

**Response of the Czech Government to the Report of the European Committee  
for the Prevention of Torture and Inhuman or Degrading Treatment or  
Punishment (CPT) on its visit to the Czech Republic from 27 March to 7 April  
2006 and from 21 to 24 June 2006**

The Czech Government Response was approved under Government Resolution No 223 of 12  
March 2007.

## Introductory remarks

Under Resolution No 1392 of 6 December 2006, the Government of the Czech Republic took due note of the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as ‘the CPT Report’) on its visit to the Czech Republic from 27 March to 7 April 2006 and from 21 to 24 June 2006 and enjoined the Government Commissioner for Human Rights to request the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as ‘CPT’) to publish its report in accordance with Article 11(2) of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. At the same time, the Government enjoined the Government Commissioner for Human Rights to publish the CPT Report on the website of the Office of the Government and, by 31 January 2007, to present the Government – and subsequently the CPT – with information on the fulfilment of the recommendations contained in the CPT Report.

The structure of the response of the Government of the Czech Republic (hereinafter referred to as ‘Czech Government Response’) mirrors the structure of the CPT Report. The Czech Government Response is structured in accordance with Appendix I to the CPT Report, which contains a list of the CPT’s recommendations, comments and requests for information, with a specification of the CPT Report paragraph number containing the relevant recommendation.

### Part A – Police establishments<sup>1</sup>

#### **Chapter 1: Ill-treatment**

##### CPT recommendation

**Senior police officers are to remind their subordinates, particularly officers of the criminal police, that the ill-treatment of persons in their custody is not acceptable and will be the subject of severe sanctions (paragraph 11).**

Inspections of police cells found no evidence that police officers responsible for guarding cells used violence against persons in custody. No persons placed in police custody complained that violence had been used by the police officer persons responsible for restricting their rights. Such persons have the possibility to file oral or written reports of any ill-treatment by an officer of the Police of the Czech Republic to the competent authorities. If a person placed in police custody is injured, a doctor is called immediately and the competent members of staff of inspecting bodies are informed, who are required to make an on-the-spot check.

Based on the results of an extraordinary thematic inspection conducted by the internal control unit of the Police Presidium between 16 August 2005 and 23 June 2006, focusing on the observance of legal regulations and internal management acts regulating the use of police cells, a

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<sup>1</sup> Annex No 1 contains a list of establishments in the competence of the Ministry of the Interior which were visited by the CPT, with a specification of their precise name.

report on visits paid to police establishments by the ombudsman,<sup>2</sup> and not least the CPT Report, in September 2006 the Police Presidium starting preparing a new binding guideline of the police president on police cells (hereinafter referred to as ‘new binding guideline on police cells’) to supersede the existing Binding Guideline of the Police President No 158 of 29 December 2004 on police cells.

The new binding guideline on police cells is much more rigorous in reflecting all rights of persons detained in police cells, as enshrined in Act No 283/1991 Coll., on the Police of the Czech Republic, as amended (hereinafter referred to as ‘the Police Act’) and in Czech national law as such, and the rights established by the constitutional architecture of the Czech Republic, which are not regulated specifically in legislation. The draft of the new binding guideline of the police president on police cells is due for approval in the first quarter of 2007. At present, technical legislative modifications are still being made.

## **Chapter 2: Conditions of detention**

### CPT recommendation

**The metal rings in Jablonec police station should be removed, as well as in all other police stations where such rings exist (paragraph 13).**

Authorization to restrict the movement of aggressive persons is regulated by the Police Act, although this legislation does not offer a precise definition of what can be considered a suitable means of constraint. Clearly, this means of constraint must be stable and firm and must not result in the personal injury or death of the person on which it is used; ethical considerations must also be taken into account. Metal rings were installed for these reasons.

Metal rings in police cells will be removed in accordance with the new binding guideline of the police president on police cells (see above the Czech Government Response to paragraph 11 of the CPT Report).

**Steps should be taken to ensure that persons deprived of their liberty by the police are given food at appropriate times, including at least one full meal (i.e. something more substantial than a sandwich) every day, and have ready access to drinking water at all times (paragraph 14).**

Under the new binding regulation on police cells, food will also be available between 10:00 p.m. and 6:00 a.m., when food is not normally served. Detained persons must claim their entitlement to food in this time in order to receive it. Steps will also be taken to ensure that detained persons have ready access to drinking water.

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<sup>2</sup> In 2006, authorized members of staff from the Office of the Ombudsman visited five social care homes for physically disabled adults, 110 police cells at 19 police establishments, four detention facilities for foreigners, five hospitals for long-term patients and seven 7 prisons. Two of the prisons visited are profiled as high security prisons (Mírov and Valdice); the remaining five are secure prisons (Oráčov, Plzeň, Rýnovice, Bělušice, Vinařice).

### CPT comments

**Steps should be taken to improve access to natural light and ventilation in the police stations visited (paragraph 12).**

The lack of natural light and poor ventilation can be attributed to the structure of police cells set up so far. However, this shortcoming is now being addressed in full as new police cells are opened.

A provision will be added to the new binding guideline on police cells that a dual system of artificial lighting and natural light is required for new cells; this requirement will be met for existing cells as part of reconstruction work.

## **Chapter 4: Fundamental safeguards against ill-treatment**

### CPT recommendation

**The Czech authorities should ensure all detained persons are granted the right to notify a close relative or third party of their choice of their situation as from the very outset of their deprivation of liberty by the police (paragraph 16).**

The police obligation to guarantee persons held in police custody the right to notify a close relative or other person of their choice of their situation is not enshrined in Czech law. Nevertheless in practice the duty officers comply with requests to notify close relatives. Notification of detention is regulated by Section 70 of Act No 141/1961 Coll., the Code of Criminal Procedure, as amended (hereinafter referred to as ‘The Code of Criminal Procedure’).

**The Czech authorities should ensure that the right of access to a lawyer is explicitly granted in law and in practice to everyone deprived of their liberty by the law enforcement authorities, from the very outset of their deprivation of liberty. If necessary the Police Act and/or the Rules of Criminal Procedure should be amended accordingly (paragraph 18).**

Legal assistance is guaranteed in the Czech Republic under Article 37(2) of the Charter of Fundamental Rights and Freedoms, which is part of the Czech Republic’s constitutional architecture. Although the Police Act does not contain such a special provision on legal assistance, it is obvious that, even as police officers carry out tasks placed in their competence by the Police Act, it is not possible to deprive anyone of their constitutional right to legal assistance. The Constitutional Court of the Czech Republic delivered a verdict to this effect in Finding II. ÚS 98/95, ruling that the right to legal assistance when an explanation is submitted in accordance with Section 12 of the Police Act is based on Article 37(2) of the Charter of Fundamental Rights and Freedoms and means that the police are required to permit legal representation. Therefore, the right to legal assistance in the circumstances above is respected by the police, and this right is included in the draft of the new form used for the information of those placed in police custody.

Under Section 158(4) of the Code of Criminal Procedure, all persons who submit an explanation to the police or to a public prosecutor have the right to legal assistance from a

lawyer, regardless of whether they are then detained or subsequently charged (or made a witness), or do not figure in the proceedings at all after that.

A person detained as a suspect in a crime and has not yet been charged should, under Section 76(6) of the Code of Criminal Procedure, immediately select a defence counsel, speak with this counsel in private and consult it throughout the period of detention. Any persons charged with an offence are entitled, after they have been charged, to select a defence counsel and consult with this counsel, including in the course of individual actions carried out by the police or public prosecutor. Naturally, the right of a charged person to be represented by a lawyer continues even if this person, after being charged, is detained in accordance with Section 75 of the Code of Criminal Procedure or subsequently taken into custody. A defendant in custody, serving a prison sentence or in a healthcare establishment for observation must have a defence counsel even if he/she refuses to be represented by a defence counsel; in this case a defence counsel will be appointed for the defendant (this is one of the reasons for compulsory legal assistance under Sections 36 and 36a of the Code of Criminal Procedure). The Code of Criminal Procedure clearly provides that only a lawyer may be a defence counsel in criminal proceedings.

**The right of access to a doctor must be formally guaranteed for all persons in police custody as from the very outset of their deprivation of liberty (paragraph 20).**

Persons restricted in their freedom but not detained in a police cell also have the right of access to a doctor. If health problems arise, the general obligation to provide the necessary assistance applies in these cases too. Persons restricted in their freedom, whether or not they are held in a police cell, are not exempt from the general right to a doctor of their choice in accordance with Section 9(2) of Act No 20/1966 Coll., on human health care, as amended.

The right to medical treatment and examinations by a doctor of the patient's choice is covered in detail in the new binding guideline and its proposed annex 'Advice for persons in police custody'; this is fully in keeping with the CPT recommendation.

**The Czech authorities should reconsider the Health Care Bill, in the light of the remarks in paragraph 21 (paragraph 21).**

The Government presented the Government Health Care Act to the Chamber of Deputies of the Parliament of the Czech Republic in September 2005. In January 2006, the Committee on Social Policy and Health Care of the Chamber of Deputies adjourned the discussion of the act in a general debate, and by the end of the electoral term had not revisited this proposed legislation. In the second half of 2006, only a partial amendment to of Act No 20/1966 Coll., on human health care, as amended, was submitted.

With regard to the preparations of the new Health Care Act, the Ministry of Health – in line with the CPT recommendations – will propose that the act incorporate the provision that persons in police custody must undergo an initial examination conducted by a doctor appointed by the

Czech Police. However, these persons will also be able to ask for the doctor of their choice; in that case they will cover the costs.

**The Czech authorities should guarantee that all persons detained by the police – for whatever reason – are fully informed of their rights as from the very outset of their deprivation of liberty (that is, from the moment they are obliged to remain with the police). This should be ensured by provision of clear oral information at the very outset, to be supplemented at the earliest opportunity by provision of a separate written form setting out detained persons’ rights in a straightforward manner. The form should be available in an appropriate range of languages. Further, the persons concerned should be asked to sign a separate statement (that is, separate from the protocol on charges) attesting that they have been informed of their rights (paragraph 22).**

As an annex to the binding guideline on police cells will be the form ‘Information for persons placed in police custody’, which has been reviewed by the ombudsman, the Committee against Torture (under the Government Council for Human Rights) and other interested parties. This means that the information is also internally binding for police officers. The information has been drafted to comply with the CPT recommendation contained in paragraph 22 of the CPT Report.

Persons must be informed of their rights by the police officer, as a matter of principle during a police intervention or action within the meaning of Section 6(2) of the Police Act. In cases where persons are detained in police cells, this information will be complemented by the above-mentioned written information, a copy of which is given to persons in police custody. They confirm this with their signature.

The Czech authorities have also accepted a proposal from the ombudsman to incorporate the obligation of law enforcement agencies (investigators, public prosecutors) to inform detained persons of their rights, including the right to notify a third party about their detention and expected placement in a police cell, on two occasions (i.e. not just on arrest) – the second time when they are able to take in fully the content of the information (e.g. after they have calmed down, during an interrogation).

Different language versions of the information for foreign nationals are already available. Language versions will be published for foreigners based on statistics of the nationalities most frequently held in police custody in the Czech Republic (Vietnamese, Ukrainian, Moldovan, Albanian, Chinese, Polish, Lithuanian, Serbian, Hungarian, Romanian, Bulgarian, English, German, Russian, French, Italian and Spanish). Information for persons detained in police cells is now available to police officers in numerous languages via the police Intranet.

**The necessary steps should be taken concerning the recording of deprivation of liberty, in the light of the remarks made in paragraph 23 (paragraph 23).**

Once a person has been brought to a police station and had his/her rights are restricted, an entry on this matter is made in the Event Log. This log contains records on all persons, including the corresponding time sequence.

### CPT comments

**The guidelines concerning the rights of notification of custody and of access to a lawyer drawn up by the Brno municipal police service could well serve as an example of improved practice for other police services in the Czech Republic (paragraph 19).**

The guidelines concerning the right to information about police custody implemented by the Brno municipal police service will be used in the new binding guideline on police cells (see above the Czech Government Response to paragraph 11 of the CPT Report).

### CPT request for information

**Information about the responses given by the Czech authorities to the Ombudsman's reports on his inspection of police stations (paragraph 24).**

On 9 May 2006, the police president sent to the ombudsman response to his report on inspection of police stations at the beginning of 2006 (see above paragraph 11 of the Czech Government Response of the CPT Report ).

The response included measures adopted by the police president to eliminate shortcomings summed up by the ombudsman in the final recommendation of the report. The response of the police president can be found in Annex No 2.

## **Part B – Acute Psychiatric Assessment and Detoxification Units**

### CPT recommendation

**The CPT considers that patients who are immobilised should always be subject to continuous, direct personal supervision by a member of the medical staff. Further, it is not convinced of the necessity for intoxicated persons to be always strapped to a bed; if recourse to the straps on the bed is considered essential in a given case they should be applied on the direct order of a doctor, and should be removed at the earliest opportunity. Moreover, additional staffing resources should be made available. The CPT recommends the Czech authorities to take the necessary steps as regards the immobilisation of patients, in the light of the remarks made in paragraph 27 (paragraph 27).**

The acute psychiatric assessment and detoxification unit visited by the CPT is located at Ostrava Municipal Hospital. The Ministry of Health is not the promoter of this hospital. This is a sobering-up station set up by the Chartered City of Ostrava in accordance with Act No 379/2005 Coll., on measures to protect against the damage caused by tobacco products, alcohol and other addictive substances, as amended.

As the healthcare facility is not in the competence of the Ministry of Health and bearing in mind that the conditions of the healthcare facility (the staffing, equipment and technology available) are not known to the Ministry of Health, it is not possible to comment in detail on the

immobilization of patients here. The Ministry of Health promised to inform the Chartered City of Ostrava, the promoter of this healthcare facility, about the CPT's recommendation.

CPT request for information

**A copy of the legal norms governing the detention of persons in detoxification units (paragraph 25).**

The holding of persons in detoxification units is regulated by Act No 379/2005 Coll., on measures to protect against the damage caused by tobacco products, alcohol and other addictive substances, as amended. The text of the relevant legal norms is contained in Annex No 3.

**Part C – Prison establishments**

**Chapter 1: Preliminary remarks**

CPT request for information

**The Committee was pleased to note that the amendments to the Confinement Act and to the Remand Act in 2004 introduced the norm of a minimum of 4m<sup>2</sup> per prisoner in multi-occupancy cells. However, an exemption to this rule was introduced and, as the Czech authorities noted in their follow-up response of 14 April 2005 (cf. CPT/Inf(2005)5), “based on a minimum accommodation area of 4m<sup>2</sup> per prisoner, most prisons are significantly overcrowded.”**

**The increased emphasis being placed upon mediation and alternative sanctions is to be welcomed. However, the CPT was concerned to learn that nearly 1,000 persons were committed to prison for non-fulfilment of their non-custodial sanction in 2005. The CPT would like to receive the comments of the Czech authorities regarding this matter.**

**More generally, the CPT would like to receive detailed information on the measures envisaged to put an end to prison overcrowding (paragraph 30).**

In 2005, 67,561 persons were convicted by the courts in the Czech Republic. Of these, 10,078 were given an unconditional prison sentence. A conditional sentence was imposed on 36,006 of the persons convicted, and other sanctions (community work, bans on certain activity, fines, exclusion orders) were imposed on 18,695 on those found guilty by the courts. The courts converted approximately 1,000 conditional sentences into prison sentences for failure to respect the set conditions or comply with the sanctions imposed (e.g. failure to carry out community work, failure to pay a fine), which is hardly a high number compared to the total number of persons convicted in this manner.

The Ministry of Justice has spent several years striving to intensify the activities of probation officers, who are responsible for offenders serving a conditional sentence and offenders released on probation. Another measure will be an increase in the number of probation officers.

During the final evaluation of the third periodic visit to the Czech Republic by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, which took place at a meeting with Czech authorities in Prague on 7 April 2006, Aleš Butala, the head of the delegation, noted that the standard of the Czech prison system had improved dramatically since the CPT's last visit in 2003.

Over this period, many legislative amendments were made to the Confinement Act, the Remand Act, and the decrees of the Ministry of Justice implementing these laws. The changes primarily concern improved conditions for sentenced and remand prisoners. In particular, an 'official norm' of 4 m<sup>2</sup> per person was introduced, the system for the treatment of life-sentenced prisoners was overhauled, more medical staff were drafted into all prisons for sentenced and remand prisoners, and counselling bodies were set up at all prison establishments.

## **Chapter 2: Ill-treatment**

### CPT recommendation

**The Czech authorities should deliver the clear message to prison officers that all forms of ill-treatment are not acceptable and will be the subject of severe sanctions (paragraph 32).**

Further to discussions on the CPT Report, prison officers will be repeatedly informed that all forms of ill-treatment of prisoners are not acceptable and will be the subject of severe sanctions (see below the Czech Government Response to paragraphs 36 and 39 of the CPT Report).

**An independent psychiatric opinion concerning prisoner F should be commissioned and the CPT should be informed about the subsequent placement of this prisoner (paragraph 36).**

On 30 October 2006, the CPT was sent information in Czech and English concerning paragraph 36 of the CPT Report. This information can be found in Annex No 4.

Information about the subsequent placement of F:

from 20 October 2005	to 3 April 2006	Valdice Prison
from 3 April 2006	to 25 April 2006	Pankrác Prison Hospital (Prague)
from 25 April 2006	to 22 June 2006	Brno Prison Hospital
from 22 June 2006	to 10 August 2006	Mírov Prison
from 10 August 2006	to 26 September 2006	Brno Prison Hospital
from 26 September 2006	to 4 December 2006	Mírov Prison
from 5 December 2006		Karviná Prison

During December 2006, prisoner F was examined by an independent psychiatrist – the expert Eva Barbořáková, and by a clinical psychologist – the expert Pavel Kolda. The expert opinion was forwarded by the Prison Service of the Czech Republic to Lucie Rybová, the secretary of the Committee against Torture (Government Council for Human Rights) and to the Czech Republic's CPT liaison officer who, in order to respect the confidentiality of information, sent the expert opinion on prisoner F's state of health separately.

The examination conducted at Pankrác Prison Hospital did not identify any marks on F's body which could have been caused by sexual abuse. The chief physician recommended that F not be returned to Valdice Prison; he proposed commissioning an independent opinion as to whether F was mentally fit to remain in prison at all.

Concerning the repeated hospitalization in the psychiatric ward of Brno Prison Hospital, the chief physician stated that the nature of F's problems was not a mental illness in the true sense of the word. He cannot provide more detailed information without prisoner F's consent because he is bound by the obligation of confidentiality.

Further to a request from the Director General of the Prison Service, Luděk Kula, addressed to the Minister for Justice, the Ministry of Health recommended suitable experts in psychiatry, sexology, surgery, gastroenterology and clinical psychology to carry out independent examinations.

**A thorough review should be conducted of the treatment of vulnerable prisoners within Section E of Valdice Prison, and the CPT should be informed of the outcome of that review (paragraph 36).**

On 30 October 2006, the CPT was sent information in Czech and English concerning paragraph 36 of the CPT Report. This information can be found in Annex No 4.

**The Czech authorities should institute a review of the application of Ministry of Justice Instruction No 41 in Valdice Prison. Additional emphasis should be placed upon providing prison officers and specialist staff with the skills and knowledge to ensure that the measures foreseen by Instruction No 41 can be effectively implemented. This should include being able to identify perpetrators of violent acts on other prisoners and to recognise when vulnerable prisoners might be seeking help through actions that are contrary to the internal prison rules (paragraph 39).**

The fulfilment of tasks set by under Regulation of the Director General of the Prison Service of the Czech Republic No 41/2002 on the prevention of violence between remand and sentenced prisoners, was checked during a thematic inspection carried out at Valdice Prison by employees of the Pre-trial Detention and Imprisonment Department of the General Directorate of the Prison Service of the Czech Republic between 28 February and 22 April 2006. During this inspection, the prison governor was enjoined to ensure the rigorous observance of the intervals laid down in Section 11(1) of the aforementioned regulation for visual inspections of convicts.

