells measuring 8 m² or less be used to accommodate no more than one prisoner (save in exceptional cases when it would be inadvisable for a prisoner to be left alone); and that any cells measuring less than 6 m² be taken out of service as prisoner accommodation.

More generally, it has recommended that the Czech authorities develop and implement a strategy designed to bring about a permanent end to overcrowding.

112. As regards regime activities, the Committee has stressed that the regimes which are offered to prisoners serving long sentences should seek to compensate in a positive and proactive way for the desocialising effects of long-term imprisonment. The CPT's delegation found that the regimes being offered to such inmates at Mírov Prison fell far short of meeting that goal; the Committee has recommended that urgent steps be taken to develop those regimes, in the light of criteria identified in the report.

Sentenced prisoners at Prague-Pankrác Remand Prison benefitted from a broadly satisfactory programme of activities (including education, sport and recreation/association). However, neither the remand unit at Mírov nor Prague-Pankrác Remand Prison were in a position to offer remand prisoners anything which remotely resembled a regime. The CPT has recommended that a thorough examination of possible means of improving the regime activities offered to remand prisoners be undertaken without delay; the aim should be to ensure that all remand prisoners are able to spend a reasonable part of the day (i.e. eight hours or more) outside their cells, engaged in purposeful activities of a varied nature (work, preferably with vocational value; education; sport; recreation/association).

Improvements in the regime offered to juvenile prisoners held at Prague-Pankrác Prison have also been recommended.

113. The CPT's delegation formed a generally favourable opinion of the medical services in Mírov Prison and Prague-Pankrác Remand Prison, including in the Prison Hospital located within the latter establishment. It was satisfied that the level of care provided to prisoners was of an adequate standard and, more particularly, comparable to that which would be available to persons in the community at large. In consequence, the report contains few detailed comments on the medical issues examined during the visit.

The Committee's principal concern was that medical confidentiality was not being observed in a satisfactory manner in either of the prisons visited. At Mírov, the CPT's delegation observed that prison officers were virtually always present during medical consultations/examinations. The Committee has recommended that all medical examinations of prisoners (whether on arrival or at a later stage) be conducted out of the hearing and - unless the doctor concerned expressly requests otherwise in a given case - out of the sight of prison officers. At Prague-Pankrác Remand Prison, whilst prison officers were rarely, if ever, present during medical consultations/examinations, they could have access to certain medical records. Consequently, the CPT has recommended that appropriate steps be taken to ensure that the strict confidentiality of medical data is guaranteed at that establishment.

114. The CPT has made a number of recommendations and comments about a variety of other issues of relevance to the Committee's mandate (contact with the outside world, outdoor exercise, discipline, inspection procedures, and means of coercion). Of these, particular reference might be made to its recommendations that steps be taken to provide prisoners with access to telephones (if necessary subject to appropriate monitoring procedures) and to offer all prisoners at least one hour of outdoor exercise every day.

Attention should also be drawn to the CPT's recommendation that the list of authorised means of coercion be revised. As matters stand, that list includes certain means which should never be used in a prison, and others the use of which within detention facilities could only be justified under very exceptional circumstances.

C. Detention centres for minors

115. The CPT's delegation heard no allegations of torture of inmates by staff at either of the detention centres for minors visited, or in other such establishments in the Czech Republic.

The delegation was impressed by the nature of relations between staff at the Brno-Hlinky Diagnostic Institute and the minors being cared for there. By contrast, several girls at Moravský Krumlov Educational Institute claimed that residents were often slapped by staff, including by the establishment's director, and that on occasion they were treated somewhat roughly in other respects. Inmates also complained of having been publicly humiliated by prurient comments allegedly made by certain members of staff.

The Committee has underlined that all forms of physical chastisement of detained minors should be formally prohibited and avoided in practice; publicly to humiliate a minor would be equally objectionable. In the light of its delegation's findings, the CPT has recommended that management and staff at Moravský Krumlov Educational Institute be reminded of these precepts.

