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**Follow-up response of the Government
of the Czech Republic
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 21 to 30 April 2002

The Government of the Czech Republic has requested the publication of its follow-up response to the CPT's report on the visit to the Czech Republic in April 2002. The CPT's report (CPT/Inf (2004) 4) and the Czech Government's initial response (CPT/Inf (2004) 5) were published on 12 March 2004.

Strasbourg, 14 April 2005

Report on the Implementation of Recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in 2004, resulting from the CPT's visit to the Czech Republic in 2002

Approved by the Government of the Czech Republic on 2 March 2005

Introduction

The Report on the Implementation of Recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment ('CPT') in 2004, Resulting from the CPT's Visit to the Czech Republic in 2002 ('Report') follows up on the Report on the Implementation of CPT Recommendations in 2003, and only contains information describing developments in the relevant areas in 2004. The structure of the Report retains the structure 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 21 to 30 April 2002 (hereinafter referred to as 'CPT Report'). The report has been thematically broken down into four parts; individual recommendations (or comments and requests for information) and the responses are classified by the number of the corresponding paragraph in the CPT Report which contains the original recommendation, and also by whether the Czech authorities have cited new circumstances for 2004 in relation to the recommendation.

Part A - Police establishments

Ill-treatment

'The CPT recommends that senior police officers remind their subordinates, through appropriate means and at regular intervals, that ill-treatment is not acceptable and will be the subject of severe sanctions. It is particularly important that such a reminder be given to officers of the criminal police' (paragraph 10).

Police officers must draw up an official record or police report on each intervention or action taken in the line of duty, where the names of the police officers making the intervention or taking the action are specified. In certain cases, the lawful presence of other persons during the performance of official tasks may prevent ill-treatment. These persons may be an interpreter, a defence counsel, a member of staff from an institution for the social and legal protection of children (in cases where the subject of the action is not yet 18 years old), a psychologist, a teacher or other person experienced in the upbringing and education of young people (in cases where the subject of the action is less than 15 years old), an expert witness, a recording clerk, the statutory representative of the accused, or the guardian or authorized representative of the injured party.

In order to increase the level of awareness, in 2005 police officers will be informed of the mission, activities, and results of the CPT.

Safeguards against ill-treatment

‘The CPT recommends that the Czech authorities take steps to ensure that the right of access to a lawyer as defined in paragraph 21 is enjoyed by all persons obliged to remain with police, as from the very outset of their deprivation of liberty. The right of access to a lawyer should be enjoyed not only by criminal suspects, but also by anyone who is under a legal obligation to attend - and stay at – a police establishment, e.g. as a person whose identity must be established or who is obliged to provide an explanation’ (paragraph 21).

Persons brought to a police station with a view to establishing their identity or having them provide an explanation also have a right to legal assistance, but these tasks may not be blocked solely on the grounds that this person insists on access to a lawyer who is unable to come to the police station in a reasonable time limit. Under the law¹ the police force has 24 hours to establish the identity of a person; after this time a detained person must be released even if his identity has not been established.

If a person is required to provide an explanation, he is brought to the police station for this purpose only in the event of a particularly serious crime and if he refuses to follow Czech Police officers immediately after being requested to do so or if he ignores a summons to present himself at the police station. All persons are informed of their right to legal assistance in the summons and again at the beginning of the task in question. In cases where persons do not understand Czech, the advice on their right to legal assistance is interpreted for them by an interpreter. A record confirming this advice is drawn up and it is signed by the person in detention; refusal to sign is put on record, with a specification of the grounds for refusal (if cited by this person).

‘The CPT recommends that the right of persons taken into police custody to be examined or treated by a doctor of their own choice, as stipulated in paragraph 22, be formally guaranteed’ (paragraph 22).

Under the Act on Care for Public Health² all persons, with the exception of remand and sentenced prisoners, are permitted to select a doctor, clinical psychologist, or healthcare facility. We can infer from this that persons detained in police cells are allowed to select the doctor of their choice.

However, under the new Health Care Bill prepared by the Ministry of Health not even a person detained in a police cell would have the right to a free choice of doctor. The Ministry of the Interior supports this proposal.

‘The CPT recommends that a form setting out the rights of persons in police custody in a straightforward manner be systematically given to such persons at the very outset of their deprivation of liberty. The form should be available in an appropriate range of languages. Further, the persons concerned should be asked to sign a statement attesting that they have been informed of their rights’ (paragraph 24).

¹ Section 14(3) of Act No 283/1991, on the Police Force of the Czech Republic, as amended

² Section 9(2) of Act No 20/1966, on care for public health, as amended.

The relevant laws obligate police officers and other bodies to advise persons of their rights in all cases; this advice always constitutes part of the report on action taken with these persons. The relevant reports on action are almost always pre-printed forms, where the advice is positioned straight after the personal data of the person, i.e. not at the end of the report. Because the advice on rights is part of the report on action rather than a separate form, a person restricted in freedom cannot keep it after the corresponding action has been taken.

All Czech Police officers can download forms with advice on the rights of the affected persons in English and German via the police intranet (from the intranet pages of the police presidium). Police authorities in regions bordering neighbouring countries have forms at their disposal in the language of the neighbouring country. However, forms containing advice in foreign languages are not always used in practice. To advise persons restricted in freedom who cannot speak Czech, police officers use the services of interpreters. In these cases the police report on the action is drawn up in Czech.

At present the Police Presidium of the Czech Republic is preparing the draft of advice (which will be part of a form) specifying the rights and obligations of persons detained in police cells. Written advice will be drawn up in Czech and in foreign languages for persons who cannot speak Czech. Written advice will be provided to persons detained in police cells by all police units where police cells exist.

‘The CPT would like to receive the 2002 Activity Report of the State Attorney’s Prosecuting Office, and, in particular, information on the number and nature of complaints made against police officers, and the action taken in response thereto’ (paragraph 26).

Information about crimes committed by members of the Czech Police in 2003 is contained in Appendix No 1 to the Report.

Information on complaints (submittals of a non-criminal nature) against Czech Police officers is contained in Appendices Nos 2 and 3 to the Report.

The Czech authorities have no new circumstances to report for 2004 in relation to the following recommendations, remarks, and requests for information:

Ill-treatment

‘The CPT recommends that police officers be continuously reminded that no more force than is strictly necessary must be used when persons are apprehended by the police and that once they have been brought under control, there can never be any justification for them being struck’ (paragraph -11).

‘The CPT would like to receive detailed information on the action taken by the Czech authorities and the outcome of any investigation carried out in respect of allegations of ill-treatment inflicted by the police on the occasion of the September 2000 meeting of the International Monetary Fund and World Bank in Prague’ (paragraph 12).

Conditions of detention

‘The CPT recommends that the use of cellular facilities at Prague-Hybernská and Prague-Vyšehradská Police Stations be reviewed, in the light of the remarks in paragraph 14’ (paragraph 14).

‘The CPT calls upon the Czech authorities to take steps to ensure that in all police establishments in the Czech Republic, persons obliged to stay overnight in custody are provided with a clean mattress and clean blankets’ (paragraph 15).

‘The CPT recommends that steps be taken to improve the ventilation in cells at Ostrava Municipal police station, Plzeň Regional Police Headquarters and Prague-Hybernská Police Station’ (paragraph 15).

‘The CPT recommends that metal devices to shackle detained persons to the wall be removed from police cells’ (paragraph 16).

‘Persons detained by the police should be given food at appropriate times, including at least one full meal (i.e. something more substantial than a sandwich) every day’ (paragraph 17).

Safeguards against ill-treatment

‘The CPT recommends that all persons deprived of their liberty by the police - for whatever reason - be 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. The exercise of this right could be made subject to certain exceptions designed to protect the legitimate interests of the police investigation, provided those exceptions are clearly circumscribed in law and made subject to appropriate safeguards (e.g. any delay in notification of custody be recorded in writing with the reasons therefor and to require the approval of a senior police officer unconnected with the case at hand or a public prosecutor)’ (paragraph 19).

‘The CPT would like to receive information about the arrangements made in the Czech Republic to provide access to a lawyer for persons who are not in a position to pay for one’ (paragraph 21).

‘The CPT recommends that steps be taken to ensure that all medical examinations of persons in police custody are conducted out of the hearing and - unless the doctor concerned expressly requests otherwise in a given case - out of the sight of police officers’ (paragraph 23).

‘The CPT recommends taking steps to ensure that custody registers are set up at Plzeň-Perlová Police Station and the detention facilities of the Aliens Police (Escort Department) at Prague-Ruzyně International Airport’ (paragraph 25).

‘The CPT recommends taking steps to ensure that the time persons are held by the police “for identification purposes” or “to give an explanation” is recorded in a register’ (paragraph 25).

‘The CPT recommends that all necessary steps be taken to ensure that the inspections of police detention facilities by the State Attorney’s Prosecuting Office become effective without delay’ (paragraph 27).

Part B – Detention of foreign nationals under aliens legislation

Conditions of detention

‘The CPT recommends that the Czech authorities review as a matter of urgency the detention regime at Bálková Detention Centre for Foreign Nationals (as well as in other establishments of this type), in the light of the remarks made in paragraph 36. When, exceptionally, it is necessary to place a detainee under special conditions of detention, the reasons for such placement should be communicated in writing to the person concerned, who should have a right of appeal against that measure’ (paragraph 36).

The Ministry of the Interior has prepared a draft amendment to the Foreigners Act.³ One of the main reasons prompting this legislative change is the general revision of Chapter XII of the Act, which regulates issues connected with the stay of foreigners in detention facilities for foreigners.

The proposed change of the facility operator is a matter of fundamental importance. Authorization to set up and run facilities should transfer from the police to the Ministry of the Interior; the role of operator will be entrusted by the Ministry to an organizational component of the State [*the State’s agency*] established for this purpose. This move will restrict the presence of police officers in such facilities to a minimum (they will only be required to carry out essential action and tasks), and all staff will be civilians.