At the end of 2006, Regulation of the Director General of the Prison Service of the Czech Republic No 82/2006 was issued, superseding Regulation No 41/2002. Under this regulation, all employees of the pre-trial detention and imprisonment units at all prison establishments in the Czech Republic will be trained in how to prevent violence. There is a coherent system of lifelong learning for prison staff in the Czech Republic which is designed to develop their skills. This system enables prison staff to obtain the skills referred to in paragraph 39 of the CPT recommendations. Regulation of the Director General of the Prison Service of the Czech Republic No 82/2006 can be found in Annex No 7.

**The Czech authorities should make it clear to all prison officers that deliberately placing a vulnerable prisoner in a cell where he is at risk of being physically and/or sexually abused is tantamount to inhuman and degrading treatment, and will be dealt with accordingly (paragraph 39).**

All employees of pre-trial and imprisonment units at all prison establishments in the Czech Republic will be informed of the CPT recommendation.

Vulnerable prisoners are labelled in the register as ‘possible victim of violence (MON)’, and persons responsible for the placement of prisoners **will not place** such a prisoner in a cell where he is at risk of being physically and/or sexually abused.

The procedure referred to in paragraph 39 of the CPT Report contravenes Regulation of the Director General of the Prison Service of the Czech Republic No 41/2002 and the newly adopted Regulation No 82/2006. The assignment of prisoners to cells is not in the competence of prison wardens, but of selected prison employees delegated by the governors of prison establishments.

**The management of Section E of Valdice Prison should take due account of specialist opinions when dealing with individual prisoners (paragraph 39).**

It is evident from the results of a thorough review of the treatment of vulnerable prisoners in Sections D and E of Valdice Prison that the management of Section E always takes into account and implements the opinions of specialist staff concerning the treatment and shared accommodation of these prisoners (see below the Czech Government Response to paragraph 39 of the CPT Report ).

#### CPT request for information

**Additional measures taken in Sections D and E of Valdice Prison to put an end to inter-prisoner violence (paragraph 39).**

The new Regulation of the Director General of the Prison Service of the Czech Republic No 82/2006 sets out activities for the prevention and timely detection of violence between remand and sentenced prisoners (see above the Czech Government Response to paragraph 39 of the CPT Report).

### **Chapter 3: Persons sentenced to life imprisonment**

#### CPT recommendation

**The Czech authorities should make additional efforts to ensure meaningful work can be offered to all persons sentenced to life imprisonment (paragraph 43).**

The Czech Republic is systematically making efforts to increase the possibilities of ensuring meaningful work for a higher number of prisoners, including life-sentenced prisoners. The process of gradually integrating life-sentenced prisoners among other prisoners will increase the chances of ensuring meaningful work for all life-sentenced prisoners.

At Mírov Prison, persons sentenced to life imprisonment have the opportunity to work at a centre within the unit. Working hours are from 6:00 a.m. to 2:00 p.m. All life-sentenced prisoners have gradually been introduced to this workplace, although some of them could not bear working and left. Four prisoners are currently working here. The number of prisoners is limited only by the capacity of the centre. If sufficient interest is expressed and there is enough work to go round, it may be possible to introduce shifts. An individual programme of treatment is drawn up for each prisoner to take into account his personal interests and abilities.

**In Mírov Prison the daily breaks for breakfast and lunch, for those prisoners working, should be extended (paragraph 43).**

The food and rest breaks of prisoners working at Mírov Prison comply with Sections 88 and 89 of Act No 262/2006, the Labour Code, as amended by Act No 585/2006. The regulation of breaks is no different from the conditions applicable to normal employees.

**The regime applicable to persons sentenced to life-imprisonment should be reviewed, in the light of the remarks made in paragraphs 44 to 47; such a regime should include a significant out-of-cell activity programme, drawn up in consultation with the prisoners, which is both purposeful and diverse (paragraph 47).**

Every non-working life-sentenced prisoner has the opportunity to spend seven hours a day on out-of-cell activities; every working life-sentenced prisoner has 9.5 hours a day. In terms of culture and education, a major hurdle with life-sentenced prisoners is their intellect; they are mainly only interested in watching television. The range of activities on offer is broad enough, and time and space is available, but the prisoners are not particularly keen on group activities.

The range of activities on offer in Mírov Prison is sufficiently diverse, and all prisoners have the chance to find an activity in line with their interests. There is no limit on the number of life-sentenced prisoners participating in activities controlled by a prison officer; all prisoners are welcome to take part if they are interested.

Nine activities of an educational, special-needs and special-interest nature are currently provided for life-sentenced prisoners at Mírov Prison. The activity 'Books in Films' is run by an educator. Six life-sentenced prisoners and other offenders who express an interest regularly attend these sessions. Another educator is responsible for the 'Knowledge Club', attended by six prisoners. An educator (therapist) oversees the 'Documentary Club'. Prisoners attend this club as and when they are interested. A special-needs teacher holds a 'Music Listening Club' and 'Basic Czech Grammar' class for life-sentenced prisoners. Eight prisoners take part in these activities. A psychologist holds 'Sessions'. Prisoners attend these sessions as and when they are interested. The prison chaplain holds services, which, again, are attended by any prisoners interested. Another prison chaplain offers the same activity. In addition, prisoners can take physical exercise in rooms set aside for leisure activities. The number of prisoners participating in such activity is limited only by the capacity of the facilities required. These activities were available to all life-sentenced prisoners. However, some refused to take part. Documentation is kept of the activities offered and the interest they generate among prisoners.

Prisoners are offered many different ways of contributing to the organization of the meaningful use of their free time. Every day, they can speak to educators and other employees, and the competent members of staff pay professional attention to their requests and complaints. Prisoners have ample opportunity to mingle with other prisoners within the scope of the activities available. When considering whether to expand these prisoners' opportunities to select a way of life of their own choice, the security factor must always be taken into account as these are high-security prisoners.

**The Czech authorities should review the manner in which the educators and pedagogues operate in Section E of Valdice Prison, in the light of the remarks made in paragraph 44 (paragraph 47).**

The method and frequency of evaluations carried out on the programme of activities for sentenced prisoners complies with legislation in force; the activity programme is updated regularly to respond to the personal needs of prisoners and cover important events during a prisoner's sentence.

**Open visits should be introduced forthwith for all persons sentenced to life-imprisonment; withholding such visits should be based on an individual risk assessment (paragraph 49).**

The use of Plexiglas partitions for the visits of life-sentenced prisoners is exceptional; the operating rules of the unit define cases where it is possible to propose that visits take place with the use of a Plexiglas partition.

As a rule, visits take place in a room where the visitor is separated from the prisoner only by a sliding security screen. This permits normal verbal communication and physical contact (the shaking of hands, caressing, kisses, etc.). The warden's station is separated from the prisoner's space by Plexiglas and glass with a reflective film. The warden does not have access to the security screen between the prisoner and the visitor. If impermissible or problematic behaviour by the prisoner or visitor is discovered, they are only given a verbal warning.

**Life-sentenced prisoners in both Mírov and Valdice complained that they were only allowed visits during weekdays and not at weekends, as was the case for other sentenced prisoners; this made it more difficult for their families to visit as they had to take a day off work. The CPT would appreciate the Czech authorities' comments regarding this matter (paragraph 49).**

Life-sentenced prisoners can receive visits at weekends in both Mírov and Valdice.

**As was the case in 2002, the CPT's delegation observed that at Valdice all persons sentenced to life imprisonment were systematically handcuffed, with the handcuffs then**

**attached to a belt around their waists, whenever they were taken out of their cells.<sup>3</sup> When the prisoners left the unit they were hand and leg-cuffed; this was also the case for medical consultations. Even when prisoners were allocated to another cell on a random basis every few months for security reasons, they had to move their belongings while handcuffed. Despite claims to the contrary by prison managers, it was evident that all prisoners sentenced to life-imprisonment were systematically handcuffed with no individualised risk assessment taking place. The Czech authorities should end the routine handcuffing of life-sentenced prisoners in Valdice Prison, in the light of the remarks made in paragraph 50 (paragraph 50).**

The use of handcuffs and straps is not routine in Valdice Prison, even for life-sentenced prisoners. A security risk assessment is conducted in as much depth as possible for each prisoner. Handcuffing is not a punishment; it is a means of preventing violent behaviour towards staff. When handcuffs are used, prisoners are not significantly restricted in their movement, they do not suffer any pain, and the use of these devices cannot have any consequences on their health. This measure is only applied when prisoners are transferred, and therefore they are handcuffed only for between three and five minutes a day.

At present, none of the life-sentenced prisoners in Mírov Prison is handcuffed when they are led out from their cells. Nor are they handcuffed when they are brought before employees or other authorities.

**Efforts should be made to provide premises, furniture and decoration of a pleasant and user-friendly character. In particular, life-sentenced prisoners in both Mírov and Valdice should be allowed to personalise their cells through hanging paintings, bookshelves and other objects on the inner walls; at the time of the visit, they were clearly forbidden from doing so. Lockers for personal belongings, including food, should be placed within the cells so the prisoners can access them at all times. For those prisoners in poor health or who are physically handicapped additional efforts need to be made to ensure that their cells are adapted appropriately. It is also necessary to help prisoners benefit from the various activities offered (for example, in Mírov, a means of rest should be placed within the outdoor exercise yard). The Czech authorities should take the necessary steps as regards material conditions for life-sentenced prisoners, in the light of the remarks made in paragraph 51 (paragraph 51).**

Life-sentenced prisoners at Mírov and Valdice have lockers in their cells and shelves for their personal belongings, books, etc.

The furnishings and decoration of life-sentenced prisoners' cells will be modified, in keeping with the CPT recommendation, in the uniform internal differentiation of prisoners, due to be launched in the first quarter of 2007.

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<sup>3</sup> Each prisoner was even handcuffed in his cell before the prison officers would open the cell gate to allow members of the delegation to meet with the prisoner. Subsequently, the handcuffs were only removed at the insistence of the delegation members.

**The CPT's delegation learned that in Valdice all medical examinations of persons sentenced to life-imprisonment took place in the presence of at least two prison officers, and that the inmates were handcuffed and/or leg-cuffed throughout the consultations. For appointments with the psychiatrist, the prisoner was not handcuffed but the consultation took place through a metal grill (in the same room used for visits).**

**In Mírov, instruments of physical restraint were not systematically applied to life-sentenced prisoners during the medical examinations; however, prison officers were always present. In both prisons, the inmates alleged that the prison officers often made fun of the prisoners during the medical consultations and they perceived this as degrading (paragraph 52).**

**In the CPT's view, such practices infringe upon the dignity of the prisoners concerned, are questionable from a standpoint of medical ethics and prohibit the development of a proper doctor-patient relationship. The Czech authorities should take the necessary steps to put an end to the practices referred to in paragraph 52 as regards medical examinations of life-sentenced prisoners (paragraph 53).**

The presence of prison officers in the doctor's surgery and the keeping of handcuffs on prisoners during medical examinations are subject to a request from the health personnel. Unless requested by the doctor, prison officers remain out of hearing and out of sight of the examination.

**Further, certainly the routine presence of prison officers during medical examinations breaches the principle of medical confidentiality. The CPT recommends that all medical examinations of life-sentenced prisoners should be conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of prison officers. In those exceptional cases when a prison officer is required to be present during a medical consultation, he should act in a professional manner, respecting the confidential nature of the doctor-patient relationship (paragraph 53).**

All employees of pre-trial and imprisonment units and medical units at all prison establishments in the Czech Republic will be informed of the CPT recommendation (see below the Czech Government Response to paragraph 84 of the CPT Report).

**The Czech authorities should review the application of the disciplinary system in Section E of Valdice Prison (paragraph 54).**

The application of disciplinary measures at Valdice Prison was reviewed as part of a thematic inspection carried out by employees of the Pre-trial Detention and Imprisonment Department of the General Directorate of the Prison Service of the Czech Republic in April 2006 (see above the Czech Government Response to paragraph 39 of the CPT Report).

During this inspection, as part of the assessment of disciplinary measures used against prisoners the prison governor was asked to provide additional statistics on the implementation of other methods related to disciplinary proceedings, especially in accordance with Section 46(3)

and Section 53 of Act No 169/1999 Coll., on the Execution of Prison Sentences and on an amendment to some related laws, as amended (hereinafter 'Confinement Act').

Further, the task was set of ensuring the proper management of all documentation related to forfeited or confiscated items and their transfer to the competent authorities in accordance with Article 13 of Methodological Order of the Director of the Pre-trial and Imprisonment Department No 22/2005 laying down the details and procedure of employees of the Prison Service of the Czech Republic in the application of disciplinary measures in relation to sentenced prisoners, including the preparation of service records on the removal of items by officers of the Prison Service of the Czech Republic. Also, the task was set to ensure that decisions about complaints related to disciplinary sanctions were duly justified in accordance with Section 60 of Decree of the Ministry of Justice No 345/1999 issuing Rules of Confinement, and in cases where a sentenced prisoner is disciplined for possession or use of an unauthorized item at the same time, to issue a decision on the forfeiture of that item, provided that the value of the forfeited item is not conspicuously disproportionate to the nature and seriousness of the misdemeanour.

**Reference should also be made to the policy of requiring all life-sentenced prisoners to change cells every few months; the policy is not based upon any individual risk assessment and is perceived by prisoners as an additional punishment. The Committee would like to receive the comments of the Czech authorities as regards the necessity for such a policy (paragraph 54).**

The system of rotating prisoners is based on an assessment of the security risks posed by each prisoner. The policy discussed by the CPT Report has never been adopted.

In Mírov Prison, life-sentenced prisoners are rotated at irregular intervals of up to three months. The purpose of this security measure is to prevent prisoners from obtaining information about the shift-changing and rules of the watchkeeping service in areas that can be observed from cell windows, and thus prevent prisoners from preparing conditions conducive to their escape. These measures were introduced following an evaluation of the preparations and implementation of a successful escape plan by a life-sentenced prisoner from Mírov Prison in October 2000.

The terms 'rotation' and 'transfer' should be differentiated. Rotation involves the irregular relocating of life-sentenced prisoners between individual cells in the unit so that prisoners do not know how long they will remain in a particular cell, which cell they will be transferred to, whom they will be housed with, and on what side of the building they will be located. Rotation is carried out in accordance with decisions of the prisoner governor based on recommendations from the security commission. Rotations are also perceived in a positive light by the prisoners themselves because this procedure gives them a change of environment and because the windows of the various cells face in different directions, offering a change of view. Between 2005 and 16 February 2007, rotations in 5/D took place on the following dates: 27 January 2005, 21 March 2005, 30 May 2005, 26 July 2005, 2 October 2005, 30 December 2005, 1 March 2006, 24 April 2006, 20 June 2006, 13 September 2006, 6 December 2006.

Transfers take place when cells or facilities need to be carried out, when prisoners are split up to combat personal disagreements, when a further prison sentence is imposed, etc. In most cases

this action concerns one, two, or a maximum of three prisoners. Between 2005 and 16 February 2007, transfers took place on the following dates: 8 February 2005, 23 March 2005, 11 July 2005, 1 August 2005, 11 November 2005, 22 May 2006, 2 August 2006, 6 December 2005.

At Valdice Prison, there was one transfer of prisoners in 2005 and 2-3 transfers in 2006.

**The arbitrary approach towards the prisoners in Section E was further illustrated by a decision taken by the Governor to forbid all electronic and battery-powered games, which a number of prisoners had in their possession for some time. The decision was made orally, with no written record available, and no reasoning was provided to the prisoners. However, the confiscation or seizure of an object, as laid down in Sections 46, 48, 50 and 52 of the Imprisonment Act, requires a written justification and the possibility for the prisoner in question to contest such a decision.**

**In the CPT's experience it is essential that internal prison rules should be clear and unambiguous (as well as being in conformity with the primary prison legislation), and that any disciplinary measures must be carried out in accordance with such rules and be subject to appropriate safeguards. This is in the interests of both inmates and staff, and is a necessity of good management. The CPT recommends that the Czech authorities take the appropriate measures in the light of the above remarks (paragraph 55).**

The use of electronic games owned by prisoners is not permitted anywhere in the prison at the present time. Prisoners have no entitlement to possess such items; they may own them only with the consent of a competent employee of the Prison Service of the Czech Republic; if there is a change in the conditions under which the consent to use a specific item is granted, the consent may be reviewed and further use of the item may be prohibited. However, the item in question remains the property of the prisoner; the item is not confiscated. If the prisoner does not send the item to an address outside the prison, the item is placed in the central storage unit where his other personal belongings are kept.

**The Czech authorities should ensure that all members of staff assigned to work with life-sentenced prisoners possess the appropriate skills and are provided with the necessary training and leadership to carry out their tasks professionally, including the ability to communicate with, and offer support to, the prisoners (paragraph 56).**

Members of staff working with life-sentenced prisoners are picked very carefully; they are staff with appropriate experience in the handling of prisoners with long sentences to serve. The relationship with these prisoners is based on communicativeness and assistance. Employees working with life-sentenced prisoners receive regular training.

**The Committee recommends that the Czech authorities, with reference to the classification system for life-sentenced prisoners, put in place transparent procedures that enable**

**prisoners to clearly identify the action and behaviour required of them in order to qualify for placement within a group with more favourable conditions (paragraph 58).**

To ensure the development of prisoners' rights, the General Directorate of the Prison Service of the Czech Republic is preparing the uniform internal differentiation of prisoners in individual types of prisons, including life-sentenced prisoners, which will be launched in the second quarter of 2007. Publication of this classification system will comply with the CPT recommendations.

#### CPT comments

**The CPT can see no justification for systematically keeping life-sentenced prisoners apart from other sentenced prisoners (paragraph 47).**

The treatment of life-sentenced prisoners is strictly governed by Section 71 of Act No 169/1999 Coll., on confinement and on an amendment to certain laws, as amended (hereinafter referred to as 'the Confinement Act') and Section 95 of Regulation of the Ministry of Justice No 345/1999, issuing the Rules of Confinement, as amended. Under Section 71(4) of Act No 169/1999, life-sentenced prisoners are generally housed alone.

As a matter of principle, life-sentenced prisoners serve their sentence in a unit with reinforced structural and technical security, see Section 95 of Regulation of the Ministry of Justice No 345/1999.

The procedure for the gradual integration of life-sentenced prisoners among other inmates has received considerable attention, and further steps will be taken in the future. In 2007, the Prison Service of the Czech Republic will prepare an amendment to Act No 169/1999 on confinement and amending certain related laws, as amended, in which it will propose the deletion of the second paragraph of Section 71, which provides that visits, outdoor exercise and the disciplinary sanctions of life-sentenced prisoners generally remain separate from other sentenced prisoners.

At Valdice Prison, the first floor of 'E' wing is set aside for the accommodation of life-sentenced prisoners. The second floor is reserved for the category of prisoners assigned to high security prison facilities and allocated to this wing in accordance with Section 8(3) of the Rules of Confinement. In accordance with Article 7(1) of the Valdice Internal Prison Rules, the educator decides on the placement of a sentenced prisoner in a particular cell.