116. On the whole, both of the establishments visited appeared to make suitable provision for the material, educational, rehabilitative and medical needs of their residents.

However, the CPT considers that there is still room for improvement as regards the disciplinary procedures applied in detention centres for minors. Accordingly, the Committee has recommended a number of measures inter alia designed to develop both the formal safeguards offered to minors, and the manner in which disciplinary sanctions are recorded.

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

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

118. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the CPT requests the Czech authorities:

- i. to provide within six months an interim report giving details of how it is intended to implement the CPT's recommendations and, as the case may be, providing an account of action already taken;
- ii. to provide within twelve months a follow-up report providing a full account of action taken to implement the CPT's recommendations.

The CPT trusts that it will also be possible for the Czech authorities to provide in the above-mentioned interim report reactions to the comments formulated in this report which are summarised in Appendix I as well as replies to the requests for information made.

APPENDIX I

SUMMARY OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION

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

comments

- the CPT trusts that the plans to provide alternative accommodation for detained foreigners awaiting expulsion will be implemented forthwith (paragraph 10).

requests for information

- detailed information about the envisaged special detention centres for foreigners awaiting expulsion (legal basis, location and capacity of each centre, date of entry into service, material conditions, regime, staff training, etc.) (paragraph 10).

B. Police establishments

1. Torture and other forms of ill-treatment

recommendations

- senior police officers to deliver to their subordinates the clear message that the ill-treatment of detained persons is not acceptable and will be the subject of severe sanctions (paragraph 15);
- the return of prisoners to police premises for whatever purpose to require the express authorisation of the competent judicial authority (paragraph 15);
- in respect of every occasion on which inmates are removed from prison at the request of the police, a formal record to be kept of the purpose of their removal, and of all measures (e.g. questioning, identification parades, etc.) taken during their presence on police premises (paragraph 15).

comments

- it would be far preferable for further questioning of persons committed to prison to take place in prison rather than on police premises (paragraph 15);

- the provision of suitable education on human rights questions and of adequate professional training to police officers is an essential element of any strategy for the prevention of ill-treatment (paragraph 16).

requests for information

- detailed information on the human rights education and professional training - both initial and ongoing - which is provided to police officers (paragraph 16);
- regularly-updated information on complaints of ill-treatment lodged against police officers, as well as on the outcome of the criminal and/or disciplinary proceedings resulting from those complaints (paragraph 17).

2. Conditions of detention in police establishments

recommendations

- conditions of detention in the police establishments visited to be reviewed, in the light of the remarks made in paragraph 20 (paragraph 21);
- steps to be taken to ensure that all police detention facilities in the Czech Republic comply with the criteria set out in paragraph 18 (paragraph 21);
- as a matter of urgency, more appropriate premises to be found in which to accommodate foreigners awaiting expulsion, and the task of supervising such detainees to be allocated to suitably qualified staff. Further, efforts to be made to develop a programme of activities for the persons concerned (including outdoor exercise, access to radio/television and newspapers/magazines as well as other appropriate means of recreation) (paragraph 24).

3. Safeguards against ill-treatment

recommendations

- all persons deprived of their liberty by the police - for whatever reason - to be granted the right to notify a close relative or third party of their choice of their situation (paragraph 27);
- any possibility exceptionally to delay the exercise of the right to have the fact of one's custody notified to a relative or other third party to be clearly circumscribed and made subject to appropriate safeguards (e.g. any such delay to be recorded in writing together with the reasons therefor and to require the approval of a senior officer or public prosecutor) (paragraph 28);
- all persons deprived of their liberty by the police - for whatever reason - to be granted the right of access to a lawyer, as from the very outset of their custody (paragraph 30);