The proposal retains the division of facilities into a section with a lenient detention regime and a section with a strict detention regime. The priority will be to place detained foreigners in the section with the lenient regime. Placement in a strict detention regime will be a de facto exceptional measure and may be applied only in cases laid down by law. It will be possible to place foreigners in the section with a strict regime only for reasons laid down by law:

- a) the foreigner is aggressive or requires increased supervision for other serious reasons (e.g. requires increased supervision because he has manifested suicidal or self-harm tendencies),
- b) the foreigner repeatedly and seriously breaches the internal rules of the facility, or
- c) the foreigner repeatedly and seriously breaches an obligation or prohibition under the Foreigners Act (e.g. harbours and consumes alcoholic beverages or narcotic substances).

Detention in the section with the strict regime will be possible from the beginning of detention or in the course of detention in the lenient regime. Placement in the strict regime may last for a maximum of 30 days; in warranted cases this form of detention may be extended for a maximum of 30 days. The police unit which decides to place a foreigner in the section with the strict regime will be obliged to keep checking, throughout the duration of the foreigner’s placement in this strict regime, whether the reasons for the placement in this section of the facility still exist; if the grounds for such placement no longer exist, the police will be obliged to relocate the foreigner to the section with the lenient regime without undue delay.

³ Act No 326/1999, on the residence of foreigners on the territory of the Czech Republic and on changes to certain laws, as amended

Under the proposed amendment to the Foreigners Act, a separate written decision will not be issued on the placement of a foreign detainee in the strict regime. Foreigners will be notified of their placement in the section of a facility with a strict regime in person, and will be informed of the reasons for this action. The police will be obliged to draw up a record, with a statement of grounds, on the placement of a detained foreigner in the strict regime without any delay. A detained foreigner will be entitled to file a complaint with the Ministry of the Interior against such a decision. The time limit for the settlement of such a complaint will be 30 days as of delivery of the complaint. Foreigners will be entitled to file a petition with the Minister of the Interior for a review of the decision about a complaint.

With a view to ensuring that foreigners are informed, the draft amendment to the Foreigners Act contains a provision where the facility operator is obliged to inform detained foreigners, when they are placed in the facility (or without any delay after this placement), of their rights and obligations related to their stay in the facility and of the internal rules of the facility. The facility operator shall provide this information to foreigners in their native language or in a language they are able to understand.

The facility's internal rules will be published in Czech, English, French, German, Russian, Spanish, Chinese, Arabic, Vietnamese, Hindi, and other languages if required to provide detainees with the necessary information. Compared with the current situation, the number of languages in which the internal rules are published will be increased to include Hindi and Vietnamese, and conditions will be fostered for publication in other languages where required to keep foreigners informed, based on the current 'structure' of detained foreigners from the aspect of nationality and the ability to understand a specific language. The internal rules will be located in a place accessible to all detained foreigners.

The proposed amendment to the Foreigners Act appoints the range of services that will be provided by the operator to detained foreigners under the terms and conditions laid down in the law, i.e. the operator shall:

- a) provide a bed, chair, cupboard for personal items, food, and basic hygiene products,
- b) permit the receipt and sending of written correspondence without restriction,
- c) permit visits,
- d) permit detainees to order books, daily newspapers and magazines, including foreign publications, where such publications are distributed in the Czech Republic,
- e) enable detainees to lodge requests, complaints, or other suggestions with the State authorities of the Czech Republic in order to exercise their rights, and shall send such submissions without any delay,
- f) at a detainee's request, shall make an appointment without any delay for an interview with the facility manager or his deputy, or with police officers at the facility,
- g) enable detainees to have eight hours' uninterrupted sleep at night time,
- h) permit free movement within the section with a lenient regime and contact with other foreigners placed in this section,
- i) arrange for the medical examination of a detained foreigner, other necessary diagnostic and laboratory examinations, vaccinations, and preventive measures appointed by an authority for the protection of public health,
- j) enable foreigners placed in the section with the strict regime to have outdoor exercise of at least one hour a day in a specified area.

The operator may arrange for a detained foreigner to receive psychological and social services and other services and items required for the foreigner's stay at the facility.

The organizational and technical conditions of a foreigner's stay at a facility will be laid down by the internal rules issued by the operator. In particular, the internal rules should appoint the following for detained foreigners:

- a) a schedule for the provision of health, psychological and social care,
- b) a schedule for the provision of food,
- c) a schedule of – and an offer to satisfy – cultural needs and sport activities,
- d) a schedule for the dispensing of hygiene products, footwear, clothing, and linen,
- e) a system for visits,
- f) a set area for outdoor exercise and a schedule of outdoor exercise for the strict detention regime,
- g) areas which foreigners may not enter unless accompanied by a police officer or member of staff from the facility,
- h) the method used to provide compulsory full-time schooling.

In the internal rules of a facility holding parents with children or unaccompanied minors, the operator will prepare a range of cultural, sport, and other activities specifically for various age categories.

The internal rules will also explicitly lay down the obligations of foreigners detained at the facility and the authorizations of the facility operator and the police.

The draft amendment also covers the issue of minors held in facilities together with their parents or statutory representatives. Minors will be provided with services at the same level as adult detained foreigners. Minors will not be held in a detention regime, and if they receive care by some other means during their stay on the territory of the Czech Republic, they will be permitted to leave the facility.

The draft amendment to the Foreigners Act stipulates that, when placing detainees in accommodation areas, the operator should, wherever possible, take into consideration religious, ethnic, and national specificities, the presence of relatives and existence of family relations, age, and state of health. Unaccompanied foreign minors will be placed separately from adult foreigners and men will be placed in a separate section from women; exceptions may be made in cases of next of kin. Foreigners under the age of 18 or foreigners deprived of legal capacity will be accommodated with next of kin or with the person in whose care and custody they have been placed.

In relation to children, the draft amendment to the Foreigners Act stipulates that foreigners may leave the confines of a facility for the purposes of compulsory full-time schooling if such schooling is not available at the facility, and for other activities intended to support the development of a child's personality. The operator will also cover the cost of textbooks and other school equipment for foreigners placed in the facility who are subject to compulsory school attendance, unless such costs are covered by the State; in warranted cases the operator will make arrangements for foreign minors to be transported to schools.

Once a week, detained foreigners will be entitled to receive parcels containing food, books, and personal items up to a maximum weight of 5 kg. This restriction does not apply to packages containing clothing sent as a change of clothes for the detainee. The content of parcels will be inspected by the Czech Police; Czech Police officers will not pass on to foreigners any items where it is expressly stated, under the law, that they must not be taken into or harboured in a facility (e.g. alcohol, narcotic substances, weapons).

The draft amendment to the Foreigners Act lays down that the Ministry of the Interior is responsible for policing the observance of Chapter XII of the Act in relation to foreigners detained in a facility. Foreigners will be entitled to file a complaint related to a breach of the provisions of this Chapter with the Ministry, which must settle the complaint within 30 days of delivery thereof and will notify the complainant of the manner in which the complaint was settled. A complainant may file a petition with the Minister of the Interior for a review of the decision about a complaint.

‘The CPT recommends that the current practice concerning clothing of foreign nationals held at Bálková be fundamentally revised; in particular, all detainees arriving at the establishment with clean clothes and appropriate footwear should be entitled to wear them during their stay and, when necessary, to have them cleaned and repaired’ (paragraph 37).

Under the draft amendment to the Foreigners Act, during their stay at a facility foreigners will use their civilian clothes; if necessary, the operator may provide additional clothing. However, this additional clothing will not be an ‘institutional uniform’.

‘The CPT recommends that the religious requirements and dietary habits of foreign nationals held at Bálková be taken fully into account’ (paragraph 40).

The draft amendment to the Foreigners Act lays down that detained foreigners will be provided with food corresponding to the principles of correct nutrition and the state of health of foreigners three times a day; children under the age of 18 will receive food five times a day. Wherever possible, the selection of food will take account of practices related to the religious beliefs of detained foreigners.

‘The CPT recommends that steps be taken to ensure that medical confidentiality is respected at the Reception Centre for Asylum Seekers at Prague-Ruzyně International Airport’ (paragraph 48).

In 2004, no shortcomings were registered in the observance of the confidentiality obligations by members of staff of Ambulance Meditrans, s.r.o.

‘The CPT recommends that the visit entitlement for foreign nationals held at Bálková (as well as in other establishments of this type) be significantly increased’ (paragraph 56).

The draft amendment to the Foreigners Act lays down that detained foreigners will be entitled to receive a one-hour visit, comprising a maximum of four persons present at any one time, once a week. In warranted cases, the facility manager or his deputy may, subject to agreement with the police, permit visits at intervals of less than one week and for a period of more than one hour. Where the capacity of visiting rooms allows, a larger number of visitors may also be permitted. No restrictions will apply to visits of persons providing foreigners with legal assistance.

‘The CPT recommends taking steps enabling foreign nationals held at the airport reception centre to see a lawyer, a doctor of their choice, representatives of nongovernmental organizations and, where appropriate, family members or other persons close to them settled in the Czech Republic’ (paragraph 57).

Tight security measures must be in place at the entrance to the transit area of an international airport where a reception centre is located. In this respect, all visitors to the reception centre must tolerate certain procedures. A simplification of the conditions of entry to the reception centre and the possibility of using the outdoor exercise area directly at the centre are factors behind the attempts of the Ministry of the Interior to build a new centre with a separate entrance.

The Czech authorities have no new circumstances to report for 2004 in relation to the following recommendations, remarks, and requests for information:

Ill-treatment

‘The CPT recommends that police officers at the Bálková Detention Centre for Foreign Nationals be given the clear message that all forms of ill-treatment, including verbal abuse, are not acceptable and will be the subject of severe sanctions’ (paragraph 32).