Regulation of the Ministry of Justice No 378/2004 Coll., issuing the Rules of Confinement, provides, in Title VII – Life imprisonment, Section 96(1), that these prisoners may be permitted to visit cultural and common rooms with other prisoners in the period stipulated in the internal rules.

In practice, however, this possibility is not used very often, with reference to the circumstances leading to the accommodation of high-security prisoners in a unit with reinforced structural and technical security. These are problematic prisoners who have escaped from prison or attempted to escape, against whom criminal proceedings have been commenced for a serious

crime perpetrated during their imprisonment, who have terrorized their fellow inmates or who have threatened staff and their families. The integration of life-sentenced prisoners into this category of prisoners would be counter to the re-socialization efforts taken within the scope of differentiated imprisonment.

Life-sentenced prisoners do not show any interest in such contact; they consider these prisoners to be ‘problematic and dangerous’ and do not want to have anything in common with them. From the aspect of group dynamism, these are antagonistic groups with different ways of expressing themselves and responding to their imprisonment.

In this category, life-sentenced prisoners may interact; contact with each other is permitted in their work, sports and special interests, and as part of controlled activities.

Life-sentenced prisoners at Mírov Prison are allowed to participate in group activities with other prisoners if they express an interest in this. Two prisoners currently take part in group activities with a spiritual theme. Along with these two, the activities are also attended by another eight sentenced prisoners. Other life-sentenced prisoners have not expressed an interest in taking part in activities with other groups of inmates, although they have been invited. Besides these opportunities, life-sentenced prisoners can also take part in the exhibitions of art and handmade work of other prisoners held outside the unit for life-sentenced prisoners. It is standard procedure for life-sentenced prisoners to take their exercise separately from other prisoners in the third exercise yard. Up to ten life-sentenced prisoners can take part in outdoor exercise at the same time. By agreement with a specialist employee and after consultation by the security commission and approval by the prison governor, prisoners may take their exercise in the second exercise yard, where sport takes place with the direct involvement of a prison employee.

If interested, life-sentenced prisoners have the opportunity to establish contact with inmates from other groups of prisoners. For example, the life-sentenced prisoner G.O. was repeatedly allowed visits with another two inmates from the prison’s standard units.

Prisoners also have the chance to take part in meetings with members of the clergy and representatives of other churches who come to the prison (e.g. Třinec Brethren Church, Hlučín Christian Association, Zábřeh Charity, Jehovah’s Witnesses, and the Salvation Army).

**The Czech authorities should make efforts to establish contacts with the family of the prisoner referred to in paragraph 48 (paragraph 48).**

The Czech authorities are making efforts for prisoner F to establish contact with his family. The prisoner is in contact with the Chinese Embassy in Prague, with the representative of one of the Chinese compatriot organizations in the Czech Republic, and with several nongovernmental organizations specializing in the protection of human rights. In this respect, these organizations will be asked for their cooperation.

CPT request for information

**Comments on the approach taken towards life-sentenced prisoners, in the light of the remarks made in paragraph 42 (paragraph 42).**

In 2007, methodology for the assessment of prisoner risks and needs will be put into pilot operation in cooperation with the Probation and Mediation Service in a bid to enhance the release of prisoners on probation. Based on the results of the trial operation, this methodology will continue to be used.

The General Directorate of the Prison Service of the Czech Republic will pay greater attention to the issues related to life imprisonment. In 2004, Act No 539/2004 Coll., was adopted; this law amended the 1999 Confinement Act. Life imprisonment was fundamentally modified. This resulted in the repealing of Section 71, which provided that life sentences are aimed primarily at protecting society from further criminal activity by the sentenced prisoner by isolating him in prison and by guiding his conduct towards good morals. The change to comply with CPT recommendations will be a long-term process (see above the Czech Government Response to paragraph 47 of the CPT Report).

**Comments as regards the possibility for life-sentenced prisoners to receive visits at weekends (paragraph 49).**

As has been mentioned above, life-sentenced prisoners may – and do – receive visits at weekends in both prisons.

**Comments as regards the necessity for the policy requiring all life-sentenced prisoners to change cells every few months (paragraph 54).**

The policy discussed by the CPT Report has never been adopted. The system of rotating prisoners is based on an assessment of the security risks posed by each prisoner (see above paragraph 54 of the Czech Government Response).

**The precise procedures concerning the early release of persons sentenced to life-imprisonment (paragraph 58).**

The possibility of releasing life-sentenced prisoners on probation is regulated by Section 62(2) of Act No 140/1961 Coll., the Criminal Code, as amended – ‘a person sentenced to the exceptional punishment of life imprisonment may be released on probation after at least twenty years of such imprisonment.’ In 2007, the first life-sentenced prisoner in the Czech Republic will have been imprisoned for the minimum time required for a discussion of his release on probation.

The court delivers a ruling on a prisoner’s release on probation at the proposal of the public prosecutor or the governor of the prison in which the prisoner is held, at the request of the prisoner, or without such a request at a public hearing.

#### **Chapter 4: Conditions of detention of the general prison population**

**The Committee recommends that the Czech authorities, with reference to the classification system for life-sentenced prisoners, put in place transparent procedures that enable prisoners to clearly identify the action and behaviour required of them in order to qualify for placement within a group with more favourable conditions. Further, the Committee would like to be informed about the precise procedures concerning the early release of persons sentenced to life-imprisonment (paragraph 57).**

##### CPT recommendation

**The CPT recommends that steps be taken to refurbish and repair the cells in the remand sections of Liberec and Ostrava Prisons (paragraph 59).**

All cells and dormitories in both remand prisons are refurnished and redecorated on an ongoing basis. Due to the limited financial resources and the relationship that some inmates have to the property, certain cells could give the impression of being dilapidated.

In 2007, new interior cell refurbishing made from fireproof plastic will be installed for remand prisoners in a pilot project. After this trial run, a decision will be taken on whether to gradually fit out all remand prisons with new furniture. To what extent it will be possible, in 2007, to refurbish the cells depends on the funding earmarked for the Prison Service of the Czech Republic in the national budget.

As regards the shared toilets, the ideal solution would be to introduce structural and technical partitioning. The Prison Service of the Czech Republic is making efforts to ensure that all shared toilet facilities are fitted with sufficient side and frontal visual barriers. Based on the CPT recommendation to remove Turkish toilets, of the 519 Turkish toilets, 436 have been replaced with ceramic toilets and 78 have been replaced with stainless steel vandal-proof toilets. Turkish toilets are currently used in just five emergency cells (Brno, České Budějovice, Plzeň, Příbram, Stráž pod Ralskem).

**Optimal use should be made of the accommodation in the remand sections of Liberec and Ostrava Prisons with the objective of meeting the norm of a minimum of 4 m<sup>2</sup> per prisoner (paragraph 60).**

The accommodation capacity of the remand section of Liberec Remand Prison is 169 places; as at 6 December 2006, there were 97 remand prisoners here. The accommodation capacity of the remand section of Ostrava Remand Prison is 387 places. As at 6 December 2006, there were 311 remand prisoners here. With these numbers, the norm of 4 m<sup>2</sup> per remand prisoner is met in the remand sections of these remand prisons.

**Steps should be taken to improve the outdoor exercise areas in Liberec and Ostrava Prisons (paragraph 62).**

In 2007, a methodological order regulating the criteria for exercise areas in remand prisons will be issued. In both remand prisons, outdoor areas are limited, but efforts will be made to expand the exercise areas. We also bring attention to the fact that the size of the exercise yards in Liberec Remand Prison is **20 m<sup>2</sup>**, not the 10 m<sup>2</sup> mentioned in the CPT Report.

According to information at the disposal of the Prison Service of the Czech Republic, the inmates in these remand prisons have sufficient winter coats and boots; no comments corresponding to the statement in the CPT Report have been voiced by the prisoners.

**The Czech authorities should take the necessary measures to ensure that Section 4a of the Remand Act is implemented in full, and that persons on remand throughout the prison system are offered a programme of purposeful activities (paragraph 65).**

The Prison Service of the Czech Republic has spent a long time trying to improve the opportunities for preventive, educational, special-interest and sports programmes in remand prisons. Section 4a of Act No 293/1993 Coll., on the Execution of Pre-trial Detention, as amended (hereinafter 'the Remand Act'), provides that, during remand a prison is required to offer the remand prisoner the chance to participate in preventive, educational, special-interest and sports programmes '*as far as possible*'.

**The Czech authorities should review the organisation of the activities at Liberec and Ostrava Prisons in order to ensure that optimal use is made of the limited facilities in these prisons, and thus enable persons on remand or "in transit" to benefit from a more extensive and diverse regime (paragraph 65).**

The General Directorate of the Prison Service of the Czech Republic consistently pays significant attention to the development of activities, and this will continue in 2007. At the time of the CPT delegation's visit, the performance of activities in both remand prisons was limited as the expert members of staff who tend to oversee most of these activities – along with the rooms where these activities are usually held – were placed at the disposal of members of the CPT delegation.

**The Czech authorities should ensure that all juveniles remanded in custody or placed "in transit" are offered, or may continue, educational and recreational activities, which take into account the specific needs of their age group. Physical education should form a major part of that programme (paragraph 66).**

The management of the remand prisons is – and will continue to be – required to organize activities for juveniles so that these young people spend at least four hours a day involved in out-of-cell activities. The fulfilment of this task is rigorously checked. The position of educators for juveniles remanded in custody, as mentioned below in the comments to paragraph 63 of the CPT Report, has been set up at all remand prisons.

### CPT comments

#### **Steps should be taken to ensure that sentenced prisoners who do not have work are offered activities of a purposeful and diverse nature (paragraph 67).**

Based on this CPT comment, it will be re-emphasized to the management of remand prisons that sentenced prisoners who do not have work should have activities of a purposeful and diverse nature organized for them. The most widespread activities are diverse special-interest clubs, educational programmes, computer courses, gardening courses and foreign-language teaching.

### CPT request for information

#### **The role of the educator in practice, in respect of persons on remand and "in transit" (paragraph 63).**

The role of educators in relation to persons in transit does not differ from their task in relation to permanently placed prisoners. These tasks are set out in Article 9 of Regulation of the Director General of the Prison Service of the Czech Republic No 26/2006, laying down the tasks of civilian employees and officers of the Prison Service of the Czech Republic in relation to imprisonment.

An educator is a member of a team which has the basic goal of comprehensive educational, diagnostic and preventive activity, focusing on overall personal development and on socialization, re-socialization and re-education, including target measures to optimize the education process for prisoners and promote drug prevention within the prison. Educators are methodologically guided by a special needs teacher and are subordinate to the head of the unit.

The position of educator does not exist for adult remand prisoners; tasks connected with the organization of remand, especially the exercise of remand prisoners' rights and the requirement of complying with their obligations, are the responsibility of class-one prison officers – chief prison officers.

For juvenile remand prisoners, the educator's tasks are set out in Article 8 of Regulation of the Director General of the Prison Service of the Czech Republic No 44/2006, laying down the tasks of civilian employees and officers of the Prison Service of the Czech Republic in relation to remand.

The basic task of educators is to have a comprehensive, targeted impact on remand prisoners over the time they are in custody, with the aim of mitigating the adverse effects that isolation can have on juveniles when they are taken into custody, and of increasing their chances of a full life on returning to civil society; educators guide juvenile remand prisoners to spend their free time in custody in a manner which meets their general and special needs without contravening the purpose of remand and accepted norms of civil co-existence, and duly promote and nourish the legitimate interests of juvenile remand prisoners. Educators are directly subordinate to the head of the unit and are methodologically guided by a special needs teacher.

## Chapter 5: Women prisoners

### CPT recommendation

**Specific sections in both Liberec and Ostrava Prisons should be created for women prisoners, which can provide them with appropriate material conditions and enable them to participate in purposeful activities (paragraph 68).**

**The allocation of women prisoners upon sentence should be carried out efficiently to minimise additional time spent in a prison not specifically dedicated to accommodating women prisoners (paragraph 68).**

The Prison Service of the Czech Republic will pay increased attention to the cultivation of conditions suitable for women remand prisoners and women in transit in both remand prisons, and will oversee the implementation of the CPT's recommendations.

As regards information in the CPT Report concerning the prison sentence of two women in Liberec Remand Prison, we state that the sentences were not six respectively seven months, but **six respectively seven weeks**. The reason for such a long stay in the admissions unit was the temporary unavailability of a radiological examination (related to the reproduction cycle of the women), which is a compulsory part of the introductory medical examination.

The General Directorate of the Prison Service of the Czech Republic will take action to comply with the CPT's recommendations regarding the placement of sentenced women.

## Chapter 6: High Security Departments

### CPT recommendation

**The Czech authorities should institute a transparent procedure for placement in high technical security wards (HTSWs), including the possibility for the prisoner concerned to appeal the decision, and regular reviews of such a placement to be established (paragraph 69).**

In 2007, the Prison Service of the Czech Republic will prepare an amendment to the Confinement Act providing for high technical security wards, including the procedure for the placement and removal of prisoners, rules for appeals against decisions on placement in such wards, and regular reviews of such a placement.

At present, these rules are laid down in Regulation of the Director General of the Prison Service of the Czech Republic No 8/2006 on the placement of sentenced prisoners in high technical security wards and unifying the imprisonment of these prisoners.

**The delegation visited the high technical security ward in Ostrava Prison, which at the time was accommodating two inmates although it had a capacity for 12 prisoners. The material conditions were satisfactory but the regime was extremely limited, as the two inmates were not allowed to work; visiting the weights room several times a week was practically their only activity. There appeared to be little proactive interaction by the educator to assist these prisoners. Further, the delegation noted that one of the prisoners in Ostrava HTSW,**

**sentenced by the courts to a regime under “supervision” (Category B), had been placed in a ward in virtual isolation for long periods of time.**

**Prisoners who present a particularly high security risk should, within the confines of their detention units, enjoy a relatively relaxed regime by way of compensation for their severe custodial situation. In particular, they should be able to meet their fellow prisoners in the unit and be granted a good deal of choice about activities. Special efforts should be made to develop a good internal atmosphere within high-security units. The aim should be to build positive relations between staff and prisoners. This is in the interests not only of the humane treatment of the unit's occupants but also of the maintenance of effective control and security and of staff safety.**

**The existence of a satisfactory programme of activities is just as important - if not more so - in a high security unit than on normal location. It can do much to counter the deleterious effects upon a prisoner's personality of living in the bubble-like atmosphere of such a unit. The activities provided should be as diverse as possible (education, sport, work of vocational value, etc.). As regards, in particular, work activities, it is clear that security considerations may preclude many types of work which are found on normal prison location. Nevertheless, this should not mean that only work of a tedious nature is provided for prisoners.**

**Steps should be taken to provide prisoners placed in HTSWs with a more purposeful regime, in the light of the remarks made in paragraph 70 (paragraph 70).**

For many years now, the Prison Service of the Czech Republic has offered meaningful programmes even to sentenced prisoners posing a high security risk. After being placed in a high technical security ward, each prisoner's programme is updated.

Bearing in mind the CPT's recommendations, the Prison Service of the Czech Republic will arrange for a review of the programmes offered and implemented in these units. The amendment to the Confinement Act will also contain provisions on the treatment of these prisoners. Before the amendment enters into effect, the treatment of prisoners placed in high technical security wards will be methodologically modified.

**The Committee does not doubt that there may be a need to provide a more secure setting for particularly violent prisoners who represent a threat to staff and other prisoners. However, the Committee has grave misgivings concerning the way in which decisions are taken to place prisoners in Section E. In reviewing the files, the CPT's delegation learned that the Deputy Director General of the Prison Service of the Czech Republic took a decision to approve the placement of a certain prisoner in Section E simply on the basis of a one-line request from the Governor of Valdice Prison.<sup>4</sup>**

**Moreover, there was no formal process whereby prisoners could express their views about being placed in Section E; nor was there any possibility to appeal their placement. Further,**

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<sup>4</sup> For example, cf. note of 17 May 2005 from Valdice Prison to the Deputy Director General in respect of prisoners K and M.

**the six-monthly reviews occurred without any clear criteria being established and excluded any proper consultation with the prisoner concerned. Hence, it was difficult to elucidate the purpose of Section E; this was illustrated by the fact that it accommodated a number of extremely vulnerable prisoners who could scarcely be categorised as presenting a particularly high security risk.**

**The Czech authorities should institute more rigorous procedural safeguards prior to placing prisoners in Section E of Valdice Prison, and the Deputy Director General should have greater oversight over such placements (paragraph 73).**

The procedure for the placement of sentenced prisoners in high technical security wards and is laid down in Regulation of the Director General of the Prison Service of the Czech Republic No 8/2006 on the placement of sentenced prisoners in high technical security wards and unifying the imprisonment of these prisoners.

An expert committee, whose members include a psychologist and special needs teacher, issue statements on all legitimate proposals. The Deputy Director General of the Prison Service of the Czech Republic, responsible for the safety and performance of prison work, seeks the opinion of the director of the Pre-trial Detention and Imprisonment Department of the Prison Service before approving a proposal. Each proposal is therefore carefully considered.

**A regular multidisciplinary review of each placement in Section E of Valdice Prison and its purpose should be introduced (paragraph 73).**

The legitimacy of a proposal to place a prisoner in a high technical security ward, the danger represented by the prisoner, a comprehensive report on the prisoner, and his imprisonment to date, including an assessment of the suitability of an individual programme, are given careful consideration (see above the Czech Government Response to paragraph 73 of the CPT Report).

**Greater efforts should be made to engage with prisoners in Section E of Valdice Prison and to provide them with a more purposeful regime, which includes a diverse range of activities (paragraph 74).**

Non-working prisoners may spend seven hours a day outside their cells if they take up the prison's offer of activities. This involves two hours of outdoor exercise and sports activities, four hours of special-interest activities, half an hour of talks with educational staff (educator, therapist, teacher, pedagogue, psychologist), and half an hour for individual activities, to visit the doctor, shower, etc., in accordance with the daily regime.

The management of the prisons will be asked to make greater efforts to involve prisoners in the activities on offer.

**The delegation noted that some of the prisoners were not only systematically handcuffed every time they left their cells but were also handcuffed during their outdoor exercise. The**

**remarks made in paragraph 50 above apply equally to these prisoners, and the Committee recommends that the Czech authorities end the routine handcuffing of prisoners in Section E. The Czech authorities should end the routine handcuffing of prisoners in Section E of Valdice Prison (paragraph 75).**

As has been mentioned above, individual security risk assessments are conducted for each prisoner before a decision is made whether to use handcuffs. Handcuffing is a means of preventing violent behaviour towards staff. When handcuffs are used, prisoners are not significantly restricted in their movement, they do not suffer any pain, and the use of these devices cannot have any consequences on their health. This measure is only applied when prisoners are transferred, and therefore they are handcuffed only for between three and five minutes a day (see above the Czech Government Response to paragraph 50 of the CPT Report ).

**The policy on, and the practice of, the use of the strapped beds in Valdice Prison should be reviewed, in the light of the remarks made in paragraph 77 (paragraph 77).**

Straps are used at Valdice Prison in accordance with Section 17 of Act No 555/1992 Coll., on the Prison Service and Justice Guard of the Czech Republic, as amended. Straps have not been found to be used as a punitive measure. It is evident from the records drawn up on the use of this type of restraint that straps are used solely in those cases where the prisoners cause serious self-harm (after a prior medical examination), where they threaten to harm themselves and where the staff have reason to believe that the prisoner will carry out his threat, and in cases where prisoners threaten their surroundings or destroy prison property. As a rule, straps are used after consultation and after an assessment of the situation between the competent prison officer and a doctor. The room where prisoners are strapped to a bed has non-stop camera surveillance and therefore the behaviour and health of the prisoner and the conduct of the staff in contact with the prisoner can be checked (including previous incidents recorded on film).