- specific legal provisions to be adopted on the subject of the right of persons in police custody to have access to a doctor. Those provisions inter alia to stipulate that:
 - . a person taken into police custody has the right to be examined, if he so wishes, by a doctor of his own choice, in addition to any medical examination carried out by a doctor called by the police authorities;
 - . all medical examinations of persons in custody are to be conducted out of the hearing and - unless the doctor concerned expressly requests otherwise in a given case - out of the sight of police officers;
 - . the results of every examination, as well as any relevant statements by the person in custody and the doctor's conclusions, are to be recorded in writing by the doctor and made available to the person in custody and his lawyer;
 - . the confidentiality of medical data is to be strictly observed (paragraph 32);
- a form setting out in a straightforward manner the rights of persons in police custody to be systematically given to such persons at the very outset of their deprivation of liberty. The form should be available in an appropriate range of languages. Further, the persons concerned should be asked to sign a statement attesting that they have been informed of their rights (paragraph 33);
- the Instructions on criminal procedure which have been issued to the Czech police to be revised in order to deal, inter alia, with the following issues concerning police interrogations: the systematic informing of the detainee of the identity (name and/or number) of those present at the interrogation; the permissible length of an interrogation; rest periods between interrogations and breaks during an interrogation; places in which interrogations may take place; whether the detainee may be required to remain standing while being questioned; the questioning of persons who are under the influence of drugs, alcohol or medicine, or who are in a state of shock. It should also be stipulated that a systematic record be kept of the times at which interrogations start and end, the persons present during each interrogation and any request made by the detainee during the interrogation. The position of specially vulnerable persons (for example, the young, those who are mentally disabled or mentally ill) should be subject to specific safeguards (paragraph 34).

comments

- the fundamental safeguards offered to persons in police custody would be reinforced if a single and comprehensive custody record were to be kept for each person detained, in which would be recorded all aspects of his custody and all the action taken in connection with it (time of and reason(s) for the apprehension; when informed of rights; signs of injury, mental disorder, etc.; contact with and/or visits by a relative, lawyer, doctor or consular officer; when offered food; when questioned; when brought before a judge; when released, etc.) (paragraph 35).

C. Prisons

1. Torture and other forms of ill-treatment

recommendations

- prison officers to be reminded that no more force than is reasonably necessary is to be used to deal with violent and/or recalcitrant prisoners, that the use of batons as a means of coercion to deal with aggressive and/or recalcitrant behaviour is only permissible if it is absolutely necessary to safeguard the physical integrity of staff or other inmates or to prevent serious damage to property, and that there can never be any justification for using batons against - or otherwise striking - a prisoner who has been brought under control (paragraph 41);
- the relevant national and local authorities to deliver the clear message that the ill-treatment of prisoners is not acceptable and will be dealt with severely (paragraph 41);
- the procedures currently used to process prisoners' complaints to be reviewed, with a view to ensuring that they offer appropriate guarantees of independence and impartiality, and do not discourage persons who may have been ill-treated from pursuing a complaint (paragraph 42).

comments

- an aptitude for interpersonal communication should be a major factor in the process of recruiting prison officers and, during the induction and in-service training of such officers, considerable emphasis should be placed on acquiring and developing interpersonal communication skills. Building positive relations with prisoners should be recognised as a key feature of a prison officer's vocation (paragraph 43).

requests for information

- detailed information on the provision of human rights education and professional training - both initial and ongoing - for prison officers (paragraph 43).

2. Conditions of detention in the prisons visited

recommendations

- the current legal standard of 3.5 m² per prisoner in multiple-occupancy cells to be raised (paragraph 47);
- cells measuring 8 m² or less to accommodate no more than one prisoner (save in exceptional cases when it would be inadvisable for a prisoner to be left alone) (paragraph 47);
- any cells measuring less than 6 m² to be taken out of service as prisoner accommodation (paragraph 47);