Conditions of detention

‘The CPT recommends that the internal instruction obliging foreign nationals held at Bálková to keep continuously moving in the recreation area during their outdoor exercise to be rescinded; detainees should be allowed to use their outdoor exercise period in the manner they find most relaxing’ (paragraph 38).

‘The CPT recommends that immediate steps be taken to ensure that all foreign nationals at Bálková (as well as in other such establishments throughout the country) are guaranteed at least one hour of outdoor exercise per day. Outdoor exercise areas should be fitted with means of protection against inclement weather’ (paragraph 38).

‘The CPT calls on the Czech authorities to take urgent steps to ensure that detainees at Bálková have ready access to toilet facilities at all times’ (paragraph 39).

‘The CPT recommends that vigorous steps be taken to provide a range of activities for foreign nationals held at Bálková (as well as in other establishments of this kind), in the light of the remarks made in paragraph 34; specific measures should be taken to ensure that minors are offered activities suitable to their age’ (paragraph 41).

‘The CPT would like to be informed of the progress made in transferring detained foreign nationals with children from Bálková to the centre for asylum seekers at Bělá pod Bezdězem-Jezová and the conditions under which they are held there (i.e. accommodation, activities, etc.)’ (paragraph 42).

‘The CPT would like to receive assurances that the outdoor exercise facility at the Reception Centre for Asylum Seekers at Prague-Ruzyně International Airport is fully operational’ (paragraph 44).

Health care

‘The CPT recommends that all medical examinations at the Bálková Detention Centre for Foreign Nationals be conducted out of the hearing and - unless the doctor concerned expressly requests otherwise in a particular case - out of the sight of police officers’ (paragraph 45).

‘The CPT would like to receive the comments of the Czech authorities on complaints about the lack of medicines and the unavailability of appropriate treatment at Bálková, due to the fact that foreign nationals are not covered by health insurance’ (paragraph 46).

‘The CPT recommends that steps be taken to ensure that foreign nationals held at Bálková are provided adequate access to the services of a psychiatrist, a gynaecologist, and a paediatrician’ (paragraph 47).

Other issues

‘The CPT recommends that the selection and training of staff assigned to the Bálková Detention Centre for Foreign Nationals (as well as to other establishments of this kind) be reviewed, in the light of the remarks made in paragraph 49’ (paragraph 50).

‘The CPT invites the Czech authorities to arrange for the regular presence of interpreters at the Bálková Centre’ (paragraph 50).

‘The CPT recommends that the Czech authorities take steps to ensure that all foreign nationals held at Bálková are duly informed about the nature and state of the proceedings in their case, as well as of all their rights related thereto’ (paragraph 53).

‘The CPT trusts that an information brochure providing information on their legal status and rights will be made available without delay - in the most frequently spoken languages - to all asylum seekers held at Prague-Ruzyně International Airport’ (paragraph 54).

‘The CPT invites the Czech authorities to explore the possibility of installing additional phones for foreign nationals at Bálková’ (paragraph 55).

Part C – Prisons

Preliminary remarks

‘The CPT recommends that an official standard be re-established in the Czech prison system, guaranteeing at least 4 m² per prisoner in multiple-occupancy cells’ (paragraph 60).

An official standard guaranteeing at least 4 m² per prisoner in multiple-occupancy cells was introduced with effect as of 1 July 2004 for remand prisoners by means of an amendment to the regulation used to issue the Rules of Remand⁴ and, for sentenced prisoners, by means of an amendment to the regulation used to issue the Rules of Confinement⁵. However, considering the current number of prisoners⁶ an exemption from this rule has been introduced so that this standard need not be respected.

The regulation promulgating the Rules of Remand lays down that ‘in a multiple-occupancy cell, there must be at least 4 m² of accommodation space per remand prisoner. Cells with an accommodation space of less than 6 m² may not be used to hold remand prisoners. A remand prisoner may be placed in a cell in which the accommodation space per person is less than 4 m² only if the total number of remand prisoners in the circuit of the high court exceeds the accommodation capacity of prisons appointed in such a manner that there is an accommodation area of at least 4 m² per remand prisoner.

The regulation promulgating the Rules of Confinement lays down that ‘in an accommodation room intended for multiple occupancy, there must be at least 4 m² of accommodation space per sentenced prisoner. Cells or sleeping quarters with an accommodation space of less than 6 m² may not be used to hold sentenced prisoners. A sentenced prisoner may be placed in a room intended for the accommodation of more than one person, in which the accommodation space per person is less than 4 m², only if the total number of sentenced prisoners confined in prisons of the same basic type throughout the country exceeds the capacity of prisons appointed in such a manner that there is an accommodation area of at least 4 m² per sentenced prisoner.

⁴ Regulation No 377/2004, amending Regulation No 109/1994, issuing the Remand Rules, as amended in Regulation No 292/2001.

⁵ Regulation No 378/2004, amending Regulation No 345/1999, issuing the Rules of Confinement.

⁶ As at 30 October 2004, there were 18,475 persons in prisons and remand prisons in the Czech Republic, of whom 15,091 were sentenced prisoners and 3,384 were remand prisoners. There has been a constant rise in the number of prisoners since the beginning of 2003. As at 31 December 2002, there were 16,215 sentenced and remand prisoners; by 31 October 2004 this figure had risen by 2,262. There were 176 prisoners per 100,000 inhabitants in the Czech Republic as at 31 October 2004. As at 29 December 2004, the total number of prisoners was 18,325; this figure has risen sharply since the beginning of 2005. As at 21 January 2005, the total number of prisoners was 18,721. According to the Prison Service of the Czech Republic, this trend of rising numbers of prisoners is set to continue.

Based on a minimum accommodation area of 4 m² per prisoner, most prisons are significantly overcrowded. At the end of 2004, the average standard accommodation capacity of 4 m² per person was exceeded in 23 of the 35 prisons and remand prisons, with levels ranging from 103% to 111%.⁷ Therefore, it is necessary to focus on a systemic solution to this problem, involving closer cooperation between the Prison Service, the Probation and Mediation Service and the courts regarding the use of parole and alternative punishments.

Ill-treatment

‘The CPT would like to receive the following information for 2001 and 2002, in respect of all prisons in the Czech Republic:

- **the number of complaints lodged concerning ill-treatment by prison staff and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;**
- **an account of disciplinary/criminal sanctions imposed on the grounds of ill-treatment by prison staff’ (paragraph 64).**

In 2004, thirty complaints of physical violence by members of the Prison Service of the Czech Republic were recorded and handled by the Prison Service. Of these, 29 complaints were deemed to be unfounded and one complaint was assessed as warranted. The disciplinary proceedings based on this complaint resulted in the disciplinary punishment of a member of the Prison Service, who was penalized with a temporary pay cut.

In the same period, 48 complaints of inappropriate and offensive language by members of the Prison Service were recorded and handled by the Prison Service. Of these, 46 complaints were deemed to be unfounded and two complaints were assessed as warranted. The member of the Prison Service who used vulgar language against complainants in two cases was reprimanded.

In 2004, criminal proceedings against employees of the Prison Service were held in 148 cases; 137 of these cases involved 156 Prison Service officers and 11 cases involved civilian employees of the Prison Service. Of the above-mentioned cases, where investigations were launched at the instigation of a prisoner or based on the findings of the bodies of the Prison Service, in one case the conduct of a member of the Prison Service was found to be violent or vulgar in relation to an imprisoned person. Members of the Prison Service received a disciplinary punishment in the form of a temporary pay cut.⁸

⁷ The level at which the accommodation capacities are exceeded is calculated as the total accommodation capacity of all prisons divided by the total number of prisoners. Therefore, this figure has no specific informative value regarding accommodation capacities in individual prisons and in individual cells.

⁸ For the purposes of statistics, cases set aside by a resolution of the police authority because they do not entail a suspicion of crime, and cases where conduct is not qualified as a misdemeanour either, are not documented in detail.

Life-sentenced prisoners

‘The CPT recommends that the regime applicable to life-sentenced prisoners in the Czech Republic be fundamentally revised, in the light of the remarks made in paragraphs 69 and 70’ (paragraph 70).

With effect as of 1 July 2004, a provision was removed from the Confinement Act⁹ which laid down 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. This amendment is a fundamental change in the concept of the objective of life sentences.

Further changes related to the regime of life-sentenced prisoners were introduced by means of an amendment to the regulation promulgating the Rules of Confinement. As a matter of principle, life-sentenced prisoners are now to serve their sentence in a section with reinforced structural and technical security, and as a rule they are to work at workplaces in this high structural and technical security section.¹⁰ The regulation also tightens conditions for the use of handcuffs on life-sentenced prisoners during outdoor exercise, where sentenced prisoners may be handcuffed during outdoor exercise only in particularly warranted cases.

‘The CPT can see no justification for keeping life-sentenced prisoners systematically apart from other sentenced prisoners’ (paragraph 70).

With effect as of 1 July 2004, an amendment to the Confinement Act abrogated a provision that required that life-sentenced prisoners be kept apart from other sentenced prisoners. At present, life-sentenced prisoners are placed in the prisons at Mírov and Valdice. In both these prisons, life-sentenced prisoners are housed in a common section with other sentenced prisoners assigned to a top security [category A] prison.

‘The CPT recommends that the Methodological Ordinance No 13 be amended with a view to allowing life-sentenced prisoners to have open visits, subject to individual risk assessments’ (paragraph 71).

The amendment to the Confinement Act, effective as of 1 July 2004, guarantees that visits under closed conditions may only be accepted after an individual assessment of the security risks. The law lays down that the prison governor may permit visits to sentenced prisoners which are not supervised (via visual or auditory checks) by employees of the Prison Service in visiting areas. In warranted cases, the prison governor may decide that, for security reasons, a visit will take place in a room where the visitor is separated from the convict by a screen.¹¹

⁹ Act No 169/1999, on confinement and on amendments to certain related laws, as amended, was amended by Act No 52/2004.