CPT request for information

**The number of times the strapped beds in Sections D and E of Valdice Prison have been resorted to between April and September 2006, whether the same prisoner has been immobilised on more than one occasion and the longest time a prisoner has been immobilised in the course of a five day period (paragraph 77).**

From April to September 2006, straps were used in seven cases at Valdice Prison. One prisoner (M.S.) was strapped more than once in this period; on both occasions at the recommendation of a doctor. On 21 August 2006 the prisoner harmed himself by cutting his forearm and threatened more self-harm. He was strapped to the bed at 5:00 p.m. on 21 August 2006 and unstrapped at 10:10 a.m. on 22 August 2006. On 22 August 2006 the prisoner harmed himself again by cutting his forearm and swallowing an object. He was strapped to the bed at 2:15 p.m. and unstrapped at 1:37 p.m. on 23 August 2006.

**The Committee has already highlighted its concerns with regard to the system of discipline in Section E. Further, from the registers it became evident that a number of prisoners**

**within Section E could spend very long periods in the confinement cells. For example, K spent 121 days in confinement in a seven and a half month period between 16 February and 30 September 2005; GR spent 91 days in confinement in the course of an eight-month period between 23 June 2005 and 22 February 2006; and IR spent 51 days in such a cell between 17 January and 8 November 2005. The Committee would appreciate the comments of the Czech authorities as to the purpose of these lengthy placements in a confinement cell described in paragraph 78 (paragraph 78).**

The reason for the prisoners' lengthy stays in confinement cells is serious disciplinary offences. This includes hostile behaviour towards staff, aggression towards other prisoners, self-harm or destruction of cell furnishings.

Prisoner K repeatedly destroyed his cell's furnishings, barricaded himself in his cell and self-harmed. Prisoner GR attacked his fellow prisoners on five occasions (once in tandem with the prisoner IR). The prisoner IR threatened officers of the Prison Service of the Czech Republic four times, self-harmed twice and once launched a joint assault with the prisoner GR.

## **Chapter 7: Health care**

### CPT recommendation

**The CPT's delegation noted that in Liberec Prison prisoners wishing to see the doctor were required to undress to their underwear in the waiting room in front of the other prisoners, before being escorted by a prison officer into the examination room. They could, as observed, be waiting around undressed for some length of time. Undressing in such a manner can be considered as degrading, and the CPT recommends that this practice should be ended (paragraph 81).**

Remand prisoners are brought to a doctor by individual cell, with respect for the conditions laid down in Section 7 and Section 18 of the Remand Act. The procedure where the remand prisoner is required to strip down to his underwear immediately prior to entering the surgery will no longer be applied.

**The Czech authorities should ensure that pre- and post-test counselling take place with all prisoners in relation to blood tests for HIV, hepatitis and syphilis (paragraph 82).**

When blood is taken, all patients are informed of the reasons for the sample; if a positive finding is made, they will be informed and advised of further action and treatment. If positive findings are made, the patient confirms, in the relevant form, that he has been notified of the nature of the illness, preventive measures and further treatment.

**The CPT reiterates its recommendation that steps be taken to ensure that medical confidentiality is fully guaranteed in all prison establishments in the Czech Republic. This implies that all medical examinations of prisoners should be conducted out of the hearing**

**and - unless the doctor concerned requests otherwise in a particular case - out of the sight of prison officers (paragraph 84).**

In all prison establishments in the Czech Republic, prison officers are present in the doctor's surgery only at the doctor's request.

At the end of 2006, an analysis of the material and financial requirements of individual prisons in relation to the doors to doctors' and psychiatrists' surgeries (a see-through section with a removable curtain or blind, alarm, etc.) was conducted with a view to the adoption of measures to ensure the greater protection of medical confidentiality and information about the health of prisoners. Action to comply with the CPT recommendations will be carried out throughout 2007.

## **Chapter 8: Other issues**

### CPT recommendation

**Prison staff should be encouraged to interact more with prisoners and should be provided with training in order to acquire the necessary inter-personal skills to develop such communications (paragraph 85).**

Under the 'lifelong learning programme', the Training Institute of the Prison Service of the Czech Republic in Stráž pod Ralskem organizes special training for prison staff based on their profession and position. The following types of training are organized: Communication for Prison Officers, Training Course for Educators, Specialized Course for Social Workers, Specialized Course of Family Therapy, Self-experience Psychotherapeutic Training, The Body as an Instrument in the Work of a Teacher.

Further training is provided in accordance with Regulations of the Director General of the Prison Service as part of service and professional training: the themes covered here focus on deepening and consolidated the knowledge and skills required for prison work, including their thorough application in practice.

All the courses and training above, besides specializing in a specific issue, also encompass the development of communication skills, defusing conflicts, assertiveness, etc.

**The Czech authorities should consider seriously phasing out the systematic equipping of prison officers with truncheons, handcuffs and tear gas canisters. For as long as such equipment is carried on a routine basis by a prison officer, it should be hidden from view. Training in control and restraint techniques should be made widely available to prison officers (paragraph 86).**

All governors of prison establishments who have decided to equip prison officers with means of restraint were acquainted with the CPT recommendations.

The equipping of prison officers with means of restraint is a matter provided for in Regulation of the Director General of the Prison Service of the Czech Republic No 26/2006, laying down the tasks of civilian employees and officers of the Prison Service of the Czech Republic in relation to imprisonment, and Regulation No 44/2006, laying down the tasks of civilian employees and officers of the Prison Service of the Czech Republic in relation to remand, as follows: 'An officer on duty is equipped with a tear gas canister; other means of restraint (a truncheon, chains, handcuffs) and equipment (torch, bandage, notepad and pencil) are kept in a service satchel at a designated location (station), unless the prison governor decides that an officer will be equipped with further means of restraint for work at a specific station.'

Training in control and restraint techniques is part of the vocational and professional training of prison officers. The number of cases where prison officers use self-defence to achieve the purpose of an intervention is rising; the number of cases where a truncheon is used to achieve the purpose of an intervention is falling.

**The CPT reiterates its recommendation that both remand and sentenced prisoners be granted regular access to a telephone (paragraph 88).**

The CPT recommendation concerning the regular access of sentenced prisoners to telephones is fulfilled as far as possible by the individual prisons. The number of telephone calls made by inmates rises every year. In the upcoming period, efforts will be made to cultivate conditions for a potential major spurt in the number of telephone calls made by prisoners, inter alia by increasing the number of pay phones.

**The list of foodstuffs prisoners can buy should be reviewed (paragraph 89).**

Bearing in mind the CPT recommendations, in 2007 a uniform minimum range of goods will be set that prisoners will be able to buy at all prison establishments. Seasonal fresh fruit and vegetables are not part of the range offered to prisoners. Inmates are not restricted to the purchase of canned meat and chocolate.

**In both prisons visited, the disciplinary cells were of an appropriate size, with adequate ventilation and sufficient natural light, and were equipped with a fixed metal bed, some storage space, a washbasin and a lavatory. However, the cells in Liberec and Ostrava Prisons were not appropriate for placing prisoners at risk of self-harm, as there were too many sharp edges within the cell and the exposed bars over the window area were a potential suicide hazard. Further, in Liberec a single comprehensive register should be introduced for recording all placements in the disciplinary cells and care should be taken to ensure that such a register is accurately maintained. The CPT recommends that the necessary steps be taken to address these points (paragraph 91).**

Confinement cells are not the same as cells for the placement of a prisoner unable to control his aggression. These cells tend to be part of the emergency unit and prisoners are placed in them until their aggression subsides (these cells also tend to be padded).

Records on the operation (use) of cells used for disciplinary purposes are integrated into the newly prepared prison information system, which will be used in full in prison establishments in 2007.

**As to the use of the strapped bed for agitated inmates in Ostrava and Mírov Prisons, the CPT considers when a prisoner is immobilised, he should always be subject to continuous, direct personal supervision by a member of staff. Further, the register should record all the relevant facts relating to the immobilisation in detail. The CPT recommends that the necessary steps be taken in the light of these remarks (paragraph 92).**

In cases where straps are used at Ostrava Remand Prison or Mírov Prison, the strapped prisoner is always under the constant, direct supervision of the prison staff. Records are drawn up of the use of straps in all cases. It is quite clear from the records when and under what conditions the straps have been used.

#### CPT request for information

**The current use of the padded crisis cell (No 356) at Ostrava Prison (paragraph 92).**

Cell No 356 is an emergency unit cell used to defuse exceptional states of crisis involving prisoners who, in a state of aggression or severe unrest, threaten themselves or their surroundings. This cell can be used to house a prisoner for the strictly necessary period. The cell is designed and equipped to prevent the prisoner from self-harming.

### **Part D: Psychiatric establishments**

#### **Chapter 1: Preliminary remarks**

#### CPT request for information

**Information concerning the proposed special clinic for patients requiring protective treatment (paragraph 94).**

The construction of wards for protective medical treatment is being prepared at the psychiatric hospital in Brno. This project involves the construction of a modern complex to provide differentiated care and motivation for patients (psychiatric, sexology, alcohol and drug therapy). This complex will conform to hygiene and treatment criteria, with consideration for similar facilities in EU countries. Forensic psychiatric clinics do not exist in the Czech Republic.

The provision of protective medical treatment at healthcare facilities during a prison sentence will be regulated by the Protective Medical Treatment Act. This act is being prepared by the Ministry of Health in cooperation with the Ministry of Justice. The deadline for the submission of the bill was set as 31 March 2007 by the Government.

According to legislation in force, offenders who commit a crime (or an act that would otherwise be qualified as a crime, in the case of an insane perpetrator) in a state caused by a mental disorder or under the influence of an addictive substance or in connection with drug abuse

may, if allowing them to remain in the community would be dangerous, be subject to protective treatment as a type of safeguard. Protective medical treatment may be ordered separately or alongside a punishment. It may be imposed in two forms – as in-patient protective medical treatment or out-patient protective medical treatment. It may be provided to a sentenced prisoner in prison, if there are suitable conditions in the prison, or in a psychiatric hospital.

## **Chapter 2: Ill-treatment**

**Staff at Dobřany Psychiatric Hospital should be reminded that all forms of ill-treatment of patients are unacceptable and will be dealt with severely (paragraph 95).**

The hospital staff were informed that any cases of ill-treatment and unacceptable conduct towards patients would be the subject of severe sanctions and could result in their dismissal. The hospital staff are also given continuous training on how to cope with an agitated and aggressive patient. The final training session took place in ward 13 on 6 October 2006. On 29 November 2006, the hospital hosted an interdisciplinary conference on the theme of ‘Nursing Care in a Ward with Acutely Agitated Patients’. It was attended by 147 employees of the hospital. On 21 December 2006, the hospital held a seminar on how to cope with aggressive patients; this seminar was attended by 29 employees.

Before being recruited as employees, the hospital’s auxiliary staff are required to take psychological tests.

## **Chapter 3: Living conditions**

### CPT recommendation

**The Czech authorities should take the necessary steps to ensure that, as a matter of principle, all patients at Dobřany Psychiatric Hospital whose medical condition so permits are offered at least one hour of outdoor exercise every day; in particular, restriction of the right to outdoor exercise should never be used as a punishment (paragraph 98).**

Patients from locked wards at Dobřany Psychiatric Hospital take outdoor exercise in the company of nursing staff. Only at times of widespread illness among staff is patients’ outdoor exercise irregular.

**Patients who are not bedridden should be encouraged to wear clothes other than pyjamas during the day (paragraph 100).**

Patients at Brno Psychiatric Hospital are motivated and encouraged not to wear pyjamas during the day and to wear civilian clothing, unless medical reasons dictate otherwise. However, the hospital’s employees have no way of forcing patients to comply; they are free to remain in their pyjamas throughout the day. All psychiatric hospitals will be notified of the fact that patients should be motivated to wear normal clothing during the day.

CPT comments

**Additional attention should be given to improving the decoration of patients' dormitories and bedrooms at Dobřany Psychiatric Hospital (paragraph 96).**

Patients' rooms at Dobřany Psychiatric Hospital are gradually being fitted out with new, modern furniture. Patients themselves decorate their rooms with the products of their occupational therapy.

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CPT request for information

**The CPT's delegation was informed about the plan for the further development of Dobřany Psychiatric Hospital, including the renovation of certain wards (such as ward 13B) and the building of new additional accommodation. These measures, when combined with the plan to further reduce the number of beds in the hospital, would lead to increased living space for patients and thus to an improvement in their quality of life. The CPT welcomes the plan for the renovation of Dobřany Psychiatric Hospital and would like to be kept informed of its implementation. Further, the CPT would like to be informed about the measures taken to further reduce the capacity of Dobřany Psychiatric Hospital (paragraph 97).**

During 2006, Dobřany Psychiatric Hospital reduced its capacity by 60 beds; another 30 beds are technically unavailable until the reconstruction and extension of Ward 29 is completed.

On completion of the reconstruction work, two high-quality 25-bed stations will be created. The planned modifications will result in a gradual reduction in the number of beds and the remaining capacity and facilities will be of a better quality.

**More details about the expansion project at Brno Psychiatric Hospital and, in particular, whether the project will contribute to remedying the lack of living space observed in some of the wards (paragraph 99).**

As regards the information concerning the overcrowding of the wards, such as the intensive care unit, this is not an everyday occurrence. The workload of the wards logically depends on how many acute patients there are at a particular point in time. At the time the CPT delegation visited Brno Psychiatric Hospital, a large number of patients had been admitted; however, on other days the situation is completely different and wards have free capacity.

The assessment of the extent to which rooms are decorated and hospitable is a purely subjective matter for which no objective criteria exist. Most patients and staff believe the

decoration is adequate and the setting is pleasant. Despite this evaluation, measures have been taken to liven up selected wards. For practical reasons, it is not possible to install any decoration in the intensive care unit which is removable and which could be used as a weapon.

The construction of modern wards for protective medical treatment should be ready by 31 January 2008. The spatial capacity, and hence the living space of patients, will be expanded considerably. The structural and technical arrangement of the units has been determined by the general age of the buildings in which they are located.

#### **Chapter 4: Health care**

##### CPT request for information

**The comments of the Czech authorities, in the light of the remarks made in paragraph 102 as regards the re-insertion of patients in society (paragraph 102).**

Brno Psychiatric Hospital does not have any major problems placing patients in social care facilities at the end of their treatment. The hospital operates an after-care out-patient facility and works very closely with the Práh and Lotos civic associations, of which it is the co-founder and which offer a wide range of re-socialization services, including sheltered housing. These facilities provide opportunities for employment in sheltered workplaces for the mentally ill. Contact is established between these facilities and patients during their treatment at the hospital. The civic associations' activities focus on the easier re-integration of patients into normal life and society.

Dobřany Psychiatric Hospital has entered into cooperation with the Ledovec (Iceberg) civic association, which provides care for patients with mental disabilities after they are discharged from hospital.

#### **Chapter 5: Treatment of sex offenders**

##### CPT recommendation

**The Czech authorities should ensure that:**

- **relevant information on patients is made available to all members of the treatment team, in particular nursing staff, and that there are regular meetings of the team;**
- **ongoing training and supervision is provided for the psychologist and the rest of the team attached to ward 40 of Brno Psychiatric Hospital;**
- **a treatment protocol for sex offenders is developed at Brno Psychiatric Hospital and at Dobřany Psychiatric Hospital (paragraph 106).**

The Czech Republic currently has no standardized methods of patient assessment or standardized psychodiagnostic methods to diagnose sexual deviations.

A major role in the training of expert healthcare personnel is played by the supervision of the whole treatment team. At regular weekly meetings, the psychologist informs other team members

about each of the patients. These meetings are attended by a supervisory consultant sexologist from the sexology ward of St Anna's Teaching Hospital in Brno. Further treatment procedure is agreed at these meetings. Straight after the CPT visit, the psychologist was approached about the sharing of his documentation and he was reminded of his duties; everything has now been remedied.

These meetings are also attended by the chief physician of the ward, who is a psychiatrist with the maximum attainable specialization in the field; he is responsible for the running of the ward. Sexology protective medical treatment is managed by a doctor holding attestations in psychiatry and sexology, under the supervision of a consultant doctor (the head of the sexology ward at the teaching hospital).

Records of treatment are kept both at Brno Psychiatric Hospital and the sexology ward of the teaching hospital. Maintaining duplicate records of patients' time at the hospital has proved beneficial in the subsequent outpatient protective treatment. At the end of inpatient treatment, the court usually transfers the patient to outpatient care; in this case, treatment becomes the responsibility of the regional sexology ward of the teaching hospital.

Besides the supervision introduced in ward 40, staff skills development is always desirable. The Sexology Medical Society is preparing special training for psychologists in difficult diagnoses and the treatment of sexology patients.

Surgical castration is carried out in accordance with Act No 20/1966 on care for human health, as amended. Regarding the CPT Report's discussion on the experts committee, this committee does not comprise members of the hospital's medical ethics committee; its composition is precisely laid down under a regulation.

Concerning the dual functions of doctors who contribute to assessments of the possibility of castration and the persons responsible for carrying out castration, no comment is possible because the CPT Report does not provide the names of specific patients. The CPT Report notes that delegation members 'were under the impression' ('it would appear'). However, poor communication in the approach applied by Brno Psychiatric Hospital was not discovered.

**The Czech authorities should elaborate a comprehensive and detailed procedure (including proper safeguards) with respect to libidinal suppressant treatment, which should include provisions on:**

- **criteria for inclusion and exclusion for such treatment;**
- **information to be given to the patient;**
- **medical examinations before and after treatment;**
- **access to outside consultation, including an independent second opinion (paragraph 109).**

The Czech School of Medical Sexology is renowned the world over, especially because of its results in protective sexology treatment. The system of care for patients with sexual deviations is

comprehensive in the Czech Republic and includes helping patients to build up their own insight into the problem and ensuring safe forms of subsequent sex life. Libidinal suppressant treatment is not a predominant factor in this therapy. Czech experts do not view the elaboration of the required procedure for libidinal suppressant treatment as essential.

The content of information a patient must receive before an operation is regulated on a general level by Decree No 385/2006 on healthcare documentation, which enters into effect on 1 April 2007.

#### CPT comments

**The CPT has serious reservations concerning the specific medical intervention of surgical castration as applied to certain sexual offenders; the Committee has grave doubts as to whether such an intervention should be applied in the context of persons deprived of their liberty (paragraph 103).**

Castration is currently carried out in accordance with Act No 20/1966 Coll., on care for human health, as amended. It is expected that in 2007 the Health Care Act will be re-discussed; this piece of legislation will regulate castration in detail.

#### CPT request for information

**The division of tasks and responsibilities between hospital staff and outside clinicians with regard to the treatment of sex offenders on ward 40 of Brno Psychiatric Hospital (paragraph 106).**

In the Czech Republic there are currently no standardized methods of patient assessment. It is not entirely clear what patient assessment methods the CPT delegation has in mind. Nor are there any standardized psychodiagnostic methods for the diagnosis of sexual deviations in the Czech Republic.

A major role in the training of expert healthcare personnel is played by the supervision of the whole treatment team. At regular weekly meetings, the psychologist informs other team members about each of the patients. (Straight after the CPT visit, the psychologist was approached about the sharing of his documentation and he was reminded of his duties; everything has now been remedied.) These meetings are attended by a supervisory consultant sexologist from the sexology ward of St Anna's Teaching Hospital in Brno. Further treatment procedure is agreed at these meetings.