- a strategy designed to bring about a permanent end to overcrowding to be developed and implemented, taking into account the remarks set out in paragraph 48 (paragraph 48);
- as a matter of urgency, steps to be taken significantly to reduce the occupancy levels in the "E" building escort cells at Prague-Pankrác Remand Prison and to equip those cells with means of rest (paragraph 49);
- urgent steps to be taken to develop the regimes offered to long-term prisoners at Mírov Prison, taking due account of the remarks made in paragraphs 51 and 52 and of the criteria identified in paragraph 53 (paragraph 54);
- a thorough examination of possible means of improving the regime activities offered to remand prisoners to be undertaken without delay; the aim should be to ensure that all remand prisoners in the Czech Republic are able to spend a reasonable part of the day (i.e. eight hours or more) outside their cells, engaged in purposeful activities of a varied nature (work, preferably with vocational value; education; sport; recreation/association) (paragraph 56);
- efforts to be made to improve the regime offered to juveniles at Prague-Pankrác Remand Prison. The aim should be to provide juveniles with a full range of educational, recreational and other purposeful activities of a rehabilitative nature. Physical education should constitute a significant element of their regime (paragraph 57).

comments

- the CPT can see no justification for life-sentenced prisoners being kept apart from other prisoners serving lengthy sentences (paragraph 54).

requests for information

- whether the requirements that cells be equipped with a table and an adequate number of chairs, with amenities separated from the remaining part of the cell by an opaque screen, and with electric lighting and a call system also apply to sentenced prisoners (paragraph 44).

3. Medical issues

recommendations

- steps to be taken to ensure that all medical examinations of prisoners (whether on arrival or at a later stage) are conducted out of the hearing and - unless the doctor concerned expressly requests otherwise in a given case - out of the sight of prison officers (paragraph 59);
- appropriate steps to be taken to ensure that the strict confidentiality of medical data is guaranteed at Prague-Pankrác Remand Prison (paragraph 59).

requests for information

- confirmation that the vacant general practitioner post at Mírov Prison has now been filled (paragraph 58);
- further information about the approach adopted in the Czech Republic as regards the provision of information to prisoners and prison staff on transmissible diseases, counselling and support before and - if necessary - after HIV screening tests, training for prison staff about the preventive measures to be taken and the attitude to adopt towards those who are HIV-positive, and the provision of instructions on non-discrimination and confidentiality (paragraph 61);
- further information about the approach adopted as regards suicide prevention in prisons in the Czech Republic (paragraph 62).

5. Other issues of relevance to the CPT's mandate

recommendations

- the visiting entitlements of remand prisoners and of sentenced prisoners in categories C and D to be increased (paragraph 65);
- special rules to be drawn up on visiting arrangements at Mírov Prison (and any other similarly-isolated prisons in the Czech Republic). Such rules inter alia to address the length of visits, the arrangements under which they take place and possible forms of assistance to visitors, with a view to ensuring that the location of the establishment(s) concerned does not place an additional burden on prisoners' visitors (paragraph 69);
- steps to be taken to provide prisoners with access to telephones, if necessary, subject to appropriate monitoring procedures (paragraph 71);
- immediate steps to be taken to ensure that all inmates are offered at least one hour of outdoor exercise every day. This requirement also to be met as regards patients being held in prison health-care facilities, unless there are medical reasons to the contrary (paragraph 72);
- the exercise facilities for remand prisoners in Prague-Pankrác Remand Prison to be rendered large enough to enable prisoners to exert themselves physically (paragraph 73);
- sentenced prisoners who are held overnight in disciplinary cells to be provided with mattresses (paragraph 75);
- the applicable regulations to be amended in order to allow all persons placed in a disciplinary cell to have access to reading matter (paragraph 75);
- the list of authorised means of coercion to be revised in the light of the remarks set out in paragraph 78 (paragraph 78).

comments

- the Czech authorities are invited to review the visiting arrangements for remand prisoners in order to ensure that they are in principle able to receive visits under reasonably open conditions (paragraph 66);
- the Czech authorities are invited to apply the practice of giving inmates the possibility to receive extended unsupervised visits throughout the prison system (paragraph 68);
- the Czech authorities are invited to examine whether the control of prisoners' correspondence is causing excessive delays and, if appropriate, to take remedial action (paragraph 70);
- the present system of monitoring prisoners' correspondence could well represent a wasteful use of staff resources (paragraph 70);
- the Czech authorities are invited to establish a system of visits by an independent body to prisons for both sentenced and remand prisoners, taking into account the remarks made in paragraph 77 (paragraph 77).

requests for information

- comments on the question of delays before certain remand prisoners were able to receive a visit (paragraph 67);
- information about the conditions under which prison officers are authorised to use means of coercion, and about the training which they receive in the use of such means (paragraph 78).