¹⁰ Sections 95 and 96 of Regulation No 345/1999, issuing the Confinement Rules, as amended by Regulation No 378/2004.

¹¹ Section 19(6) of Act No 169/1999, on confinement and on amendments to certain related laws, as amended.

With effect as of 1 July 2004¹², the amendment to the Rules of Confinement laid down that visits to life-sentenced prisoners may be carried out under closed conditions only in exceptional circumstances.¹³

An analogical change is also contained in the amended provisions of the Remand Act.¹⁴

Visits to all remand and sentenced prisoners are carried out in accordance with the above-mentioned legal regulations; the prison governor makes decisions on whether visits will be under open or closed conditions on a case-by-case basis. The need for an individual assessment of the method used for visits to all prisoners was discussed by the management of the Prison Service at a meeting with prison governors held on 14 September 2004, and will be reviewed in February 2005.

However, Methodological Ordinance No 13 from 2001 has not yet been changed in this respect. The Methodological Ordinance lays down that visits to life-sentenced prisoners who are classified in the third group of internal differentiation are always visits under closed conditions; visits to sentenced prisoners in the second group of internal differentiation are generally visits under closed conditions. Because these provisions of the Methodological Ordinance do not comply with the Confinement Act and the regulation promulgating the Rules of Confinement, the Methodological Ordinance will be amended in this respect by 31 March 2005.

‘The CPT recommends that Security Cell No 113 at Valdice Prison be equipped with a mattress and a special register be kept concerning its use’ (paragraph 75).

Security Cell No 113 has always been equipped with a mattress, but for hygiene reasons it is removed in the morning and returned in the evening. Records on the use of the cell were introduced immediately after the CPT visit. A doctor makes a decision on the length of confinement in this cell; these decisions are made on a case-by-case basis.

Conditions of detention of the general prison population

‘The CPT recommends that steps be taken to develop and implement specific policy in respect of remand prisoners, with a view to offering them adequate programmes of activities, throughout the prison system’ (paragraph 80).

With effect as of 1 July 2004, the Remand Act lays down the obligation of a prison to offer remand prisoners, wherever possible, preventive educational, training, special-interest, and sports programmes.¹⁵

¹² Regulation No 378/2004, amending Regulation No 345/1999, issuing the Rules of Confinement.

¹³ Section 97 of Regulation No 345/1999, issuing the Confinement Rules, as amended by Regulation No 378/2004.

¹⁴ Section 14(5) Act No 293/1993, on remand, as amended

¹⁵ Section 4a of Act No 293/1993, on remand, as amended by Act No 52/2004.

A new provision of the regulation promulgating the Rules of Remand is linked to this change.¹⁶ The regulation lays down that *'to reduce the negative effects of isolating a remand prisoner from society by placing him in custody, and in accordance with the purpose of remand, the prison shall create conditions appropriate for preventive educational, training, special-interest, and sports programmes. In this respect, the prison shall adopt suitable measures including, without limitation, in the fields of human resources, materials and equipment, and organization, and shall cooperate with the competent State authorities and institutions, churches, and religious societies and special-interest associations of citizens. The prison shall offer remand prisoners the opportunity to take part in at least one preventive educational, training, special-interest, and sports programme.'* However, inadequate material and personnel conditions have meant that the above-mentioned provisions of the regulation have not been implemented in all cases.

The regulation also lays down that the provisions of the Remand Act regarding the separate placement of remand prisoners¹⁷ shall be applied *mutatis mutandis* in the implementation of preventive educational, training, special-interest, and sports programmes, and that the joint participation of men and women is not permitted; remand prisoners who have been taken into custody due to concerns that they might frustrate the clarification of circumstances significant for a criminal prosecution are not allowed to participate in these programmes with other remand prisoners.

'The CPT calls upon the Czech authorities to take immediate steps to ensure that all inmates, including newly-arrived prisoners and patients whose state of health permits, are offered at least one hour of outdoor exercise per day' (paragraph 81).

In order to prevent the outdoor exercise of remand prisoners from being restricted or cancelled, with effect as of 1 July 2004 the Remand Act was changed to the extent that the power to make decisions on restricted or cancelled outdoor exercise was transferred from prison governors to the Director General of the Prison Service of the Czech Republic or an employee of the Prison Service delegated by the Director General.¹⁸

'The CPT invites the Czech authorities to develop projects similar to those referred to in paragraph 82 throughout the prison system' (paragraph 82).

Until 1 July 2004, the Confinement Act allowed 'pre-release' units to be set up only in high security prisons [category B] and top security [category A] prisons; since 1 July 2004, it has been possible to establish 'pre-release' units in all categories of prisons.¹⁹ In 2004, new 'pre-release' units were set up in nine prisons.

¹⁶ Section 4a of Regulation No 109/1994, issuing the Rules of Remand, as amended by Regulation No 377/2004.

¹⁷ Section 7 Act No 293/1993, on remand, as amended

¹⁸ Section 18(2) of Act No 293/1993, on remand, as amended by Act No 52/2004.

¹⁹ Section 78(1) of Act No 169/1999, on confinement and on amendments to certain related laws, as amended by Act No 52/2004.

‘The CPT would like to receive the comments of the Czech authorities on the delegation’s observation that the legal requirement that all sentenced prisoners in the Czech Republic had to reimburse the costs of their incarceration to the State authorities seemed to have detrimental effects on the motivation of prisoners to engage in an educational/vocational programme’ (paragraph 83).

The amendment of the Confinement Act has expanded the list of cases where sentenced prisoners are exempted from the obligation to reimburse the costs of their incarceration. With effect as of 1 July 2004, the law lays down²⁰ that sentenced prisoners are relieved of the obligation to cover the cost of their incarceration over the period they are assigned to educational or therapeutic programmes where the teaching or therapy time is at least 21 hours a week. In addition, the obligation to reimburse the cost of incarceration is not applied to sentenced prisoners

- a) who are not assigned to work, through no fault of their own, and had no other income or other cash over a period of a calendar month,
- b) who are not yet 18 years old,
- c) over a period when institutional (hospital) care is administered to them, provided that they have health insurance under a separate legal regulation, with the exception of cases specified in Section 36(1) of the Act,²¹
- d) over a period when imprisonment is suspended,
- e) over a period when they take part in trials as a witness or injured party,
- f) over a period of temporary extradition abroad,
- g) if they have escaped from prison.

Based on observations from his activities, the ombudsman believes it would be expedient to consider the efficacy of the new provision where sentenced prisoners are exempt from the obligation to reimburse the costs of their incarceration if they are not assigned work, through no fault of their own, and have no other income or other cash for a period of one calendar month.²² This is because some working inmates who are remunerated, for example, for piece work, might find themselves in a situation under this provision where their earnings for a calendar month are lower than the costs of their incarceration over the same period. This is a demotivating factor, because sentenced prisoners who are meant to be assigned to a workplace where they know that the average earnings may fall short of the monthly cost of imprisonment will try to avoid this type of work. Such sentenced prisoners are also disadvantaged to a certain extent compared with non-working inmates because the difference between the amount left after the deduction of the costs of incarceration and the ‘social pocket money allowance’ granted to non-working prisoners (CZK 100 per month) will be minimal.

²⁰ Section 35(2) to (4) of Act No 169/1999, on confinement and on amendments to certain related laws, as amended.

²¹ Under Section 36(1) of the Confinement Act, sentenced prisoners are obliged to reimburse the higher costs of guards and the cost of transport and transfer to a healthcare facility, as incurred by the Prison Service, if they intentionally cause harm to themselves, or intentionally allow another person to cause harm to them, or if they repeatedly violate a treatment regime, abuse health care by feigning health disorders, or, by their own decision, do not undertake an operation for which they have given prior consent or which they have requested.

²² Section 35(2)(a) of Act No 169/1999, on confinement and on amendments to certain related laws, as amended by Act No 52/2004.

In the opinion of the ombudsman, it would also be expedient to consider the efficacy of reimbursing the cost of incarceration in general, because CZK 45 per calendar day, even incomplete, of imprisonment in a calendar month is just a fraction of the true cost of incarceration, and could aggravate the resocialization of prisoners after they have served their sentences; the cost of recovering outstanding amounts could also exceed the amount actually recovered.

Other issues

‘The CPT would like to receive the comments of the Czech authorities on the remarks made in paragraph 95 about restrictions on visits to sentenced prisoners. The CPT has serious misgivings about the restrictions on visits to sentenced prisoners, set out in the new legislation. Such prisoners may receive visits from persons other than next of kin only ‘for serious reasons’. Unless specific security requirements dictate otherwise, visits from persons other than next of kin should, as a rule, be authorised. Further, the present wording of the relevant legislation leaves a large discretion to prison staff as to the effective duration of visits accorded to a particular detainee’ (paragraph 95).

With effect as of 1 July 2004, the amendment to the Confinement Act laid down that sentenced prisoners have the right to receive visits from next of kin, at a time set by the prison governor, for a total period of three hours per calendar month. The right to receive visits in this scope may not be restricted. However, prison governors retain the right to permit sentenced prisoners to have visitors other than next of kin only for serious reasons.²³

The amendment to the Remand Act extended the entitlement of remand prisoners to visits from an original one hour every two weeks to three hours per month.²⁴ The scope of the visit entitlement is now therefore the same for sentenced and remand prisoners.

‘The CPT recommends that both remand and sentenced prisoners in Czech prisons be granted regular access to a telephone’ (paragraph 96).