These meetings are also attended by the chief physician of the ward, who is a psychiatrist with the maximum attainable specialization in the field; he is responsible for the running of the ward. Sexology protective medical treatment is managed by a doctor holding attestations in psychiatry and sexology, under the supervision of a consultant doctor (the head of the sexology ward at the teaching hospital).

Records of treatment are kept both at Brno Psychiatric Hospital and the sexology ward of the teaching hospital. Maintaining duplicate records of patients' time at the hospital has proved beneficial in the subsequent outpatient protective treatment. At the end of inpatient treatment, the

court usually transfers the patient to outpatient care; in this case, treatment becomes the responsibility of the regional sexology ward of the teaching hospital.

Besides the supervision introduced in ward 40, staff skills development is always desirable. The Sexology Medical Society is preparing special training for psychologists in difficult diagnoses and the treatment of sexology patients.

Surgical castration is carried out in accordance with Act No 20/1966 Coll., on care for human health, as amended. The experts committee mentioned in the CPT Report does not comprise members of the hospital's medical ethics committee; its composition is precisely laid down under a regulation. Concerning the alleged dual functions of doctors who contribute to assessments of the possibility of castration and the persons responsible for carrying out castration, no comment is possible because the CPT does not provide the names of specific patients; the delegations report itself states that delegation members were 'under the impression' ('it would appear'). However, poor communication in the approach applied by Brno Psychiatric Hospital was not discovered.

**In the course of the visit, it was not possible to provide the delegation with statistics relating to sexual offenders, who had been either chemically or surgically castrated. In particular statistics on their rate of re-conviction (for a sexual offence which involves violence against persons) and the exact number of these two types of medical intervention carried out each year appeared to be unavailable. Therefore, the CPT would like to receive information on:**

- **the annual number of men under “protective treatment” who have undergone or are undergoing libidinal suppressant treatment in the course of the past five years in the Czech Republic;**
- **the annual number of surgical castrations carried out on men subjected to “protective treatment” during the past five years in the Czech Republic;**
- **statistics concerning re-convictions, for a sexual offence involving violence against persons, of men who have been surgically castrated, as well as of patients who have undergone or are undergoing libidinal suppressant treatment (paragraph 103).**

The Ministry of Health asked all psychiatric hospitals providing protective treatment to send it the requested information. This information can be found in Annex No 5.

Under the law, there is no obligation to keep records of patients who have been ordered to undergo protective sexology outpatient treatment who use testosterone blockers. Therefore there is no statistical treatment of such records. The same applies to the records of patients who voluntarily undergo and are approved by the relevant experts committee to undergo testicular pulpectomy as part of any protective treatment that is ordered. Healthcare facilities do not have information available about the number of patients who have been reconvicted of sexual offences. Neither the police nor the courts provide them with such information.

Annual statistics of men under 'protective treatment' who have undergone or are undergoing libidinal suppressant treatment in the course of the past five years in the Czech Republic are not

kept by the Ministry of Justice. The crime statistics maintained by the Ministry of Justice only offer information on protective treatment (outpatient or inpatient), which for the most part encompasses the numbers of persons undergoing protective sexology treatment: 2001 – 176 persons, 2002 – 24 persons, 2003 – 210 persons, 2004 – 182 persons and 2005 – 223 persons.

## **Chapter 6: Staff**

### CPT recommendation

**The Czech authorities should provide more thorough initial and in-service training for assistant nurses (paragraph 112).**

The training of healthcare staff is governed by Act No 96/2004 Coll., on conditions for the acquisition and recognition of competence to pursue non-medical healthcare professions and to carry out activities connected with the provision of health care and amending certain related laws (the Non-Medical Healthcare Professions Act), as amended.

The term ‘assistant healthcare staff’ is no longer used. It covers healthcare staff competent to pursue healthcare professions under expert supervision or direct guidance. These members of staff include medical orderlies, who acquire professional competence by attending an accredited qualification course of 150 hours. In theory teaching, there are three lessons on the ethics of healthcare staff, patient rights and professional codes of ethics.

Professional accredited seminars are held for staff at healthcare facilities; they also attend seminars outside their own workplace. A great emphasis is placed on the lifelong learning system.

The directors of all psychiatric hospital were notified of the need to ensure the continuous training of their healthcare staff.

## **Chapter 7: Restraint of agitated and/or violent patients**

### CPT recommendation

**The CPT recommends that the Czech authorities further reduce the use of net-beds at Dobřany Psychiatric Hospital by developing alternatives to their use. Further, the Committee recommends that patients placed in net-beds are directly and continuously monitored by a member of staff (paragraph 114).**

Cage-beds are not used at healthcare facilities. Net beds are used at healthcare facilities to protect agitated and disoriented patients, especially at geronto-psychiatric stations. Highly disoriented demented patients are placed in net beds at night. Placing them in net beds is safer and more humane; no means of restraint need be used. There are no complications caused by patients falling out of bed, in particular fractures of the neck of the femur, which can prove fatal.

All means of restraint may be used only in extreme cases, for the strictly necessary period, and only on serious medical – not educative or corrective – grounds. The application of a means of restraint must be recorded and justified in healthcare documentation. The use of all means of

restraint will be reduced if attempts to increase the number of staff are successful and suitable space can be found in inpatient psychiatric facilities. The absolute discontinuance of means of restraint is impossible because some psychotic states connected with agitation, aggression, suicidal tendencies, and unpredictable conduct under the influence of delusions and hallucinations can represent a threat not only to other patients and staff, but also to the patient himself.

Psychiatric hospitals will be informed of the need to observe the methodological guideline 'Use of means of restraint for patients in psychiatric hospitals in the Czech Republic', which was published in the Journal of the Ministry of Health No 1/2005; they will be recommended to create a special 'register' documenting the use of means of restraint.

**Measures should be taken to prevent mattresses sliding towards the toilets in the seclusion rooms in ward 13B of Dobřany Psychiatric Hospital (paragraph 115).**

Since the CPT's visit to Dobřany Psychiatric Hospital, further seclusion rooms have been padded in ward 13. All three seclusion rooms in ward 13B have rough anti-skid paving. The same applies to the seclusion room in ward 14, which has also been reconstructed and padded. Therefore the mattresses can no longer slide.

**The two beds with vertical metal bars on each side should be removed from ward 21A of Dobřany Psychiatric Hospital (paragraph 116).**

In ward 21A, the two ordinary children's cots (for preschool children) will be replaced with new beds in January 2007.

**A specific register on the use of means of physical restraint at Dobřany Psychiatric Hospital should be introduced (paragraph 117).**

The director of the psychiatric hospital commissioned the HIPPO computer company to create a special program to keep records of the use of restraint. These computer records are now in full operation. All wards at Dobřany Psychiatric Hospital are connected to the computer network and equipped with computers.

**At Brno Psychiatric Hospital:**

- **the register on restraints should clearly record the duration of the measure, as well as all other events that occur during the period of restraint;**
- **the protocol on restraints should be amended in order to include a paragraph on supervision of an immobilised patient;**
- **all patients who are immobilised should be always subject to continuous, direct personal supervision by a member of staff (paragraph 118).**

Brno Psychiatric Hospital has no cage-beds and no net-beds in its wards. Employees were reminded to pay greater attention to the keeping of records on restraint and to draw up records in accordance with CPT requirements, with a special emphasis on records concerning the duration and use of means of restraint, including direct personal supervision of immobilized patients.

Brno Psychiatric Hospital is currently trying to create a staffing situation which can comply with the requirement of direct personal supervision of an immobilized patient by a member of staff.

Further to a letter of the Minister for Health dated 18 October 2006, containing information about the findings made during the CPT visit and a warning of the need to take remedial action, the management at all psychiatric hospitals is preparing a new module of the HIPPO clinical information system to keep records of restraint, including regular checks. Personal injury sustained by staff and patients will be recorded by the module for records of extraordinary events. The estimated definitive launch of both modules is March 2007.

## **Chapter 8: Safeguards**

### CPT recommendation

**Measures should be taken to ensure that all patients may be represented throughout the decision-making process on the lawfulness of admission to a hospital (paragraph 121).**

At present, the Ministry of Justice has no knowledge of the fact that persons who are admitted to hospital against their will are not represented by a lawyer or other selected representative. As has been discovered previously, the courts proceed in such a manner that after they receive notification from a hospital that a patient has been admitted against his will and does not have a representative or guardian appointed in other proceedings, they decide on the lawfulness of the patient's admission to hospital and on the appointment of a guardian, such being within seven days in accordance with Section 191b(4) of Act No 99/1963 Coll., the Code of Civil Procedure, as amended (hereinafter referred to as 'the Code of Civil Procedure' ) If the court decides that admission to hospital is lawful, it shall request an expert opinion on the state of the patient so that, in accordance with Section 191d(4) of the Code of Civil Procedure, within three months it can issue a ruling on the further holding of the patient in an institution and for how long, or whether further holding in the institution is necessary. Representation by a guardian appointed on admission to the hospital lasts until the proceedings end and the patient is discharged.

In practice, patients of a psychiatric hospital select the legal counsel of their own choice in accordance with Section 191b(2) of the Code of Civil Procedure. If they do not do so, the court assigns a lawyer (ex officio). The guardian in proceedings may inter alia be the representative of a nongovernmental organization. The psychiatric hospital should notify the patient in advance – orally and in writing – of the circumstances (rights) above.

The Ministry of Health is considering whether to make this notification part of an informative brochure for patients in the future.

In its supervisory activities, the Ministry of Justice will monitor the approach of the courts in this field and will focus its screening operations on this area in 2007 and, if necessary, in the future.

**Steps should be taken to provide an automatic review, at regular intervals, of placement measures ordering protective treatment in all psychiatric establishments in the Czech Republic. This review procedure should offer guarantees of independence and impartiality, as well as objective medical expertise (paragraph 123).**

In Czech criminal law, protective medical treatment is not a punishment but a protective measure. The purpose of protective measures is to ensure the protection not only of the accused, but also of society, and is not intended as a sanction. The duration of a protective measure cannot be restricted in advance by a set time limit or by a ‘tariff’ as in the case of punishments; it lasts for as long as required.

Czech national law does not currently regulate periodic reviews of the justification for the further duration of protective medical treatment. However, reviews of the justification for the further duration of protective medical treatment are possible based on a proposal from the accused to be discharged or have the protective medical treatment terminated; this proposal from the accused is not tied by any restrictive time limits.

As part of the new Criminal Code, the Ministry of Justice is preparing comprehensive new regulation of protective medical treatment, the duration of which will be limited to two years. If protective medical treatment is not terminated before this time, a court will have to decide whether to extend it (for a maximum of another two years). Otherwise the patient will have to be discharged from protective medical treatment.

Section 72(5) of the Criminal Code does not indicate that protective medical treatment should be set for a fixed period. The treatment period hinges on a medical assessment. If the doctor discovers that further treatment does not require inpatient procedure, he presents the court with a proposal for a decision to change to outpatient treatment or to terminate the treatment. Admittedly, there is a lack of legislation stipulating a time limit for treatment facilities in which they are to provide the court with a report on the state of the patient and the expediency of his further treatment. The need for legislative modifications must be considered after an evaluation of the current situation.

Under Section 351(4) of Act No 141/1961 Coll., the Code of Criminal Procedure (Penal Code), as amended (hereinafter referred to as ‘the Code of Criminal Procedure’), the ‘presiding judge shall request the healthcare facility to notify the court which ordered the protective medical treatment when this protective medical treatment was commenced. At the same time, he shall request that the healthcare facility submit a report without undue delay to the district court in whose jurisdiction the protective medical treatment is provided if the reasons for the continuation of the protective medical treatment cease to exist.’

The district court in whose jurisdiction the protective medical treatment is provided, decides, in a public hearing, whether to discharge a patient from protective treatment or whether to

terminate protective treatment based on a petition from the public prosecutor, the accused, or the healthcare facility, or without such a petition. A complaint with suspensory effect may be lodged against this ruling (Section 353 of the Code of Criminal Procedure). The court in whose jurisdiction the healthcare facility providing protective medical treatment can be found decides, in a public hearing, on a change to the method of protective medical treatment; a complaint with suspensory effect may be lodged against this ruling (Section 351a of the Code of Criminal Procedure).

The employees of healthcare facilities shall proceed in accordance with the opinion of the Ministry of Health, in conformity with the above-mentioned legislation in force.

**An introductory leaflet/brochure should be issued at Dobřany Psychiatric Hospital to each newly-arrived patient (and his/her legal representative), supplemented, if necessary, by an appropriate oral explanation (paragraph 124).**

The directors of all psychiatric hospitals have been informed about the CPT recommendations that patients should receive an informative leaflet.

**In both Brno and Dobřany psychiatric hospitals, patients should be informed in the introductory leaflet/brochure issued upon admission of their right to lodge complaints as well as of how to exercise this right in practice (paragraph 126).**

At Brno Psychiatric Hospital, patients are informed of the possibilities and method of lodging and handling a complaint when they arrive at the ward. This information is contained in the brochure 'Information for Patients', which each patient receives on admission, and in the hospital's 'Internal Rules'. To ensure that patients are better informed and to address the problem comprehensively, the management decided to expand the lodging of complaints directly to the hospital's legal department. Patients are informed of this under the above-mentioned internal regulations.

The directors of all psychiatric hospitals have been informed of the CPT recommendation that patients should receive information on how to lodge complaints.

**A more active investigatory role should be undertaken by the legal department of Brno Psychiatric Hospital in relation to complaints, which should include, as a matter of course, a hearing involving the patient and his/her guardian or legal representative (paragraph 127).**

All psychiatric hospitals were notified immediately that patients must always be heard in discussions of complaints. For more information on the procedural aspect of complaints in the Health Care Act (see above the Czech Government Response to paragraph 103 of the CPT Report).

**Steps should be taken - including, if necessary, by amending the relevant legislation - to distinguish clearly between the procedure for involuntary placement in a psychiatric institution and the procedure for involuntary psychiatric treatment, in the light of the remarks made in paragraph 129 (paragraph 129).**

Under Act No 20/1966 Coll., on care for human health, as amended, investigations and treatments are provided with the patient's consent or in cases when this consent can be expected. If a patient refuses the necessary care despite all due explanations, the doctor requires a written statement in this respect. If an investigation or treatment is required urgently to save the life or health of a child or a person deprived of legal capacity, and if the parents or guardian refuse to grant consent, the doctor is authorized to decide to carry out the relevant intervention.

It is possible, without the patient's consent, to carry out medical examination and treatment as well as hospitalize admit the patient where the nature of the illness so requires, on condition that:

- a) the illness is listed in a separate regulation allowing for a compulsory treatment,
- b) the person obviously suffers from a mental illness or intoxication and represents a threat to himself or his surroundings, or
- c) it is not possible, in view of the patient's condition, to ask for his consent and immediate treatment is necessary to save his life or health,
- d) the patient is an individual with an infection caused by the human immunodeficiency virus, individual secreting disease-producing bacteria of abdominal typhus and paratyphus, or an individual with type B or C chronic hepatitis, if a doctor has informed the patient or his legal representatives of this fact.

#### CPT request for information

**The comments of the Czech authorities on the effectiveness of the legal safeguards in place as regards the placement process, in the light of the remarks made in paragraph 122 (paragraph 122).**

The courts are currently moving away from the previous practice, where they appointed trainee judges or the employees of institutions as the guardians of persons placed in an institution. This shift occurred in accordance with a finding of the Constitutional Court.<sup>5</sup> Although this finding concerns the appointment of a guardian for persons of unknown address and according to the Constitutional Court it is unacceptable for the guardian to be a trainee judge or other employee because of the risk of a conflict of interest, it is necessary to draw on the basis that the same risk of conflict exists when a guardian is appointed for a person placed in an institution. Therefore, in practise the courts respect this finding in cases involving persons placed in institutions in the decision-making process under Section 191b(4) of the Code of Civil Procedure.

**Copies of legal provisions as regards the complaints procedure in psychiatric hospitals, and in particular Regulation 500/2004 (paragraph 125).**

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<sup>5</sup> No II ÚS 629/04 of 31 March 2005

The lodging of complaints against the inappropriate conduct of officials or against the procedure of an administrative authority is regulated in Section 175 of Act No 500/2004 Coll., the Code of Administrative Procedure, as amended (hereinafter referred to as 'Rules of Administrative Procedure'). The relevant legal provisions can be found in Annex No 6.

Besides the possibility of filing a complaint, the law also provides for the independent supervision of a delegated public prosecutor in accordance with Section 4(1)(b) of Act No 283/1993 Coll, on Public Prosecutors, as amended (hereinafter referred to as 'the Public Prosecutors Act'), who supervises the observance of legal regulations in places of remand, imprisonment, protective treatment, protective or institutional care, and other places where personal freedom is restricted by legal authorization. The more detailed General Guideline of the Attorney General No 4/2002, as amended by Guideline No 10/2003, regulates the supervision by public prosecutors of the observance of legal regulations in cases of institutional or protective care at educational establishments. Where this supervision applies to places where protective medical treatment is provided, no general guideline of the attorney general exists because Section 4 of the Public Prosecutors Act assumes the existence of special legislation, the Protective Treatment Act, the general principle of which is being prepared by the Ministry of Health in cooperation with the Ministry of Justice.

**Information about the existence of plans to draft legislation enunciating the legal position of involuntary patients (paragraph 128).**

The status of involuntary patients in psychiatric establishments will be regulated by the Inpatient Protective Treatment Act, involving treatment ordered by a court within the scope of criminal proceedings. This law regulates protective medical treatment in healthcare facilities and in cases of imprisonment. This bill is being prepared by the Ministry of Health in cooperation with the Ministry of Justice. The deadline for submission was set as 31 March 2007 by the Government.

The Rules of Civil Procedure contain detailed regulation of proceedings concerning the admission or holding of a patient in a healthcare institution (Sections 191a – 191 g). This is a return to the regulation of detention proceedings, further to Article 8(6) of the Charter of Fundamental Rights and Freedoms, which is part of the Czech Republic's constitutional architecture. An institute which provides health care is obliged to notify the relevant court of the admission of any person placed in the institute without his consent. The law stipulates all other conditions of detention proceedings. The previous version of the law limited the right to seek a new examination from a healthcare facility solely to persons with full legal capacity. Act No 205/2005 Coll., amending the Code of Civil Procedure in September 2005, redefined the group of persons authorized to lodge an application for the discharge of a detainee; the detained person may lodge an application irrespective of the regulation of his legal capacity; an application may also be lodged by his representative, guardian or close relative.

**The comments of the Czech authorities as regards the information received that patients under protective treatment who systematically refuse to take their medication may be charged with obstruction before a criminal court (paragraph 130).**

If a patient, by his attitude and behaviour, actively and systematically obstructs protective treatment, by law the healthcare facility is obliged to notify the court of this. The court has the discretion to decide whether to prepare an initiative for the police to commence the criminal prosecution of the patient for the offence of obstructing the execution of an official decision.

## **Part E: Social care homes**

### **Chapter 1: Preliminary remarks**

#### CPT recommendation

**A detailed system of recording all incidents of violence and theft should be introduced in Brandýs nad Labem Social Care Home, in the light of the remarks made in paragraph 134 (paragraph 134).**

Based on the CPT recommendations, in July 2006 a detailed system of records covering all incidents of violence, theft and damage to the property of clients and the home, was introduced at Brandýs nad Labem Social Care Home; this system is subject to ongoing checks by the director, the head nurse and a social worker. The system is based on the registration of incidents by social care workers and healthcare personal separately and in more detail in 'logs'. Measures are set based on these entries. Cases of deliberate damage to property are also recorded by a social worker who, by agreement with the client and her guardian, ensures that damages are paid. This system of records has proved effective. Thorough records culminate in generally better work with clients in the handling of these incidents. Observance of the set measures has resulted in a drop in incidents of violence and theft. Sound cooperation in addressing incidents was also established with guardians.