D. Detention centres for minors

1. Torture and other forms of ill-treatment

recommendations

- the management and staff at Moravský Krumlov Educational Institute to be reminded that all forms of physical chastisement of detained minors should be avoided, and that publicly to humiliate a minor would be equally objectionable (paragraph 87).

comments

- the staff working in detention centres for minors should be carefully selected, and receive professional training, both during induction and on an ongoing basis. Further, they should benefit from appropriate external support and supervision in the exercise of their duties. The management of such centres should be entrusted to persons with advanced leadership skills, who have the capacity to respond in an effective manner to the complex demands placed upon them by inmates and staff (paragraph 88).

requests for information

- further information about the work of the Ministry of Education Inspectorate, together with details of any other avenues of complaint to which detained minors have access (paragraph 89).

2. Conditions of detention

comments

- physical education should constitute a significant element of the regime offered to all minors deprived of their liberty; the grounds available in both establishments visited should be exploited to provide additional outdoor exercise/sports facilities (paragraph 92).

3. Discipline and isolation

recommendations

- a minor to be guaranteed the right to be heard on the subject of the offence which he/she is alleged to have committed (paragraph 96);
- a right of appeal before a higher authority against sanctions imposed to be formally recognised (i.e. to the Director of the establishment, as regards sanctions imposed by other staff, and to an authority external to the establishment, as regards sanctions imposed by the Director) (paragraph 96);
- a register to be kept at each establishment, containing full details of all disciplinary sanctions imposed (paragraph 96);
- the authorities responsible for detention centres for minors to be made aware that the placement of a minor in an isolation room is to be regarded as a wholly exceptional measure (paragraph 96).

4. Medical care

requests for information

- confirmation that medical records in all detention centres for minors in the Czech Republic are always the responsibility of doctors and that only qualified health-care professionals have access to them (paragraph 98).

APPENDIX II

LIST OF THE NATIONAL AUTHORITIES AND NON-GOVERNMENTAL ORGANISATIONS WITH WHICH THE DELEGATION HELD CONSULTATIONS

National authorities

Ministry of Justice

- Mrs Parkánová Minister of Justice
- Mrs Alena Netolická Director of the Secretariat of the Minister of Justice
- Mr Jiří Malý Director General of the Prison Service of the Czech Republic
- Mr Aleš Kýr Head of the Secretariat of the Director General of the Prison Service, and liaison officer to the CPT
- Mr Dušan Deván Secretariat of the Director General of the Prison Service

Ministry of Defence

- Mrs Demlovou Deputy Minister of Defence
- Mr Jan Doležal Deputy Chief of General Staff

Ministry of Health

- Mr Dvouletý Deputy Minister of Health
- Mrs Dana Kuklová Chief Adviser to the Deputy Minister of Health

Ministry of the Interior

- Mr Kopriva Deputy Minister of the Interior
- Mr Vlavođa Deputy Minister of the Interior
- Mr Jan Zátorský Deputy Chief of Police
- Mr Lubomír Kvičala Director of Uniformed Policing
- Mr Karel Hron Director of the Secretariat of the Police Praesidium

Ministry of Education, Youth and Sport

- Mr Hynek Krátký Head of Division
- Mr Miloš Kusý Head of Department

Ministry of Foreign Affairs

- Mr Milan Baránek Director of the Department of Human Rights
- Mr Richard Krpač Department of Human Rights

Non-governmental organisations

- Czech Helsinki Committee
- Charter 77