The amendment to the Remand Act, effective as of 1 July 2004, laid down that remand prisoners in custody other than custody to prevent collusion will be able to use a telephone, in warranted cases, to contact their next of kin; remand prisoners may be allowed to use a telephone to call persons other than next of kin for serious reasons.²⁵ The conditions regarding telephone use are now therefore the same for sentenced and remand prisoners. This legislation does not guarantee completely regular access to a telephone for remand and sentenced prisoners. Prisons are also faced by a lack of funds for the purchase of telephone sets.

²³ Section 19 of Act No 169/1999, on confinement and on amendments to certain related laws, as amended by Act No 52/2004.

²⁴ Section 14(1) of Act No 293/1993, on remand, as amended

²⁵ Section 13a of Act No 293/1993, on remand, as amended by Act No 52/2004.

‘The CPT encourages the Czech authorities to set up consultative councils throughout the prison system’ (paragraph 102).

Since 1 July 2004, a provision of the Confinement Act has been in effect which obligates all prison governors to set up a consultative council.²⁶ So far, consultative councils have been set up in 32 of the 35 prisons and remand prisons. A consultative council will be established at Praha-Pankrác remand prison by April 2005 and at Ostrov nad Ohří Prison in January 2005. There is still no consultative council at Pardubice Prison.

‘The CPT would like to receive detailed information on the Ombudsman’s powers and activities as regards visits to prison establishments and the processing of prisoners’ complaints’ (paragraph 102).²⁷

In the scope of his activities, the ombudsman dealt with life sentences and, after the Confinement Act and the regulation promulgating the Rules of Confinement were amended as of 1 July 2004, he is confident that the change in this legislation is acceptable.

The ombudsman also takes a positive view of the fact that a project for a Prison Information System was launched in 2002, under which full records of inmates are kept in an electronic ‘Prisoners Register’, which should also have an economic and operating section allowing for continuous monitoring and evaluations of prison capacities. However, at the same time it would be desirable to create corresponding electronic records of sentenced prisoners requesting transfers, both for the requirements of the General Headquarters of the Czech Prison Service and for the requirements of individual prisons. This is because no solution has been found to the problems of the current system for the transfer of prisoners. Individual requests are usually rejected by prison governors or by the General Headquarters of the Czech Prison Service on the grounds of insufficient capacity; requests are only assessed from a static point of view related solely to the moment that a request is submitted. Therefore, the decision-making bodies need not be aware of the fact that a request by a prisoner to be transferred to a particular prison may coincide with a request from another prisoner at this other prison wishing to be transferred in the other direction.

When handling suggestions, the ombudsman frequently encounters arguments from prisoners that their request has not been granted even though they are aware of prisoners from the prison they are interested in that have requested a move to the prison where these complainants are being held. In this light, the argument that prisons are full to capacity does not hold water because the switching of one prisoner for another would not result in a change in the statistics. Sentenced prisoners also point to the provision of the regulation promulgating the Rules of Confinement,²⁸ whereby the General Headquarters of the Czech Prison Service, when making decisions on the placement of inmates, is obliged to take into account, wherever possible, the fact that prisoners should serve their sentence as close as possible to the place of residence of their next of kin. To prevent this provision of the regulation from becoming merely a formal part of legislation, an effective mechanism needs to be set up to ensure that it is duly implemented. There is no need to discuss further how important it is to maintain contact between next of kin, especially between parents and children, including from the aspect of resocializing sentenced prisoners.

²⁶ Section 4 of Act No 169/1999, on confinement and on amendments to certain related laws, as amended by Act No 52/2004.

²⁷ see also the text on paragraph 147

²⁸ Section 7(1) of Regulation No 345/1999, issuing the Confinement Rules, as amended by Regulation No 378/2004

The Czech authorities have no new circumstances to report for 2004 in relation to the following recommendations, remarks, and requests for information:

Preliminary remarks

‘The CPT invites the Czech authorities to continue to pursue their efforts to bring about a permanent end to overcrowding of prisons; success in this area will require *inter alia* that full use be made of existing possibilities for non-custodial sanctions’ (paragraph 60).

Ill-treatment

‘The CPT recommends that prison officers at Valdice Prison be reminded that the force used to control violent and/or recalcitrant prisoners should be no more than is strictly necessary and that, once prisoners have been brought under control, there can be no justification for striking them’ (paragraph 63).

‘The CPT recommends that senior prison officers in all establishments visited remind their subordinates that verbal abuse is not acceptable and will be punished accordingly’ (paragraph 63).

Life-sentenced prisoners

‘The CPT recommends that the Czech authorities review the use of handcuffs vis-à-vis life-sentenced prisoners at Valdice Prison, in the light of the remarks made in paragraph 72’ (paragraph 72).

‘In the CPT’s view, obliging life-sentenced prisoners to remain handcuffed during consultations with the prison doctor or placing them behind metal bars (without handcuffs) during consultations with a psychiatrist are ethically questionable practices which are inimical to a proper doctor-patient relationship’ (paragraph 73).

‘The CPT invites the Czech authorities to take steps to allow life-sentenced prisoners to create a more personalized environment in their cells at Valdice Prison’ (paragraph 74).

‘The CPT would like to receive detailed information about the procedures (e.g. medical supervision) in the event of placement of a person in the security cell No. 113 at Valdice Prison’ (paragraph 75).

Conditions of detention of the general prison population

‘The CPT invites the Czech authorities to review the schedule of outdoor exercise for female prisoners at Plzeň Prison’ (paragraph 81).

‘The CPT would like to receive the comments of the Czech authorities on the fact that only Czech nationals are able to be placed in units such as those referred to in paragraph 82’ (paragraph 82).

Health care

‘The CPT would like to be informed of the progress made in the transfer of the responsibility for prison health care from the Ministry of Justice to the Ministry of Health and, in particular, the procedures envisaged to supervise the work of health care staff in Czech prisons’ (paragraph 85).

‘The CPT recommends that steps be taken as a matter of priority to significantly increase the number of nursing staff at Plzeň Prison (this should make it possible, inter alia, to ensure the 24-hour presence of a nurse). It would also be preferable for a doctor to be present on weekends’ (paragraph 87).

‘The CPT recommends that immediate steps be taken to improve the level of hygiene in the two rooms of the infirmary at Plzeň Prison, in accordance with medical standards’ (paragraph 88).

‘The CPT recommends that steps be taken to ensure that all prisoners are guaranteed the provision of the medication required by their state of health, which implies that funds allocated to prisons should be sufficient to enable medication to be provided free of charge to those prisoners who do not have the necessary financial means to pay for it themselves’ (paragraph 89).

‘The CPT trusts that the requirement that, save in exceptional circumstances, an initial medical examination of newly-arrived prisoners should take place on the day of admission will be fulfilled once a nursing (and medical) staff presence on weekends is established at Plzeň Prison’ (paragraph 90).

‘The CPT recommends that steps be taken to ensure that medical confidentiality is fully guaranteed at Plzeň Prison (as well as in other prison establishments in the Czech Republic); all medical examinations of prisoners (whether on arrival or at a later stage) 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 92).

Other issues

‘The CPT recommends that steps be taken at Plzeň Prison to put an end to the practice of requiring prisoners to stand facing a wall whilst waiting for prison staff to attend to them’ (paragraph 93).

‘The CPT recommends that steps be taken as a matter of priority to fill the vacant posts of custodial staff at Plzeň Prison’ (paragraph 94).

‘The CPT recommends that steps be taken to remedy the shortcomings of the disciplinary cells at Plzeň Prison, in the light of the remarks made in paragraph 98 (e.g. poor ventilation, mould on the walls)’ (paragraph 98).

‘The CPT would like to receive the comments of the Czech authorities on the delegation’s observation that no revision of the list of authorised means of coercion has been carried out, as recommended by the CPT in its report on the 1997 visit’ (paragraph 99).

Part D – Psychiatric establishments

Patients'/residents' living conditions

‘The CPT invites the Czech authorities to take steps to provide residents in Units 1 and 3 of the Ostravice Social Welfare Home with a more personalised environment’ (paragraph 113).

Damage to the surroundings by residents of Units I and III with various levels of mental retardation continues; however, the décor and general arrangement of these stations has improved. In 2004, old unsatisfactory metal beds were replaced with new wooden beds. The Home purchased new bed linen and colourful blankets. Further room furnishings and equipment will be supplied to a new home in Pržno. The use of relaxation bags remains highly beneficial. The staff strive to ensure that the residents of Units I and III live in a pleasant setting.

‘The CPT would like to be informed of the progress made in the implementation of the plans to construct by 2004 new facilities for the Ostravice Social Welfare Home in Frýdek-Místek’ (paragraph 115).

The new complex in Pržno was due for completion at the end of 2004; the furnishings of the interiors and the subsequent relocation of the Home from Ostravice to Pržno is planned for April or May 2005. The complex will include a ward for residents who are confined to bed, or who are immobile or severely mentally disabled, a children’s ward, housing for residents with light to moderate mental disabilities, sheltered housing, occupational and educational therapy, agricultural therapy, an outdoor amphitheatre, and an outdoor sports area.

The Moravskoslezsko Region has approved an application for the provision of resources from the Structural Funds of the European Union in order to expand the complex to include a ward for psychotic patients, a multipurpose centre (to host social events, religious services, cultural events, etc.), a greenhouse and an area for hippotherapy. Construction of the extension is expected to start in April 2005. This construction should be completed by the end of 2005.

Staff and treatment

‘The CPT would like to be informed of the precise procedures concerning biomedical research projects followed at Opava Psychiatric Hospital and in other mental health care institutions in the Czech Republic’ (paragraph 119).

In 2003 the Internal Grant Agency of the Ministry of Health assigned special-purpose aid to Opava Psychiatric Hospital for the implementation of a project called ‘Therapeutic effects on cognitive functions in cases of schizophrenia’. The project was implemented during 2003 and focused on the therapeutic influence on cognitive dysfunction, which affects most patients with schizophrenia and makes it hard for them to find work and live a normal life.