### **Chapter 3: Staff and treatment**

#### CPT recommendation

**A physiotherapist should be recruited at Střelice Social Care Home and the number of hours that the psychologist is present should be increased (paragraph 136).**

Clients of an age requiring their compulsory full-time schooling are placed in the care of a psychologist from the Special Pedagogy Centre. There are currently no young clients at the Střelice Social Care Home. All clients are in the care of a specialist psychiatrist who visits the home on a regular monthly basis.

Based on the CPT recommendation, the region, as part of the draft budget, will be seeking financial resources to ensure at least the provision of a part-time psychotherapist and an expansion in the scope of care that may be granted by the psychologist.

**The Czech authorities should do their utmost to ensure that outdoor exercise be made possible for immobilised residents at Střelice Social Care Home (paragraph 137).**

All immobile clients take part in projects organized by the home. Client convalescence stays outside the home lasting for more than 24 hours and client participation in sports games and races are subject to a doctor's approval. At present, there are 27 completely immobile, mentally handicapped clients (clients with partial or temporary immobility are not included) at the home. In 2006, 103 clients took place in 20 different activities outside the home.<sup>6</sup> Activities have not yet been divided by client mobility.

Of the 27 completely immobile clients, 12 clients regularly visit their families. An expansion in the possibilities of applying a wider range of activities is limited by the state of health of the clients and by the possibilities of expanding personal assistance services required to accompany completely immobile clients. Based on the range and possibilities in the next programming period, efforts will be made to obtain resources from the European Social Fund to support activities for immobile clients.

**The Czech authorities to increase the number of staff at Brandýs nad Labem Social Care Home specialised in rehabilitation and to ensure more frequent visits by a psychiatrist (paragraph 138).**

In response to the CPT recommendation, cooperation with the Praha – východ and Nymburk Employment Offices has resulted in an increase in the number of personal assistants by three and the number of social care workers by two. Further, a physiotherapist has been recruited (who also acts as methodologist for the work of the social care workers with clients in this field), along with an art therapist and special needs teacher.

A psychiatrist visits the facility once every 14 days and whenever necessary; the facility has started drawing on outpatient care supplied by specialists from Beřkovice Psychiatric Hospital and Kosmonosy Psychiatric Hospital.

Under Section 88 of the Act No 108/2006 Coll., on social services, as amended (hereinafter referred to as 'Social Services Act'), a social service provider is obliged to cultivate conditions in the provision of social services that enable the persons to whom social services are provided to exercise their human and civil rights, and that prevent conflicts of these persons' interests with the interests of the social service provider. If the conditions for the provision of the service do not correspond to the given service and needs of users, the provider may lose its authorization to provide social services.

**As to medication, the CPT's delegation was informed about a general authorisation given to nurses at the Brandýs nad Labem Social Care Home to administer certain sedative drugs, including injections, to agitated residents without consulting a doctor. The CPT disagrees with such a practice and is of the opinion that it should be stopped immediately. "Medication to be given as needed" should be prescribed on an individual basis. The CPT recommends that the necessary steps be taken in the light of these remarks (paragraph 139).**

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<sup>6</sup> Client activities in 2005 are referred to in the Annual Report on the home's website at <http://web.iol.cz/uspstrelce.iol.cz>.

This practice has been ceased at the Brandýs nad Labem Social Care Home. Medication is administered in accordance with legislation in force, with Social Services Act, which entered into effect on 1 January 2007, and the related methodology.

#### CPT comments

**The Social Care Home in Brandýs nad Labem possessed several rooms for workshops, where residents could engage in various activities including pottery, knitting and gardening. However, most of the residents seemed to spend their days doing nothing. The delegation considers that more could be done to offer the possibility of purposeful activities to a higher number of residents. Trained educators should take a more proactive role in stimulating the residents at Brandýs nad Labem Social Care Home (paragraph 139).**

Further to the CPT's comments, the home was adopted the following measures:

- employee motivation was increased in the form of moral and material support;
- volunteers were recruited to promote meaningful work with clients;
- the facilities arranged external activities (hippotherapy, occupational therapy, art therapy and art courses);
- new employees were hired (physiotherapist, art therapist, special needs teacher);
- overall, the system of shifts is changing along with the work of the social care workers, who will work with a smaller set of clients; an emphasis is placed on work with immobile clients;
- cooperation has been established with the civic association Zahrada (Garden) to provide sheltered housing and a day centre for the disabled in Mělník;
- the facility involves in care for the environment of the home;
- the facility cooperates with the civic association 'Nezávislý život' (Independent Life), which helps find jobs for clients;
- the new position of human resources officer was created; beside the standard workload, this officer should also try to find further work for clients on the labour market and organize vocational training for employees;
- cooperation has been established with the civic association 'Pojďte dál' (Come In), which employed one client at a day café;
- cooperation is being fostered with the studio 'Za 5 minut 5' (Five Minutes to Five), which is used as a sheltered workshop for clients.

#### **Chapter 4: Restraint of agitated and/or violent residents**

##### CPT recommendation

**Efforts should be made to find other means of restraint than net-beds at Střelice Social Care Home (paragraph 140).**

Further to the CPT's recommendation, the home has reduced the number of net beds. At the time the CPT visited, the facility used nine net beds; in October 2006 there were only three net beds. Net beds were removed from use by means of a change in the organization of workflow and an increase in the number of staff working the night shift.

With the effect of the Social Services Act as of 1 January 2007, the use of net beds in social service facilities is prohibited. The social care home is obliged to ensure that the use of means of restraint complies with Section 89 of the Social Services Act, which regulates the use of means of restraint. The fulfilment of this obligation will be the subject of an inspection of the quality of the service provided.

**A protocol should be drawn up on the use of segregation at Střelice Social Care Home (paragraph 141).**

If a seclusion room is used, a record is made of this in the client's healthcare documentation by the doctor who decided on segregation. An entry is also made in the Message Daybook at the healthcare unit in whose care the seclusion room falls.

Based on the CPT's recommendation, the management of Střelice Social Care Home will draw up an internal regulation regulating the existence of a protocol on the use of segregation.

**A protocol should be drawn up on the use of segregation and seclusion at Brandýs nad Labem Social Care Home. All incidents of segregation and seclusion should be recorded in a special register (paragraph 143).**

Based on the CPT recommendations, the home has gradually adopted measures culminating in the limited use of this type of restrictive measure and in the improved quality of work with clients. At present there is no need to use segregation or seclusion rooms. Members of staff are also being trained to improve communication with clients, which also helps prevent the use of restrictive measures.

All incidents when means of restraint are used are recorded in accordance with Section 89 of the Social Services Act. Incidences of the application of restrictive measures in the form of medication are also recorded in the clients' healthcare documentation.

CPT request for information

**Information as to when the cage-bed at Brandýs nad Labem Social Care Home is taken out of use (paragraph 142).**

Successful individual work with the client resulted in the removal of the cage bed on 8 August 2006. The client now has her own room, which is fitted out with various compensatory

devices and the client's personal belongings in accordance with expert recommendations. A personal assistant remains at the client's disposal.

Other measures resulting in an improved quality of life for the client include, in particular, intensive work with the family and regular consultations with experts in connection with the Středočesko Region's project to eradicate restrictive provisions. Another factor benefiting the sound results is the good work between the personal assistance and key workers.

At the facility the position of methodologist has been set up; the methodologist covers the use of restrictive measures and is actively involved in internal processes.

## **Chapter 5: Safeguards**

### CPT recommendation

**An introductory brochure for residents and guardians should be introduced at the Brandýs nad Labem Social Care Home, setting out the establishment's routine and residents' rights, and in both the Brandýs and Střelice Homes such brochures should include information about their right to lodge formal complaints, and the modalities for doing so (paragraph 145).**

Based on the CPT recommendations, the management of the home is preparing informative brochures containing important documents and information about the home. At present, documents are available from the director of the social care home. To increase clients' awareness about their rights, an informative leaflet is available at the facility which has been issued by the Human Rights League. Information about clients' right to lodge a formal complaint and the procedure for submitting such a complaint are available in a publicly accessible place (see below the Czech Government Response to paragraph 146 of the CPT Report).

**A clear procedure for the examination of complaints should be introduced at the Brandýs nad Labem Social Care Home and all complaints, both oral and written, should be registered (paragraph 146).**

Based on the CPT recommendation and in connection with the introduction of social service quality standards, the management of the home drew up Guideline No 2/2006 regulating the methods for the handling of complaints, This guideline entered into effect on 1 November 2006 and is available in a publicly accessible place along with the log for keeping records of these complaints. Complainants are kept personally informed of the progress in the handling of complaints, which is recorded in another book, in which the measures are laid down. The process of settling complaints also involves the clients, who also work in a group of 'self-defendants' within the scope of a project focusing on knowledge of client rights and the art of defending them.

A basic instrument significantly reducing the risk of human rights violations in connection with the provision of social services is the Standards of Social Service Quality. Standard No 7 regulates complaints concerning the quality or method of provision of social services.

The fulfilment of this standard requires that all social service providers have written rules for the lodging and settlement of complaints of persons regarding the quality or method used to provide social services, such being in a form understandable to these persons, and that they proceed in accordance with these rules. Providers inform persons of the possibility of lodging a complaint, what sort of complaint to lodge, whom to contact, who will handle the complaint and how, and of the possibility of appointing a representative for the lodging and handling of complaints; the provider's employees must also be demonstrably acquainted with these procedures. A provider shall keep records of complaints and handle them in writing in a reasonable time limit, and inform the complainants that if they are not satisfied with the handling of the complaint they can contact a superior body of the provider or an institution monitoring human rights with an initiative to investigate the procedure applied in the handling of the complaint.

## **Part F: Guardianship**

### CPT recommendation

**The Czech authorities should address the conflicting interest that arises when a social care home or an employee of such a home is appointed guardian over a resident within that same institution (paragraph 152);**

The judicial practice where the guardians the clients of treatment facilities are employees of these institutions is waning in the light of the Constitutional Court's findings (e.g. No II ÚS 629/04). This finding, although it concerns the appointment of a guardian for persons of unknown address, emphasizes that the person of the guardian must be very seriously considered in order to prevent a conflict of interests between the representative and the person being represented. Therefore, the Constitutional Court found cases where the guardian was a trainee judge or other judicial worker for proceedings before a give court to be incorrect. This risk of conflict can also occur in cases where the guardian of a person placed in a treatment institute is an employee of that institute. This conflict may come to the fore in cases where consent is given to place a patient in a net bed.

The problems of guardianship in the Czech Republic are regulated by the Code of Civil Procedure, which provide that if there is a conflict of interest between the legal representative and the represented person, the court shall appoint a guardian ad litem for the represented person.

A conflict of interest between the users of social services and the provider is also regulated in the Social Service Quality Standards, which are an annex to an implementing regulation of the Social Services Act. Under Standard No 2- 'Protection of the rights of persons'- *'every provider of social services shall have written rules to define situations in which there could be a conflict of the provider's interests with the users' interests, and rules to address such situations.'* Social service providers are required to proceed in accordance with these rules. The definition and handling of conflicts of interest between social service users and providers has been part of social

service quality inspection evaluations since 1 January 2007, entailing the risk that social service provision authorizations may be revoked.

Under Section 89 of the Social Services Act, placement in a cage or net bed is illegal as of 1 January 2007. Section 89 of the Social Services Act provides that ‘means of restraint may be used only in cases where the user’s health and life or the health and life of others is in danger; means of restraint may be only physical restraints or a room set up for a safe stay, or, if ordered by a doctor, drugs. In all cases it is necessary to apply the lightest action, and before each use of means of restraint it is necessary to have the consent of a doctor, whom the provider must summon in all such cases.’ Decisions on the use of means of restraint shall therefore not be solely up to the guardian, but also the summoned doctor.

**The Czech authorities should consider incorporating the Council of Europe's Principles Concerning the Legal Protection of Incapable Adults and, in particular, Principle 19(2) into the legal norms governing guardianship in the Czech Republic (paragraph 154).**

Act No 20/1966 Coll., on care for human health, as amended, regulates the rights of involuntary patients and doctor’s obligations at healthcare facilities concerning sickness and the preventive medical care required. Sections 23 and 24 regulate the doctors’ obligation to carry out examinations and provide treatment with the patient’s consent, and expressly provide for cases where these actions may be performed without the consent of the patient or his guardian.

The CPT recommendation for a specification of which of the guardian’s decisions concerning significant matters require the consent of a court or another institution will be taken into account in the re-codification of the Civil Code now in progress.

#### CPT request for information

**The number of surgical castrations and sterilisations carried out on incompetent persons in the last five years and whether, in those cases, the consent of the guardian had been sought (paragraph 154).**

In the Czech Republic, therapeutic testicular pulpectomies are carried out; these operations are not subject to the obligation to provide data to central registers. Surgical castrations are carried out based on indications other than psychiatric indications (usually in cases of oncological disease). If operations are performed on patients deprived of legal capacity, the guardian’s consent is required.

In the case of the Health Care Act, sterilizations may be carried out under Section 46: ‘Sterilization on health grounds will only be allowed for persons over the age of 18, based on their written consent. Patients who have been deprived of legal capacity by a court ruling or patients in respect of whom a court ruling has reduced legal capacity to an extent not permitting the performance of the act in law provided for in this act may have only sterilization performed on them on health grounds, such being pursuant to the written consent of the patient’s legal guardian; before the issue of consent, the doctor is obliged to provide the legal guardian with

information about the nature of the operation, its permanent consequences and possible risks; written consent is part of the health documentation kept about the patient. A request for consent to sterilization on health grounds for a patient is presented to the court by the operator of the healthcare facility in which the sterilization is to take place. The request includes the written permission of the legal guardian, and where appropriate the comments of a patient deprived of legal capacity or restricted in legal capacity (see above the Czech Government Response to paragraph 103 of the CPT Report ).

List of Annexes:

1. Annex No 1 (Part A, paragraph 1)  
List of facilities in the competence of the Ministry of the Interior which were visited by the CPT delegation
2. Annex No 2 (Part A, paragraph 24)  
Response of the police president to the ombudsman's report on visits to police establishments made by the ombudsman at the beginning of 2006.
3. Annex No 3 (Part B, paragraph 25)  
Selected provisions of Act No 379/2005 Coll., on measures to protect against the damage caused by tobacco products, alcohol and other addictive substances, as amended, concerning the detention of persons in detoxification units
4. Annex No 4 (Part C, paragraph 36)  
Information on paragraph 36 of the CPT Report sent to the CPT in a letter of 30 October 2006.
5. Annex No 5 (Part D, paragraph 103)  
Information sent by the Ministry of Health regarding protective sexology treatment in individual psychiatric hospitals
6. Annex No 6 (Part D, paragraph 125)  
Selected provisions of Act No 500/2004 Coll., the Code of Administrative Procedure, as amended, concerning the procedure for handling complaints at psychiatric hospitals
7. Annex No 7 (Part C, paragraph 36)  
Regulation of the Director General of the Prison Service of the Czech Republic No 82/2006 on the prevention and timely discovery of violence between remand prisoners and between sentenced prisoners.

**List of facilities in the competence of the Ministry of the Interior which were visited by the CPT delegation**

*Brno Region:*

Czech Police Force, Brno District Department

*Liberecko Region:*

Czech Police Force, Liberec District Directorate  
Czech Police Force, Jablonec nad Nisou District Department

*Královéhradecko Region:*

Czech Police Force, Jičín District Department

*Ostrava Region:*

Czech Police Force, Ostrava District Department  
Czech Police Force, Ostrava Municipal Directorate

*Plzeňsko Region:*

Czech Police Force, Dobřany District Department

*Prague:*

Czech Police Force, Prison Escort Unit, Prague  
Czech Police Force, Prague District Department, Hybernská  
Czech Police Force, Prague District Department, Vyšehradská

**Response of the police president to the ombudsman's report on visits to police establishments made by the ombudsman at the beginning of 2006**

Prague, 9 May 2006

Ref. No: PPR-68/RPZP-2006

Dear Sir,

I have received your summary report on the visits to police establishments, the aim of which was to document the reinforcement in the protection of persons from ill-treatment.

I have studied the content of the report in detail and in respect of its conclusions I have taken the relevant action to ensure acceptance of your recommendations, so that the law is respected and breaches of the law are ruled out.

To eradicate the shortcomings summed up in your final recommendation, I have adopted the following measures:

**At legislative level:**

Your recommendations and proposals will be used in the production of proposals to amend Section 16(2), Section 26 and Section 27 of the Police Act and the proposal for an amendment to the Code of Criminal Procedure. A proposal will be made to the Ministry of the Interior to apply our legislative initiative in the following matters.

An amendment to the Police Act to include the provision that officers of the Police of the Czech Republic, in restricting a person's rights, are obliged to inform and acquaint the person on the spot with his rights and obligations.

A proposal will also be made to amend the law to include the existence of metal rings in police cells for longer-term detention which, even though they are applied minimally, are used to cuff persons for protection purposes in cases where they self-harm or represent a direct risk to other persons. The aim of cuffing is not to humiliate or degrade, but to protect.

Security inspections of persons in police custody will be addressed in detail in a binding guideline of the police president; it will cover the issue of body searches conducted by a person of the same sex.

The discovery during your checks that glasses had been taken from persons is a shortcoming which will be remedied. Under legislation in force, on placing a person in a cell, a police officer is required to remove all items that could be used as a weapon or that could be used to self-harm or cause personal injury to another person. In cases where a person is placed in custody who cannot move around without glasses (a long-sighted person), it is up to the police officer whether to allow the person to keep the glasses. In this respect, an explanation of this activity will be included in the amended binding guideline of the police president.

The recommendation to place drug users separately has been considered, but with reference to Section 28(2) I do not think it is correct to create another 'caste' that has to be kept separately.

**At the level of the binding guideline of the police president:**

In the second half of 2005 an amendment was prepared for Binding Guideline of the Police President No 158 of 29 December 2004 on police cells. After comments and suggestions had been incorporated, the material was submitted for publication, but because of the concurrent visits members of staff from your office were paying to selected police cells with a view to improving the protection of persons from 'ill-treatment' the publication of the amendment was suspended on the grounds that the recommendations ensuing from your visits would have to be incorporated into the amendment. On receipt of your report, the binding guideline was finalized and is now being prepared for publication.

The following proposals you made were not incorporated into the binding guideline:

paragraph 10: bearing in mind Section 40(3) of the Police Act, where police officers are required to report any use of means of restraint or a weapon to their superior without undue delay. I consider this sufficient.

paragraph 17: bearing in mind the structural design, in present conditions we cannot comply fully with your proposal for the compulsory introduction of a dual system of lighting. Your proposal will be fully borne in mind during the construction of new cells and when existing cells are reconstructed. At present, only a temporary alternative solution can be considered for most cells – additional lights where structural, hygiene and energy regulations permit.

paragraph 18: the current solution for toilets in police cells is based fully on legislation in force concerning toilets in prison establishments. We will discuss your proposal and consult this matter with the Prison Service. If a different solution has been reached in this matter, we will take remedial action.

### **In written forms to inform persons of their rights and obligations:**

In connection with the amendment to Binding Guideline of the Police President No 158/2004, a new draft was prepared of the form 'Information for persons in police custody' within the meaning of Section 26 of Act No 283/1991 Coll., on the Police of the Czech Republic, as amended.

Persons are placed in police cells based on a decision of the police body which informed them of their rights and obligations in the procedure involving such persons. At the same time, the police are obliged to notify persons who, under the law, must be informed that a person has been placed in custody. On being placed in police custody, persons are informed of the rights and obligations applicable to their stay in the police cell. A form confirming that this information has been provided is filled in. This form contains the following clause: 'I have understood the information, which I confirm with my signature and the person in custody confirms with his/her signature.' The document is then signed by the police officer who provided the information to the person. We are not inclined to your proposal that a copy of the information should be presented to persons before they are placed in a cell. The document is based on the basic police station where the cell has been established, and if necessary the information can be retrieved from there. The fact that a person signs the information confirms in full that the information has been provided. A signature cannot be forced out of anyone who has not received the information, and there is good reason to assume that the person has read the document before signing it.

A list of cell furnishings is available for perusal on request at the unit where the cell has been established; we do not consider it necessary to distribute this list further.

The other recommendations in this part are the subject of the amendment now being prepared and are part of the issues being addressed in relation to police cells.

**Concerning further recommendations for the Ministry of the Interior and the Police Presidium of the Czech Republic:**

In cooperation with the Ministry of the Interior, an assessment will be conducted of the possibility of expanding police training in departmental educational facilities to include a part on information related to obligations under the internationally established prohibition of torture or cruel, inhuman or degrading treatment or punishment and ill-treatment. The implementation of this plan requires the use of the information concerned in the relevant profiling subjects taught by secondary police schools and in training courses. It will be recommended that, in their police training, educational facilities expand the psychology and vocational parts of training in relation to juveniles and minors. Similarly, in the organization of police training, it will be recommended that greater attention be paid to this area.

In the performance of inspections focusing on respect for the rights of those restricted in their freedom, senior members of staff and other inspecting bodies will place an emphasis on respect for the rights of persons in custody. If shortcomings are discovered, there will be implications and remedial action will be taken.

The numbers of police officers assigned to units where police cells have been set up depends on the systemized number of system places. Vacant system positions are filled in accordance with legislation in force, and a larger number of female officers than male police officers is not realistic. Where possible, we will act on the proposals.

We will consider the recommendations to create a uniform form that can be used to record the serving of food as soon as a person is deprived of his liberty, and recommendations to create a uniform form in which doctors can record information in accordance with Section 28(3) and Section 32(1) of the Police Act, in such a manner that the obligations under Act No 101/2000 Coll., on personal data protection are not breached.

I do not consider it feasible to set up a new inspecting body which would be competent to handle complaints regarding the regime in place in police cells or the police procedure. In relation to police officers, this role is played by the inspection unit of the Police of the Czech Republic and by the Inspectorate of the Ministry of the Interior. Not least, there is also a supervisory public prosecutor.

In conclusion, I would like to thank you for your interest in helping to provide an objective assessment and solution to these areas.

Yours faithfully,

**Otakar Motejl**  
**National Ombudsman**  
**Údolní 39**  
**602 00 Brno**

**Selected provisions of Act No 379/2005 Coll., on measures to protect against the damage caused by tobacco products, alcohol and other addictive substances, as amended, concerning the detention of persons in detoxification units**

*Section 16*

***Examinations of the presence of alcohol or other addictive substances***

*(1) A person carrying out activities which could endanger the life or health of himself or other persons or could damage another person's property shall not consumer alcoholic beverages or use any addictive substances during or before the performance of such activities.*

*(2) Any person who, due to the consumption of alcohol or other addictive substances, in such a condition that he represents a direct risk to himself or other persons, public order or property, and any person in respect of whom there are grounds to suspect that he has caused personal injury to another as a consequence of consuming alcohol or using other addictive substances shall be subject to a professional examination to determine the content of alcohol or other addictive substances, including the sampling of biological material to reach this determination.*

*(3) A person referred to in paragraphs (1) and (2) shall, at the request of officers of the Police of the Czech Republic, the municipal police, the Military Police, the Prison Service of the Czech Republic, persons authorized to check on persons who carry out activities where they could endanger the life or health of themselves or other persons or damage another person's property, an employer or that person's doctor, undergo an examination to determine whether he is under the influence of alcohol or another addictive substance.*

*(4) An indicative examination shall be carried out by a unit of the Police of the Czech Republic, the municipal police, the Military Police, the Prison Service of the Czech Republic, persons authorized to check on persons who carry out activities where they could endanger the life or health of themselves or other persons or damage another person's property, or an employer by means of a breath test or the sampling of saliva. A medical examination shall be conducted by a professionally and operationally competent healthcare facility by means of a breath test or the sampling of biological material.*

*(5) If a person referred to in paragraphs (1) and (2) refuses to undergo the examination under paragraph (4), he shall be considered to be under the influence of alcohol or another addictive substance.*

*(6) Professionally and operationally competent healthcare facilities shall provide an employer, police units or the Prison Service of the Czech Republic with the necessary assistance in taking samples of biological material.*

*(7) A healthcare facility shall disclose the results of an examination to the entities referred to in paragraph (3) should they so request. This shall not apply in cases where a patient is examined for the presence of alcohol or other addictive substances in the organism solely in*

connection with health care provided for a differential diagnosis.

(8) *If the presence of alcohol or another addictive substance is discovered, the examinee shall cover the cost of the examination of biological material. In cases where the presence of alcohol or another addictive substance is not established, the costs are borne by the person who, in accordance with paragraph (3), requested the examination, with the exception of instances of a differential diagnosis covered out of public health insurance in accordance with a separate legal regulation.*<sup>7</sup>

## Section 17

### **Treatment in a sobering-up station**

(1) *A sobering-up station is a healthcare facility set up by a territorially self-governing unit which may, in its autonomous competence, arrange for care to be provided at such a facility under contract, whereby a sobering-up station is guaranteed anywhere in its territory within a distance of 45 minutes.*

(2) *If a clinical or laboratory examination finds that the treated person's life is not endangered in the form of vita organ failure, but that this person is unable to control his behaviour because he is under the influence of alcohol or another addictive substance and therefore represents a direct risk to himself or other persons, public order or property, or is in a condition causing public outrage, this person shall undergo treatment and be held in the sobering-up station for the time strictly necessary until the acute intoxication fades.*

(3) *The transportation of persons to a sobering-up station shall be arranged by the person who, in accordance with Section 16(3), requested the examination. If this person is an officer of the municipal police, transportation shall be arranged by the Police of the Czech Republic.*

(4) *The cost of transportation, examination, treatment and the subsequent stay in the sobering-up station shall be covered, if the presence of alcohol or another addictive substance is discovered, by the person thus treated. In cases where the presence of alcohol or another addictive substance is not established, the costs are borne by the person who, in accordance with Section 16(3), requested the examination, with the exception of instances of a differential diagnosis covered out of public health insurance in accordance with a separate legal regulation.*

(5) *The treatment of a person admitted to a sobering-up station shall be notified by the sobering-up station to the person's registered general practitioner. If the person is younger than 18, this situation shall also be notified to his legal guardian or person responsible for his upbringing. Where a person under the age of 18 is admitted, this fact shall also be notified to a body for the social-law protection of children. In cases where a person is of limited or no legal capacity, this fact shall be notified to a court-appointed guardian.*<sup>8</sup>

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<sup>7</sup> Act No 48/1997 Coll., on public health insurance and amending certain related laws, as amended.

<sup>8</sup> Code of Civil Procedure.

**Information on paragraph 36 of the CPT Report sent to the CPT in a letter of 30  
October 2006**

**Ms Silvia CASALE  
President  
European Committee for the prevention  
of torture and inhuman or degrading treatment or punishment  
Council of Europe  
67075 Strasbourg Cedex  
France**

Prague, 30 October 2006  
Ref. No.:19196/06 - RLP

Dear Madam Casale,

please find enclosed the information requested by the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) in the paragraph 36 of its report to the Government of the Czech Republic drawn up by following its visit to the Czech Republic from 27 March to 7 April 2006 and from 21 to 24 June 2006.

Information in the Czech language was submitted on our request by Luděk Kula, Director General of the Prison Service of the Czech Republic, which also prepared translation in the English language. Officially we received it by the letter of the Ministry of Justice on October 25 (Ref. No.: 33/2006 - SNM/3). Copy of this letter in the Czech language we also provide. According to your request for a computer-readable form of the response we are sending it on the CD.

I would also like to inform you about the change on the position of the Secretary of the Committee against torture of the Government Council for Human Rights, who is also the CPT's Liaison Officer. Ms Jana Marečková left this position and also the Secretariat of the Government Council for Human Rights on September 25. Last week the new Government Commissioner for Human Rights Jan Litomiský, who was appointed on September 20, decided that the new Secretary of the Committee against torture and the CPT's Liaison Officer will be Mrs Lucie Rybová, from the Secretariat of the Government Council for Human Rights.

The Government of the Czech Republic decided by Decision no. 1180 of 22 November 2000 that the Authority competent to receive notifications is the Office of the Government - Secretariat of the Government Council for Human Rights and that the CPT Liaison Officer is the Secretary of the Committee against torture. With regards to this decision we do not enclose a separate letter of nomination.

If you have any questions concerning our response or above mentioned change, please do not hesitate to contact me. My telephone number is: +420 296 153 extension 294, my e-mail is: [rybova.lucie@vlada.cz](mailto:rybova.lucie@vlada.cz).

Yours faithfully,  
Mrs Lucie RYBOVÁ  
CPT Liaison Officer

- Attachments: 1/ the copy of the letter from Roman Polášek, Minister of Justice of 24 October 2006  
2/ the copy of the letter and the response from Luděk Kula, Director General of the Prison Service of the Czech Republic, of 23 October 2006 in the Czech language  
3/ the English translation of the response  
4/ the CD with all documents

Copy: Ms Vlasta Štěpová, Ambassador Extraordinary and Plenipotentiary,  
Permanent Representative of the Czech Republic to the Council of Europe

**PRISON SERVICE OF THE CZECH REPUBLIC  
GENERAL DIRECTORATE**

*Soudní 1672/1a, PO Box 3, 140 67 Praha 4*

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*Ref. No: 15/571/2006-50/300*

*Prague, 23 October 2006*

*Ms Lucie Rybová*

*Department of the Government Commissioner for Human Rights*

*Secretariat of the Czech Government Council for Human Rights*

*Office of the Government*

*Vladislavova 4*

*110 00 Praha 1*

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***Information requested in paragraph 36 of the 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 from 27 March to 7 April 2006 and from 27 to 24 June 2006.***

*Dear Madam,*

*I enclose information drawn up in accordance with your request of 11 October 2006, including a translation into English.*

*Yours faithfully,*

*Zdeněk Kreuzzieger*

*First Deputy Director General*

*General Directorate of the Prison Service of the Czech Republic*

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***Information requested in paragraph 36 of the 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 from 27 March to 7 April 2006 and from 21 to 24 June 2006.***

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In paragraph 36 of the 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 from 27 March to 7 April 2006 and from 21 to 24 June 2006, the CPT requests the following information:

1. The subsequent placement of prisoner F, in respect of whom the delegation formed the view that he had been repeatedly raped and physically abused while in Valdice Prison.
2. The result of the thorough review of the treatment of vulnerable prisoners placed in Section E of Valdice Prison.

*Information about the subsequent placement of F*

from 20 October 2005	to 3 April 2006	Valdice Prison,
from 3 April 2006	to 25 April 2006	Pankrác Prison Hospital (Prague),
from 25 April 2006	to 22 June 2006	Brno Prison Hospital,
from 22 June 2006	to 10 August 2006	Mírov Prison,
from 10 August 2006	to 26 September 2006	Brno Prison Hospital,
from 26 September 2006	Mírov Prison.	

The examination conducted at Pankrác Prison Hospital did not identify any marks on F's body which could have been caused by sexual abuse. Information that the chief physician noted a perineal injury and agreed with the view that F had probably been subjected to repeated rape is incorrect. The chief physician merely noted that the patient had claimed to be abused. Information that the chief physician recommended that F not be returned to Valdice Prison and that he proposed commissioning an independent opinion as to whether F was mentally fit to remain in prison at all is correct. Concerning the repeated hospitalization in the psychiatric ward of Brno Prison Hospital, the chief physician there stated that the nature of F's problems was not a mental illness in the true sense of the word. He cannot provide more detailed information without prisoner F's consent because he is bound by the obligation of confidentiality. Further to a request from the Director General of the Prison Service, Luděk Kula, addressed to the Minister for Justice, the Ministry of Health has recommended suitable experts in psychiatry, sexuology, surgery, gastroenterology and clinical psychology to carry out independent examinations (see annex).

*Information about the result of the thorough review of the treatment of vulnerable prisoners placed in Section E of Valdice Prison*

On receipt of the written version of the statement delivered by Aleš Butala, the head of the delegation, at a meeting with Czech authorities on 7 April 2006 in Prague, the management of the Prison Service immediately responded to the facts specified in the statement. In particular, it focused on the comments regarding the alleged inter-prisoner violence in blocks D and E of Valdice Prison. The thematic inspection by the Pre-trial Detention and Imprisonment Department of the General Director of the Prison Service, conducted at the same time as the CPT's visit, did not confirm the circumstances referred to in the statement. In accordance with the CPT's recommendation, it was decided to transfer prisoner F from Valdice Prison. During his time at Brno Prison Hospital, prisoner F was questioned about the conditions of his imprisonment in block F of Valdice Prison. The facts stated by prisoner F in the report on an explanation, in accordance with Section 10(1) Act No 555/1992 Coll., on the Prison Service and Justice Guard of the Czech Republic, as amended, were subsequently reviewed. The results of this review reveal that the facts cited by prisoner F are confused and imprecise, and there is evidence that prisoner F made a number of claims that, when investigated, proved to be false. There is room to believe that the purpose of prisoner F's deliberate misconstruing of the facts was to be transferred from Valdice Prison to another prison. It is evident from the final report on the investigation that in the case of prisoner F there is no suspicion of a criminal offence. Prisoner F stated that there was only an oral request for sex with him, which he refused, and that no sex took place. Further, the information that prisoner F claimed to hear from prisoner S and another invented prisoner did not hold true. Over prisoner F's time in block E, he was placed in a cell for the most part on his own; other prisoners refused to be quartered with him, mainly because of his unconventional ('very peculiar' according to the prisoners) behaviour. Prisoner F was assigned to unit E on 14 January 2002 at the proposal of the educator from block D. The reason for this was the fact that prisoner F repeatedly assaulted prison staff and fellow prisoners. The assaults occurred without any provocation and his behaviour was unpredictable.

In the collective accommodation of prisoners in block D (10-15 prisoners per cell) prisoners are transferred from cell to cell usually based on requests from the prisoners; the aim is to prevent potential inter-prisoner violence. A prisoner who feels threatened can be transferred to another cell; where possible, he may choose which cell to be transferred to. There are no cases at Valdice Prison where prisoners are accommodated in the same cell, in accordance with Regulation of the Director General No 41/2002 on the prevention and detection of violence between sentenced prisoners and remand prisoners, who have been identified as potential perpetrators of violence and as possible victims of violence. Careful records are kept of identified prisoners and of the accommodation of all prisoners in the prison; checks in this area can be conducted for several years in the past.

Problem prisoners are placed in block E; they are accommodated in twos or on their own, so prison staffs have more opportunity to check on the behaviour of these prisoners. Naturally, here too it is not possible for a prisoner identified as a potential perpetrator of violence to be accommodated with a prisoner identified as a possible victim of violence. In the thematic inspection by the Pre-trial Detention and Imprisonment Department, no shortcomings were discovered in the accommodation of prisoners identified in this manner. In general, all shared accommodation by two prisoners is consulted by the educator together with a psychologist and pedagogue. If discord is found in terms of prisoners' relations or personality, the joint accommodation of such prisoners does not proceed. However, there have been exceptional cases where two prisoners agree to be housed together and no information is forthcoming which could

predict the possibility of assault, and yet assault occurs. In this case, the steps laid down in Regulation of the Director General No 41/2002 on the prevention and detection of violence between sentenced prisoners and remand prisoners are taken without undue delay.

Prison officers are present at medical examinations only if the doctor requests, with a view to ensuring the doctor's personal safety; otherwise prison officers are not automatically present at examinations.

The Prison Service is aware that individual assessments of the risks and needs of individual prisoners could be a helpful tool in addressing inter-prisoner violence and other issues. Independently of the CPT recommendation, it is creating this instrument and preparing the pilot implementation thereof in relation to prisoners on probation in cooperation with the Probation and Mediation Service.

The management of the Prison Service of the Czech Republic pays significant attention to the treatment of vulnerable prisoners placed in sections D and E at Valdice Prison and to the prevention of violence between sentenced prisoners and remand prisoners. The findings of the independent examinations of prisoner F carried out by specialists recommended by the Ministry of Health will be used in further coverage of this issue.

Luděk Kula  
Director General of the Prison Service

## Information sent by the Ministry of Health regarding protective sexuology treatment in individual psychiatric hospitals

### Protective sexuology treatment at the Havlíčkův Brod Psychiatric Hospital

Surgical castrations among men undergoing protective sexuology treatment are always carried out at their written request after the prior proposal of this treatment to the patient by a doctor from the sexuology ward. In all cases, these are patients who have been repeatedly prosecuted for sexually motivated offences and it has not been possible to form a worthwhile view of them (they are often alcoholics and mentally retarded individuals). The doctor also proposes castration as a potential treatment for dangerous sexual deviants, especially those who commit sexually motivated murder.

Statistics on re-offending among patients who undergo protective sexuology treatment:

Between 1 January 2000 and 31 December 2005, 77 male patients underwent complete protective sexuology treatment (libidinal suppressant treatment) at the hospital. A detailed investigation in the field revealed that one patient had re-offended. This was a patient treated with hormonal suppressant and psychotherapy.<sup>9</sup>

Among the men who underwent surgical castration as part of the complete protective sexuology treatment at the hospital between 1 January 2000 and 31 December 2005, no cases of re-offending were discovered.

No investigation into re-offending during 2006 has been conducted yet. The hospital has not had any signals of re-offending.

year	Number of men admitted for libidinal suppressant treatment (= inpatient protective sexuology treatment)	Number of surgical castrations among men undergoing inpatient protective sexuology treatment
2001	19	2
2002	17	0
2003	15	5
2004	17	4
2005	14	6
2006	9	2

### Protective sexuology treatment at Opava Psychiatric Hospital

<sup>9</sup> Not all patients who are admitted for protective sexology treatment complete the full treatment.

*The following numbers of men have undergone protective inpatient sexology treatment in the past few years:*

2001 = 16  
2002 = 8  
2003 = 15  
2004 = 7  
2005 = 10  
2006 = 14

Only in 2006 were there three castrations; there were no castrations in the other years monitored. There are no statistics on specific re-offending. In the past five years, only one man (not castrated) was repeatedly treated due to a re-offence.

#### **Protective sexology treatment at Šternberk Psychiatric Hospital**

In the past five years, 12 men have been admitted for protective inpatient sexology treatment. In the past five years no patient has been hospitalized after surgical castration. Statistics are not kept on numbers of re-convictions for sexual offences.

#### **Protective sexology treatment at Brno Psychiatric Hospital**

<b>Year</b>	antiandrogens	testicular pulpectomy	re-offences	
<b>2001</b>	35	8	0	
<b>2002</b>	18	0	0	
<b>2003</b>	9	0	0	
<b>2004</b>	8	2	0	
<b>2005</b>	17	0	0	

#### **Protective sexology treatment at Kosmonosy Psychiatric Hospital**

*The annual number of men under 'protective treatment' who have undergone or are undergoing libidinal suppressant treatment in the course of the past five years:*

2001 – 18  
2002 – 18

2003 – 17  
2004 – 12  
2005 – 11

*The annual number of surgical castrations carried out on men subjected to 'protective treatment' during the past five years:*

2001 – 2 pulpectomies  
2002 – 0  
2003 – 0  
2004 – 2 pulpectomies  
2005 – 1 pulpectomy

*Statistics concerning re-convictions, for a sexual offence involving violence against persons, of men who have been surgically castrated, as well as of patients who have undergone or are undergoing libidinal suppressant treatment:*

Between 2001 and 2005, two patients were convicted of sexual offences after subjecting themselves to a pulpectomy.