‘The CPT recommends that steps be taken at the Ostravice Social Welfare Home to ensure that:

- **the number of nursing staff present during night-shifts is increased;**
- **the presence of the general practitioner and the psychiatrist is enhanced;**
- **rehabilitative services (psychology, physiotherapy, etc.) are provided (paragraph 120).**

The number of healthcare staff at the Ostravice Social Welfare Home has been increased by one worker to the current total of 34 (middle-level healthcare personnel: 20; lower healthcare personnel: 6; ancillary healthcare personnel: 7, social worker: 1). Four nurses completed a specialized further education course in psychiatry, one nurse is continuing her studies, and a further three have submitted applications to the National Centre of Nursing and Other Non-medical Health Professions in Brno. The increased number of medical staff during the night shift at Unit III has been maintained and remains at two members of staff. In 2004, the Home tapped the possibilities offered by alternative civilian service [non-military national service] and work experience for students from secondary schools and universities. Since the end of 2004, all the staff at Units I and III have made an active contribution to the provision of comprehensive nursing care.

As regards reinforcing the presence of the general practitioner and psychiatrist, it should be noted that these are private doctors and we cannot order them to take on a heavier workload. From Monday to Friday, there is the possibility of telephone consultations during the day, of seeing a doctor, or of visiting a resident (accompanied by a member of the Home’s staff); in the afternoons, at night, at weekends, and on public holidays medical care is available in the form of first aid (emergency service) or the medical rescue service.²⁹

In January 2005 the management of the Home asked the founder of the institution to increase the number of staff by one rehabilitation worker. The number of healthcare staff should increase further by five healthcare workers when the new institution opens in Pržno. In November 2004, the Home signed a voluntary service agreement with the *ADRA* Civic Association. The aim of the programme is to provide supplementary services and improve the psychosocial conditions of residents. Selected volunteers, who undergo special psychosocial training and have their activities supervised, contribute to the implementation of this programme. In December 2004 the Home entered into cooperation with ‘Helping Hand’ (*Podané ruce*), a society for dog therapy and personal assistance.

‘The CPT recommends that steps be taken as a matter of priority to ensure that all residents at Ostravice are provided adequate psychosocial and occupational therapeutic activities, according to their mental capacity and physical mobility’ (paragraph 122).

²⁹ The medical rescue service comprises emergency professional, pre-hospitalization care for patients at the site of the accident or sudden illness, during their transportation for further professional treatment, and during their transfer to a healthcare facility. It is provided in cases which are directly life-threatening to the patient, could lead to a worsening of ailments, sudden death, or cause a permanent deterioration in health without prompt first aid, sudden suffering or pain, or changes in the conduct or behaviour of the patient, or which could threaten the patient or his surroundings.

The healthcare staff at the institution have been preparing a 'Programmes for the Educational Activities of Groups A, B, C'. According to these programmes, an individual plan of educational activities has been appointed for 2005. Residents from all wards are involved in educational activities, with consideration for their disabilities and the opportunities available to them. They will take part in excursions, trips, and recreational activities, and participate in social events and performances. They use the gymnasium for sports activities, attend music therapy, and other special-interest and therapeutic activities.

Restrictions in the movement of agitated and/or aggressive residents/patients

'The CPT recommends that steps be taken to ensure that the procedures followed at Ostravice Social Welfare Home regarding the use of means of restraint are brought into line with the requirements set out in paragraph 123' (paragraph 125).

Since 1 July 2004, Ostravice Social Welfare Home has not used cage-beds, and since 15 October 2004 net-beds are used only in exceptional situations where the health and life of the resident or another person is in danger; in these cases net-beds are used only for the time strictly necessary and with full respect for record-keeping rules.

Each use of a net-bed is recorded in the client's file and in a log documenting the use of these beds in the facility. The records must include the reason for the use of the net-bed, a detailed description of the incident, including the place, time and other persons involved, as well as the date, time and duration of use of the net-bed. The report contains the signatures of the person who proposed the use of the net-bed, the doctor who approved the proposal, and the director of the facility, who is notified that the net-bed has been used.

The resident's statutory representative must give demonstrable consent to the use of a net-bed. The resident's statutory representative must be informed of each use of a net-bed, and the reasons for such use, immediately after the bed has been used. Net-beds must not be used with a view to drilling behaviour into a resident, achieving a change in the resident's conduct, or easing the work of staff. In 2004 the total number of net-beds at the institution fell from 11 to 6. Given the psychiatric diagnoses of residents, the use of net-beds is still required.

See the response to paragraph 128 for further information.

'The CPT recommends that specific registers of the use of means of physical restraint be set up at Opava Psychiatric Hospital and Ostravice Social Welfare Home' (paragraph 125).

Logs have been introduced at each ward of Opava Psychiatric Hospital in order to document cases where means of physical restraint have been used. More serious cases are handled in official proceedings at the level of the directorate.

The information about Ostravice Social Welfare Home is given under the previous paragraph.

‘The CPT recommends that steps be taken at Ostravice Social Welfare Home to ensure that:

- **the material conditions in both seclusion rooms are reviewed;**
- **all residents placed in seclusion, whose state of health permits, are offered at least one hour of outdoor exercise every day;**
- **a special effort is made that residents who are subject to long-term seclusion benefit from appropriate human contact.**

‘The CPT would also like to be informed of the long-term care plans vis-à-vis the two residents held in the seclusion rooms’ (paragraph 126).

When assessing the material conditions in separate rooms, the staff respect the recommendations of the psychiatrist. Separate housing with restricted room furnishings and a personalised approach from the staff is the only possible solution in current conditions. For the time being there are not the resources to provide a personal assistant for both residents 24 hours a day. The resident with severe mental retardation spends many hours every day outside his room, under the constant supervision of the staff, and spends time among the other residents; the other resident refuses to leave his room. Several times a day he is offered the chance to transfer to the common room, but always responds with verbal and non-verbal aggression. The mental state of both residents is regularly consulted with a psychiatrist. In the scope of the institution’s current possibilities, maximum care is provided to these residents with regard to of their state of health.

‘The CPT recommends that cage-beds be immediately withdrawn from service and that net-beds cease to be used as a tool for managing patients/residents in a state of agitation as soon as possible’ (paragraph 128).

At present, 27 of the total number of 1,015 beds at Opava Psychiatric Hospital are net-beds. The majority of them are located in geronto-psychiatric wards. Since the time of the CPT’s visit, when the hospital had 26 net-beds, the number of these beds has therefore increased by one.

In 2004 the total number of net-beds at Ostravice Social Welfare Home fell from 11 to 6. In Unit I, four net-beds are used as a humane means of protecting residents from serious injury in cases of sudden agitation at night. There is one net-bed in Unit II and one net-bed in Unit III.

Further information about Ostravice Social Welfare Home is given under paragraph 125.

‘The CPT recommends that measures be taken, for as long as net-beds remain in use, to ensure that persons placed in such facilities are not exposed to the view of other patients/residents and are subject to appropriate supervision by staff; this recommendation should be applied mutatis mutandis to other means of restraint, such as straight-jackets or fixation; this should not preclude persons subject to means of restraint being visited by fellow patients/residents, if this is advisable from a medical standpoint’ (paragraph 128).

‘The CPT believes that more suitable means than net-beds can be found to ensure the safety of persons with impaired mobility or nocturnal disorders (e.g. disorientation or sleepwalking)’ (paragraph 128).

‘The CPT trusts that its recommendations made in paragraphs 125 and 128 will be taken into account in the preparation of draft standards on the use of means of restraint applicable in in-patient psychiatric institutions in the Czech Republic’ (paragraph 129).

On 13 July 2004, the former Health Minister Jozef Kubinyi issued an instruction to all directors of healthcare facilities managed directly by the ministry, ordering that *‘in their healthcare facility they ban the use of cage- beds with immediate effect and order the disposal thereof’*; he also requested the *‘gradual establishment of rooms especially equipped to prevent injury to agitated patients so that, in their healthcare facility, they can prohibit the use of net-beds by the end of 2004’*.

This instruction resulted in the immediate removal of all cage-beds and a reduction in the number of net-beds. The use of net-beds will continue to comply with the instruction of the Minister of Health, with consideration for the funds and personnel available at individual healthcare facilities.

Based on a discussion among experts in the field of psychiatry, the Czech Psychiatric Association³⁰ prepared a draft methodological measure concerning the use of means of constraint in psychiatric facilities. This proposal was discussed by the Ministry’s Commission for the Implementation of the Psychiatric Care Concept, and on 7 December 2004 the Ministry of Health approved the methodological measure. The methodological measure was published in the Ministry of Health Bulletin.

‘The CPT would like to be informed of the progress made in the introduction of guidelines on the quality of social services and an obligatory registration and inspections of social care institutions as well as of standards on the use of means of restraint applicable in in-patient psychiatric institutions in the Czech Republic’ (paragraph 129).

Standards of service quality are a part of the Social Services Act currently being prepared. The draft general principles of the Social Services Bill was approved by the Government in October 2004, and at present the Ministry of Labour and Social Affairs is preparing the paragraphed wording [i.e. in sections] of this piece of legislation.

In June 2004, the Ministry of Labour and Social Affairs issued a methodological measure concerning the approach to the exceptional use of net-beds in social service facilities; this measure prohibits the use of cage-beds and lays down that net-beds may be used based on consent from the resident’s representative and solely for the strictly necessary period in exceptional situations where the life or health of the resident or another person is endangered. This measure also stipulates the content of mandatory records documenting the use of these beds. If a bed is used repeatedly for a single resident an assessment of the expedience of this approach must be made by an independent expert.