Between 2001 and 2005, two patients were convicted of sexual offences after subjecting themselves to libidinal suppressant treatment.

### **Protective sexology treatment at Bohnice Psychiatric Hospital, Prague**

From the beginning of 2000, 88 patients have received sexology treatment (including combined treatments).

Total: 7 sexology treatments, 4 sexology and alcohol treatments, 15 sexology and psychiatric treatments, 1 sexology, alcohol and drug-abuse treatment, 1 psychiatric, sexology, alcohol and drug-abuse treatment.

Among patients with sexology treatment, antiandrogen suppression is obligatory. It is possible that some patients did not use antiandrogens. Generally speaking, antiandrogens have been used and are used by 90% of these patients. In cases of doubt, combined treatment is ordered for patients.

Since 2000, 10 patients have undergone castration. Over the past five years, two patients have re-offended (however, they did not undergo inpatient protective treatment). These patients were not castrated.

**Selected provisions of Act No 500/2004, Coll., the Code of Administrative Procedure, as amended, concerning the procedure for handling complaints at psychiatric hospitals**

*Section 175*

*Complaints*

*(1) The affected persons shall be entitled to contact the administrative authorities with complaints about the inappropriate conduct of officials or about the procedure of an administrative authority if this Act offers no other means of protection.*

*(2) The submission of a complaint shall not be to the detriment of the complainant; liability for a crime or administrative infringement shall not be affected by this provision.*

*(3) A complaint may be lodged in writing or orally; if a complaint is lodged orally and cannot be settled immediately, the administrative authority shall draw up a written record of the complaint.*

*(4) A complaint shall be lodged with the administrative authority which controls the proceedings. This administrative authority shall investigate the facts referred to in the complaint. In appropriate cases, it shall interrogate the complainant, the persons about whom the complaint is made, and other persons who could help elucidate in the case at hand.*

*(5) A complaint shall be settled within 60 days of delivery thereof to the administrative authority competent to handle it. The complainant shall be notified of the settlement of the complaint within this time limit. The said time limit may be transgressed only if, in the course thereof, it is not possible to secure the documentation required to settle the complaint.*

*(6) If the complaint is found to be justified or partially justified, the administrative authority shall take the necessary remedial action without undue delay. An entry on the result of the investigation and the remedial action taken shall be recorded in the file; the complainant shall be notified only if the complainant so requests.*

*(7) If a complainant does not think that a complaint lodged with the competent administrative authority has been duly resolved, he may ask a superior administrative authority to review the methods used in the handling of the complaint.*

**COLLECTION OF REGULATIONS**  
**of the Director General of the Prison Service of the Czech Republic**

Year: 2006

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**REGULATION NO 82**

**on the prevention and timely detection of violence between remand prisoners and between sentenced prisoners**

Pursuant to Section 1(2) of Act of the Czech National Council No 555/1992 Coll., on the Prison Service and Justice Guard of the Czech Republic, as amended, I **hereby lay down the following provisions**

**Section 1 Introductory provisions**

The purpose of this Regulation is to create and ensure conditions for the prevention and timely detection of violence between remand prisons and between sentenced prisoners (hereinafter referred to as ‘prisoner’ unless provided otherwise below) in prison establishments (hereinafter referred to as ‘prisons’), and to lay down the procedure for identifying and evaluating individual cases of violence in the gathering and evaluation of information about violent behaviour.

**PART ONE**

**PREVENTING AND DETECTING INTER-PRISONER VIOLENCE**

**Section 2 Entry of identified prisoners in a specific list**

(1) During the preventive medical screening of prisoners on their admission, the doctor of a healthcare facility (hereinafter referred to as ‘doctor’) of the Prison Service of the Czech Republic (hereinafter referred to as ‘Prison Service’) shall identify persons with significantly reduced body weight or who are of evidently lower mental intellect. The prison psychologist shall carry out an expert examination of prisoners of evidently lower mental intellect without undue delay. Based on information provided by the doctor and psychologist, the head of the remand unit, the head of the pre-trial and imprisonment unit, or the head of the imprisonment unit or the deputy thereof (hereinafter referred to as ‘head of unit’) shall draw up a specific list (hereinafter

referred to as 'list') of such identified prisoners without undue delay. This list shall be drawn up in electronic form and shall be updated on an ongoing basis.

(2) Prisoners as potential victims of violence shall be proposed for the list, according to available observations and information, in particular by prison officers and civilian employees (hereinafter referred to as 'employee' unless provided for otherwise below) of the remand unit or imprisonment unit, and may be proposed for the list by other prison employees. In a similar manner, prisoners who may be undesirable victims of interest from other prisoners, e.g. sexual deviants or those who are on remand or have been convicted of serious violent or immoral crimes, may also be proposed for inclusion in the list. Proposals shall be submitted without undue delay to the head of unit. The head of unit shall decide on the placement of proposed prisoners among already identified prisoners and an employee delegated by the head of unit shall draw up (in electronic form) a list of possible victims of violence. The head of unit shall keep the prison governor's security committee informed of his decisions. The list is updated on an ongoing basis. The head of unit shall deliver each update to the head of the administrative department, who shall immediately arrange for the corresponding abbreviations to be labelled on the cover page of the prisoner's personal file in the 'danger' column, and to the head of the prison and judicial guard unit. Changes in prisoners' identification cards shall be organized by the senior employee responsible for the management thereof, based on the updated list.

(3) The procedure for proposing potential perpetrators of violence is similar to the procedure laid down in paragraph 2. Observations from the personal file, the physical attributes of the prisoner, inclinations towards violence, aggressive behaviour, the degree of self-control, etc., are taken into consideration in the proposal.

(4) Persons entered in the list shall be labelled as follows:

- a) significantly reduced body weight (STH),
- b) evident lower intellect (NMU),
- c) possible victim of violence (MON),
- d) possible perpetrator of violence (MPN).

(5) An identified potential perpetrator of violence shall not be placed in a cell together with prisoners identified in accordance with paragraphs (1) and (2).

### **Section 3 List**

(1) The list contains the first name, surname, date of birth, placement of the prisoner in the accommodation area of the prison and the reason for his being listed, which is cited as an abbreviation in accordance with Section 2(4). The same list may be used for all the different types of prisoners identified. However, each category shall be maintained separately in the list. The head of unit shall be responsible for approving and signing the list.

(2) The reason for the inclusion of prisoners in the list, including the date of entry, shall be recorded by a first-class prison officer – chief prison officer in a brief entry in the personal card of a remand prisoner, in the part entitled ‘Record of remand’, and by an educator in the personal card of a sentenced prisoner, in the part entitled ‘Record of imprisonment’. On the title page of the personal card, an abbreviation as per Section 2(4) shall be entered in the part entitled ‘other records’. A brief record of the reason and date of removal shall be drawn up by the first-class prison officer – chief prison officer or by the educator when a prisoner is removed from the list; at the same time the abbreviation on the title page of the personal card shall be deleted (rendered illegible).

(3) When a prisoner who has been identified as a perpetrator of violence is escorted outside the prison, the words ‘potential perpetrator of violence’ shall be entered in the part of the escort order entitled ‘Warning’.

(4) When a listed prisoner is relocated to another prison, the head of unit at the recipient prison shall enter this person in the list without undue delay.

#### **Section 4 Removal of prisoners from the list**

The head of unit shall be entitled to remove prisoners identified in accordance with Section 2(1) and (2) from the list pursuant to a doctor’s decision on medical grounds; in other cases remand prisoners are generally removed from the list based on the recommendation of a psychologist and sentenced prisoners are generally removed from the list based on the recommendation of a psychologist and educator.

#### **Section 5 Preventive medical screening**

(1) Prisoners entered in the list in accordance with in accordance with Section 2(1) and (2) shall be subject to follow-up preventive medical screening at least once a month with the aim of determining whether there are traces of physical violence on their bodies. A designated senior employee shall be accountable to the prison governor for summoning these persons to preventive medical screening.

(2) A list of prisoners summoned for preventive medical screening shall be drawn up in electronic form; the list shall contain information about the prisoner as stipulated in Section 3(1) and the date of the screening. If the doctor discovers traces of physical violence during screening, the result of this finding shall be recorded in the list and signed by the doctor.

#### **Section 6 Visual screening**

(1) Prisoners entered in the list in accordance with Section 2(1) and (2) shall be subject to visual screening of their bodies by a second-class officer<sup>10)</sup> at least once every seven calendar days, with the aim of determining whether any signs of physical violence are evident. Visual screening of remand prisoners is usually carried out during showers<sup>11)</sup>; visual screening of sentenced prisoners takes place in a designated, duly equipped room<sup>12)</sup>. During visual screening of prisoners

- a) their dignity shall be respected and there shall be no physical or verbal contact between the prisoners and prison officers during the screening that could justifiably be viewed as an impairment of human dignity,
- b) their body cavities shall not be inspected with the use of fingers or other instruments.

(2) Where, in exceptional cases, it is not possible to conduct visual screening of remand prisoners during showers due to microclimatic, lighting, spatial or security conditions, the second-class prison officer shall conduct visual screening in a designated and duly equipped room.<sup>3)</sup> No visual screening shall take place on the dates of preventive medical screening.

(3) If the purpose of visual screening cannot be achieved in the manner laid down in paragraphs (1) and (2), the second-class prison officer shall inform the head of unit, who shall arrange for a prisoner to be summoned for preventive medical screening.

(4) In cases where it is suspected that a prisoner has become a victim of physical violence, a second-class prison officer shall carry out visual screening without undue delay.

(5) Records on visual screening in accordance with paragraphs (1) and (2) shall be drawn up in electronic format. They shall contain information about the prisoner (Section 4(1)), the date of screening and the signature of the second-class prison officer who conducted the screening. Records shall also specify all newly discovered signs of physical violence on the prisoner's body, including those that cannot clearly be placed in the context of physical violence, e.g. signs of self-harm. The second-class prison officer shall notify of any such traces discovered to the competent first-class prison officer – chief prison officer or educator, or in his absence his direct superior, who shall assess the information ascertained, sign the record and make a decision on how to proceed. At the end of visual screening, written records are filed at the station of the first-class prison officer – chief prison officer or at the educator's office.

(6) Signs of physical violence within the meaning of Sections 5 and 6 shall be any change to the body of a prisoner which has causality with the direct effect of a source of physical violence, in particular

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<sup>10)</sup> Section 11(1) of Act No 555/1992 Coll., on the Prison Service and Justice Guard, as amended.

<sup>11)</sup> Section 36(3) of Decree of the Ministry of Justice No 109/1994 publishing the Rules of Remand.

<sup>12)</sup> Section 140(2) of Regulation of the Director General of the Prison Service of the Czech Republic No 11/2006 on the prison and judicial guard.

- a) a protruding swelling and protruding swelling with bruised skin,
- b) various skin defects, depending on the type of external violence used (scratches, grazes, open wounds),
- c) protruding or flat subcutaneous blood haemorrhages (various colours, depending on the time that has passed since the effect of the external violence),
- d) symptoms typical for fractures (swelling, pain, anomalies of limbs – bones),
- e) bleeding, vomiting of blood, etc.,
- f) burns (reddening, blister, bloody colour at places affected by the source of burning).

### **Section 7 Employees' obligation to notify and method used to address cases of violence that are discovered**

(1) Employees who discover a case of physical violence among prisoners or discover signs of physical violence on prisoners' bodies shall notify their direct superior of this fact without undue delay. The prison governor, head of unit and head of the prevention and complaints unit or head of the autonomous prevention and complaints unit (hereinafter referred to as 'head of the prevention and complaints unit') shall be notified of each such case of physical violence that is discovered.

(2) The employee who is first to discover signs of physical violence on a prisoner's body or to whom a case of physical violence is reported by that prisoner shall draw up a report on the case of physical violence discovered without undue delay on the form provided in Annex No 2. Besides information about the prisoner, the report shall also specify the circumstances in which the signs of physical violence were discovered (e.g. during medical or visual screening), how they were notified (by the injured prisoner, by another prisoner, by the employee's own discovering in the course of duty or work, or other means), and the place and the time of the physical violence. Further, the employee shall specify the originator of the violence and/or witnesses and the cause of the signs of physical violence, if these circumstances are known to him, and shall graphically show the site of the marks discovered on the body by means of a drawing on the form. The employee shall also specify his position and the date of the discovery, sign the form and deliver it to his direct superior, who shall decide on how to proceed. This completed form shall serve as the basis for subsequent action.

(3) The prisoner who became the victim of violence or on whose body signs of physical violence are discovered, or in respect of whom there are reasonable grounds to suspect that the marks on his body are directly connected with violence or that prisoners attacked each other, and there is no proof of who was the victim and who was the perpetrator of the violence, shall be examined without undue delay by a doctor and then, separately, by a psychologist, even in cases where they refuse (e.g. out of fear of further violence) or provide information which is entirely untrustworthy and false. The doctor and the psychologist shall document the results of the examination in the form provided in Annex No 2, and to the necessary extent they shall cooperate with the prevention and complaints unit so that all necessary action can be carried out that is geared towards the objective clarification of all circumstances related to the discovery of violence, and so that preventive measures are taken to prevent further physical violence. The

head of the prevention and complaints unit shall transmit the results of the investigation to the head of unit.

(4) If a prisoner on the list is exposed in the current prison to the real risk of physical, moral or other threats and cannot be transferred to another cell or dormitory in that prison, the head of unit shall draw up a proposal for his relocation. In the case of a remand prisoner, the prison governor shall send this proposal together with all available materials to the competent court for a decision; in the case of a sentenced prisoner he shall send the proposal to the director of the Pre-trial Detention and Imprisonment Department.

### **Section 8 Special remand measures**

A second-class prison officer responsible for keeping watch over remand prisoners included in the list in accordance with Section 2(1), (2) and (3) shall have an overview of their placement in cells and shall carry out increased checks of such remand prisoners at least once an hour. He shall record the time and results of these checks in the relevant documentation at the designated prison officer's station.

### **Section 9 Special imprisonment measures**

(1) An educator in the case of sentenced prisoners in minimum security prisons<sup>13)</sup> and a second-class prison officer in the case of sentenced prisoners in other types of prisons who are included in the list in accordance with Section 2(1), (2) and (3) shall have an overview of their placement in dormitories (cells) and shall carry out increased checks of such sentenced prisoners at least once every two hours. He shall record the time and results of these checks in the relevant documentation at the designated prison officer's station.

(2) For identified sentenced prisoners assigned to workplaces outside their dormitory or cell, checks shall not be conducted at the intervals referred to in paragraph (1). Second-class prison officers or authorized employees responsible for keeping watch over workplaces shall have a constant overview of these sentenced prisoners and shall pay increased attention to them.

## **PART TWO**

### **COMMON REMAND AND IMPRISONMENT PROVISIONS**

#### **Section 10 Management and evaluations of reporting**

(1) In evaluations of the number of incidents of violent behaviour among prisoners, only those incidents of violence which are entirely conclusive according to the outcome of measures

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<sup>13)</sup> Section 49(1) of Decree of the Ministry of Justice No 345/1999 issuing the Rules of Confinement.

taken in the reporting period shall be stated. Therefore, marks discovered on the bodies of prisoners as a result of sports activities, cleaning work, or in cases where the culpability of another person is not proven cannot be included in the number of incidents of violence discovered.

(2) The preparation of the statement on violent conduct among prisoners shall be the responsibility of the head of unit; the head of the prevention and complaints unit shall ensure that the necessary documentation is delivered to the head of unit.

(3) Within the scope of the management and control activities of the remand unit and imprisonment unit, incidents of violence and the measures adopted shall be assessed once a month at the unit meeting.

### **Section 11 Completion of the statement on violent conduct among prisoners**

(1) A prisoner

- a) against whom violence has been perpetrated in, for example, three cases, shall have the number 3 recorded in the column 'Victim of violence',
- b) who perpetrates violence in, for example, two cases, shall have the number 2 recorded in the column 'Perpetrator of violence'.

(2) Prisoners who assault each other and there is no proof of who is the victim and who is the perpetrator

- a) shall be recorded only in the column 'Number of participants in inter-prisoner violence',
- b) shall be reported together with victims of violence in the columns 'examined by a doctor' and 'examined by a psychologist'.

(3) Cases of inter-prisoner violence shall be recorded in the column 'Number of incidents of inter-prisoner violence' and in the column 'Number and method of discovery of incidents of violence'.

(4) The statement on violent conduct among prisoners shall be completed in summary form for all types of prisons and units within the prison, and only the required information shall be supplied. Other columns shall remain blank. Slashes, dashes, circles, etc., cannot be used.

(5) The term

- a) 'relocation' shall mean transfer to another cell (dormitory), another unit or another prison,
- b) 'primary actions' shall mean the institution of an investigation by officers from the prevention and complaints unit,
- c) 'Number of remand (sentenced) prisoners identified' shall mean the number of remand (sentenced) prisoners included in the list for the whole calendar year.

(6) Any additional information shall be provided in the column 'Remarks' or on the other side of the form.

### **Section 12 Filing and shredding**

(1) All original documentation on the violent conduct of prisoners shall be filed with the head of unit until it is forwarded for shredding. Copies shall be made for the requirements of other employees contributing to the fulfilment of these tasks.

(2) Statements on violent conduct among prisoners and records on the discovery (notification) of physical violence shall be transferred for shredding after five years (S-5).

(3) Lists of prisoners and documentation on preventive medical screening and visual screening shall be transferred for shredding after three years (S-3).

## **PART THREE**

### **Section 13 FINAL PROVISIONS**

Observations regarding a remand prisoner which are connected with violent conduct during his period on remand shall be used when he is transferred to imprisonment or on the transfer of a sentenced prisoner to a remand regime. An entry shall be made in the prisoner's personal card.

### **Section 14**

The fulfilment of tasks under this Regulation shall be evaluated every half year at meetings of the prison management or at meetings of heads of unit and heads of teams.

### **Section 15**

Once a year, the head of unit shall draw up written information about the implementation of measures for the prevention and timely detection of violence among prisoners on the form under Annex No 1, which shall be presented to the Pre-trial Detention and Imprisonment Department by 31 January.

### **Section 16**

Revoked:

1. Regulation of the Director General of the Prison Service of the Czech Republic No 41/2002 on the prevention and timely discovery of violence between remand prisoners and sentenced prisoners.
2. Regulation of the Director General of the Prison Service of the Czech Republic No 27/2004 amending Regulation of the Director General of the Prison Service of the Czech Republic No

41/2002 on the prevention and timely discovery of violence between remand prisoners and sentenced prisoners.

3. Methodological Order of the Director of the Pre-trial Detention and Imprisonment Department No 23/2002 laying down the details concerning certain provisions of Regulation of the Director General of the Prison Service of the Czech Republic No 41/2002 on the prevention and timely discovery of violence between remand prisoners and sentenced prisoners.

### **Section 17 Effect**

This Regulation shall enter into effect on 1 December 2006.

Prague, 30 November 2006

Ref. No: 350/2006-50/032

Annexes: 2/2

Director General of the Prison Service of the Czech Republic  
Luděk KULA