³⁰ The Czech Psychiatric Association of the Jan Evangelista Purkyně Czech Medical Association

In September 2004, a government bill proposing an amendment to the Social Security Act³¹ was presented to Parliament. This amendment bill contains a provision laying down binding rules for the exceptional use of any means to restrain users of social services. Measures restricting the movement of persons during the provision of institutional social care are prohibited; they are permitted in exceptional circumstances where the health and life of a resident or the health and life of other persons are in danger, and even then only for the time strictly necessary. The proposal also contains rules concerning the keeping of records on the use of measures of restraint, and requires a medical opinion on each use of restraining action. Under the proposal, the Act should come into effect on 1 March 2005.

In 2004, the training of future good practice guides began in the field of restraining social service users in accordance with human rights. A significant part of training is taken up by the experience of experts from developed European democracies in handling situations that could lead to the use of restrictive measures. Trainees³² receive information on how to prevent situations that could lead to the use of restrictive measures, how to proceed in cases where restraint is required in order to protect the life or health of a social service user or other person, and how to conduct a subsequent assessment of specific situations in order to determine how to proceed. Good practice guides in the field restraint of the movement of social service users will work with the founder of institutional social care facilities to educate staff directly in social welfare facilities.³³

The Ministry of Labour and Social Affairs is preparing to declare an innovative grant programme to support providers as they seek to remove means of restraint from social service facilities. This grant programme will focus on providing extra technical resources for facilities, training staff, and improving the quality of individual care for users with problem behaviour.

Safeguards

‘The CPT trusts that the three-month deadline fixed by law for the court to pronounce itself on the admissibility of continued detention of a patient in the institution will be respected in the future at Opava Psychiatric Hospital’ (paragraph 134).

The three-month time limit for the issue of a judgment on the admissibility of the continued detention of a resident in an institution is currently strictly observed by the Opava Psychiatric Hospital and Opava District Court.

‘The CPT recommends that steps be taken to review the current practice at Opava Psychiatric Hospital as regards the delivery of court decisions to the patients concerned’ (paragraph 135).

³¹ Bill amending Act No 100/1988, on social security, as amended (Parliamentary Press No 786)

³² The first round of training was attended by 13 people; a further 40 people are expected to undergo training in 2005.

³³ In the Czech Republic the founder of five social welfare institutions is the Ministry of Labour and Social Affairs; other social welfare institutions are set up by self-government units (i.e. regions and municipalities).

The practice of delivering copies of resolutions on involuntary placement in institutional care to all the patients affected, introduced since the CPT's visit in 2002, has become a matter of course. Delivered mail is addressed to the director. The director passes mail on to the social worker. The social worker then delivers the mail to clients against their signature. The mail is not opened.

'The CPT would like to receive the Czech authorities' comments on the CPT's remark that it is a highly questionable state of affairs for persons to remain deprived of their liberty in psychiatric hospitals as a result of the absence of appropriate external facilities (paragraph 140).

Changes in the system of social services are included in the subject matter of the forthcoming Social Services Act. The draft general principles of the Social Services Bill was approved by the Government in October 2004, and at present the Ministry of Labour and Social Affairs is preparing the paragraphed wording [i.e. in sections] of this piece of legislation.

'The CPT recommends that steps be taken to ensure that the need for placement in a social welfare institution is reviewed by an appropriate authority at regular intervals' (paragraph 143).

Standards of service quality, which include service provision agreements, are part of the forthcoming Social Services Act.

'The CPT recommends that introductory brochures for newly-admitted patients be issued without delay at Opava Psychiatric Hospital' (paragraph 145).

No information brochure for newly admitted patients has been published at the Opava Psychiatric Hospital yet because of the high cost of publication. The material needed for the publication of the brochure have been prepared and Opava Psychiatric Hospital is approaching sponsors with requests for supporting the publication. Two wards publish their own informative material for patients, containing information about the regime in the ward, the treatments available, the staff at the ward, and the opportunities for subsequent extramural care, including contact details for civic associations and organizations of patients. These publications are given to patients when they arrive at the ward.

'The CPT would like to receive detailed information on the Ombudsman's powers and activities in respect of the processing of patients'/residents' complaints' (paragraph 146).

During local investigations at psychiatric hospitals, the ombudsman repeatedly encounters an inadequate link between institutional care and out-patient care or social welfare care (sheltered housing, halfway houses, etc.). In some cases, psychiatric hospitals replace aftercare by keeping patients at the facility for longer than necessary on the grounds that there is nowhere to place them.

Under the draft of the new Criminal Code currently being debated by Parliament of the Czech Republic,³⁴ another new protective measure, ‘protective detention’, should be created based on the example of foreign legislation.³⁵ Conditions for the imposition and duration of protective detention and protective institutional treatment are (or will be) regulated by the Criminal Code. Procedural issues related to the imposition and implementation of these protective measures are regulated (or will be regulated) by the Rules of Criminal Procedure. However, the conditions for the implementation of these protective measures are not regulated by any legal provisions.

In the scope of the two protective measures mentioned above, the persons concerned will be subject to significant restrictions in their rights and freedoms; in the opinion of the ombudsman, it would be expedient not to implement these restrictions until legislative adjustments have been made. The aim of protective institutional treatment and protective detention is to achieve the purpose of these protective measures, i.e. the isolation of the affected persons from society and their treatment, which should entail the use of means laid down by law. In this respect, it should be noted that the regime in most other facilities where individuals’ personal liberty is restricted or deprived (e.g. prisons, educational establishments intended for protective upbringing and education, facilities for the detention of foreigners) is regulated by law and that legislation concerning protective medical treatment and protective detention would help prevent ill-treatment or torture, just as it does in these other facilities.

‘The CPT recommends that steps be taken to ensure that all psychiatric establishments in the Czech Republic – including social welfare homes³⁶ – are visited on a regular basis by an independent outside body (e.g. a judge or a supervisory committee) which is responsible for the inspection of patients’/residents’ care. This body should be authorised, in particular, to talk privately with patients/residents, receive directly any complaints which they might have and make any necessary recommendations’ (paragraph 147).

On 30 June 2004, the Government approved a draft amendment to the Ombudsman Act, which it presented to Parliament of the Czech Republic for debate.³⁷ Because of the delays in the legislative process it will be necessary to appoint a later effective date for the Act than that originally planned.

According to the bill, the ombudsman’s competencies should be expanded to include systematic visits to places where people are restricted in their freedom by public authority or as a result of their dependency on care. The aim of the proposed amendment is to reinforce the protection of these persons against torture, cruel, inhumane, or degrading treatment or punishment, and other ill-treatment.

³⁴ Draft of the Criminal Code (Parliamentary Press No 744)

³⁵ The main reason for this is the difficulties in administering protective treatment among certain kinds of non-adaptable sentenced prisoners (e.g. sexual sadists).

³⁶ Social welfare homes do not fall under the term ‘psychiatric facilities’; these are different types of facilities. Psychiatric facilities are healthcare facilities in the competence of the Ministry of Health; social welfare homes are in the competence of the Ministry of Labour and Social Affairs. In specialized social welfare homes, care may also be provided to persons with psychiatric disorders.

³⁷ Bill amending Act No 349/1999, on the ombudsman, as amended, and certain other laws (Parliamentary Press No 751)

The new competence of the ombudsman should also relate, in particular, to facilities used for remand and sentenced prisoners, protective care, institutional care, or protective medical treatment, police cells, detention facilities for foreigners, asylum facilities, social welfare institutions, healthcare facilities, including psychiatric hospitals, and facilities for the social and legal protection of children.

During visits, the ombudsman will be entitled to enter all areas of these facilities, without prior warning, and to carry out investigations, peruse files, ask individual employees questions, and speak to persons placed in these facilities privately (without the presence of other persons). The result of such visits is a report drawn up by the ombudsman containing recommendations or proposed measures to remedy any shortcomings identified.

On 16 September, the Czech Republic signed the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and is preparing for its ratification in the course of 2005.

The Czech authorities have no new circumstances to report for 2004 in relation to the following recommendations, remarks, and requests for information:

Patients'/residents' living conditions

'The CPT trusts that the Czech authorities will take steps to improve the living conditions in certain pavilions (especially No. 6, 11 and 20) at Opava Psychiatric Hospital, in the light of the remarks made in paragraph 109 (paragraph 109).

'The CPT invites the Czech authorities to provide at Opava Psychiatric Hospital the possibility for patients who so wish to have access to their room during the day' (paragraph 110).

'The CPT recommends that steps be taken to offer a minimum of one hour of outdoor exercise per day to all patients at Opava Psychiatric Hospital whose state of health so permits' (paragraph 111).

'The CPT recommends that all non-bedridden patients at Opava Psychiatric Hospital be allowed and, if necessary, be encouraged to wear their own clothes during the day or be provided with appropriate non-uniform garments' (paragraph 112).

Staff and treatment

'The CPT recommends that the nursing staff levels at Opava Psychiatric Hospital be reviewed' (paragraph 116).

'The CPT invites the Czech authorities to strive to further develop psychotherapy and psychosocial rehabilitative activities at Opava Psychiatric Hospital' (paragraph 117).

'The CPT recommends that recourse to electroconvulsive therapy (ECT) be recorded in detail in a specific register at Opava Psychiatric Hospital' (paragraph 118).

Safeguards

‘The CPT would like to know whether it is intended to make provision for a procedure outside emergency situations, whereby a patient could be hospitalized against his/her will after a court decision has been taken, in the context of the ongoing reform of the Czech mental health legislation’ (paragraph 132).

‘The CPT would like to receive the Czech authorities’ views on the CPT’s remark that the exercise of patients’ rights could be enhanced if provision was made for the designation of an independent adviser to assist the persons concerned in involuntary admission procedures (paragraph 136).

‘The CPT would like to receive the Czech authorities comments on the CPT’s remark that it is a highly questionable practice that incapacitated persons are detained in psychiatric hospitals, without benefiting from the procedural safeguards otherwise provided for by law’ (paragraph 137).

‘The CPT recommends that immediate steps be taken to ensure that a judicial review is carried out, at regular intervals, of the involuntary placement of all patients present at Opava Psychiatric Hospital who had been admitted to the hospital prior to 1991’ (paragraph 138).

‘The CPT recommends that steps 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 of objective medical expertise’ (paragraph 139).

‘The CPT would like to know whether, according to Czech legislation, the involvement of an independent doctor with professional qualifications in psychiatry is required in the context of the procedure for depriving a person of his/her legal capacity’ (paragraph 142).

‘The CPT recommends that the Czech authorities strive to find alternative solutions which would better guarantee the independence and impartiality of guardians’ (paragraph 144).

‘The CPT recommends that an introductory leaflet/brochure be issued to each resident at Ostravice Social Welfare Home and his/her legal representative/parents’ (paragraph 145).

‘The CPT recommends that patients/residents at Opava Psychiatric Hospital and Ostravice Social Welfare Home be informed in the introductory leaflet/brochure issued upon admission of their rights as well as of the modalities to lodge complaints; complaints addressed to the establishment’s administration should be recorded in a specific register’ (paragraph 146).

Appendix No 1 (Part A, paragraph 26)

Information about crimes committed by Czech Police Officers in 2003

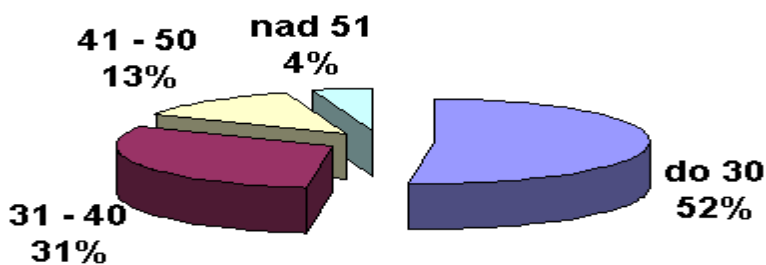
In 2003, the number of solved crimes climbed by 146 (32.2%) compared with 2002, but there was also a fall in the number of perpetrators of these solved crimes by 17 (-3.8%). These year-on-year relative changes (increases/reductions) are shown in Table No 1.

Table No 1: Development in crime perpetrated by Czech Police officers 1996-2003

Year	1996	1997	1998	1999	2000	2001	2002	2003
Number of crimes solved	374	287	373	438	603	665	453	599
Year-on-year change (%)	16.5	-23.3	30.0	17.4	37.7	10.3	-31.9	32.2
Number of perpetrators – police officers) of solved crimes	305	245	306	345	389	468	444	427
Year-on-year change (%)	13.0	-19.7	24.9	12.7	12.8	20.3	-5.1	-3.8

From the aspect of the ages of the perpetrators discovered, the structure changed compared with the previous year. The share of perpetrators in the age category of up to thirty years rose to 52% (2002: 36%), or 197 perpetrators. In the other age groups, there was a reduction. The situation in 2003 is depicted in Graph No 2. More than one-half of the solved crimes were committed by police officers who had worked for the police force for fewer than ten years, i.e. 353 of solved cases.

Graph: Share of police officers (perpetrators) of solved crimes by age
[nad = over, do = up to]



Of the 427 perpetrators identified, most came from the ranks of police on the beat: 199 (46.6%), transport police: 87 (20.4%), criminal police and investigators: 73 (17.1%), and immigration and border police: 29 (6.8%).

Of the total number of 599 crimes solved, 380 were perpetrated by police officers on duty and 219 by police officers off duty in 2003. Compared with 2002, the share of crimes committed by police officers on duty went down slightly.

The structure of crimes perpetrated by police officers, broken down by the individual provisions of the Criminal Code, is shown in Table No 2.

Table No 2: The structure of crimes perpetrated by police officers

Crime	1996	1997	1998	1999	2000	2001	2002	2003	(%)
Crimes against the Republic, Sections 91-115	1	0	4	0	0	0	2	1	0.17
Unauthorized business, Section 118	0	0	0	2	0	1	1	0	0.00
Violation of regulations on the circulation of goods in international relations, Section 124	2	0	1	1	0	0	0	0	0.00
Violation of binding rules of economic relations, Section 127	0	0	0	0	1	0	0	0	0.00
Crimes against the currency, Sections 140-144	0	1	1	2	1	0	0	1	0.17
Endangering foreign exchange management, Section 146	0	0	0	0	0	0	0	0	0.00
Evasion of taxes, fees, and other similar levies, Section 148	6	0	2	1	1	3	1	0	0.00
Violation of regulations on stickers for labelling goods, Section 148a	1	0	0	0	0	0	0	0	0.00
Infringement of copyright, Section 152	0	0	1	1	0	0	0	0	0.00
Violence against a public official – police officer, Sections 153, 154(1), 155, 156(1), (2)	0	0	2	0	0	3	1	1	0.17
Attack on a public official, Sections 155, 156	3	3	0	0	0	0	0	0	0.00
Abuse of the powers of a public official, Section 158	140	86	104	166	237	244	176	202	33.72
Neglect by a public official, Section 159	0	0	0	5	7	11	12	19	3.17
Bribery, Sections 160-162	10	11	10	10	14	14	4	15	2.50
Participation in criminal conspiracy, Sections 163a(1), 163b, 163c	0	0	0	4	0	0	0	1	0.17
Abetting, Section 166	2	0	1	0	0	3	0	1	0.17
Obstructing the enforcement of an official decision, Section 171	1	2	1	0	3	5	3	4	0.67
Unlawful crossing of the national border, Section 171a	1	0	1	3	0	0	0	3	0.50

Endangering official secrets, Section 173	0	0	0	0	0	0	0	0	0.00
False accusation, Section 174	0	0	0	0	0	1	0	0	0.00
Perjury and untruthful expert opinion, Section 175	0	0	0	0	0	2	0	0	0.00
Forgery and fraudulent adulteration of an official instrument, Section 176	1	4	1	1	3	1	6	3	0.50
Unauthorized use of personal data, Section 178	1	0	1	2	0	7	4	17	2.84
Explosions, Sections 179, 180, 257	0	0	0	1	0	0	0	0	0.00
Prohibited acquisition and possession of firearms, Section 185	1	3	1	3	7	4	3	5	0.83
Unauthorized production and possession of narcotic and psychotropic substances and poisons, Section 187	0	0	11	1	26	10	3	7	1.17
Unauthorized production and possession of narcotic and psychotropic substances and poisons, Section 187a	0	0	0	0	1	0	0	2	0.33
Illicit distribution of drugs, Section 188a	0	0	0	0	1	0	1	1	0.17
Violence against a group of persons and against an individual, Section 196	1	0	2	0	0	1	0	0	0.00
Dangerous threatening, Section 197a	5	6	4	5	3	5	5	3	0.50
Defamation of a nation, race, or political and religious opinions, Section 198	0	0	0	1	0	1	2	0	0.00
Incitement and promotion of racial hatred, Section 198a	0	0	0	1	0	0	0	0	0.00
Menace due to intoxication, Sections 201, 201a	0	0	1	0	3	0	0	3	0.50
Disorderly conduct, Section 202	9	5	8	14	13	17	10	14	2.34
Pandering, Section 204	0	0	1	0	0	0	0	0	0.00
Failure to provide assistance, Section 208	0	0	0	0	0	1	0	1	0.17
Neglect of compulsory maintenance, Section 213	1	1	1	1	2	4	2	0	0.00
Corrupting the morals of youth, Section 217	0	0	0	0	0	0	0	2	0.33
Homicide, Section 219	1	1	0	0	0	2	1	4	0.67
Intentional bodily harm, Sections 221, 222	25	16	32	17	39	33	16	26	4.34
Unintentional bodily harm, Sections 223, 224, 201, 201a	3	3	6	3	1	6	3	2	0.33
Brawling, Section 225	0	0	2	0	0	0	0	0	0.00
Unlawful restraint and false	2	1	3	1	2	1	1	2	0.33

imprisonment, Sections 231, 232									
Robbery, Section 234	0	1	0	1	4	4	0	3	0.50
Blackmail, Section 235	1	7	11	7	9	4	13	10	1.67
Forcible entry into a dwelling, Sections 238, 249a	3	3	6	6	3	4	7	17	2.84
Other violent crimes, Sections 215, 230, 233, 236, 237, 238a, 202	0	1	0	0	0	1	2	2	0.33
Rape, Section 241	2	0	1	2	0	3	2	1	0.17
Sexual abuse, Section 242	3	0	1	0	1	1	1	0	0.00
Theft, Sections 247, 238	22	16	31	20	22	21	16	9	1.50
Embezzlement, Section 248	10	7	14	10	15	13	9	6	1.00
Unlawful enjoyment of another person's property, Section 249	0	0	1	0	0	2	1	0	0.00
Unlawful interference with a title to a house, flat, or non-residential premises, Section 249a	0	0	0	0	3	2	0	0	0.00
Unlawful possession of a payment card, Section 249b	1	0	0	2	1	0	0	2	0.33
Fraud, Section 250	25	36	26	44	50	35	19	45	7.51
Insurance fraud, Section 250a	0	0	0	12	49	98	47	51	8.51
Credit fraud, Section 250b	0	0	0	0	0	2	3	7	1.17
Complicity, Sections 251, 251a, 252	5	5	2	14	4	6	5	9	1.50
Concealment of an item, Section 254	0	0	0	0	2	1	0	2	0.33
Breach of trust, Section 255	0	0	0	0	1	0	0	1	0.17
Other property crime, Sections 249, 254, 257, 257a	5	2	3	2	1	3	2	2	0.33
Transport crimes, Sections 179, 180, 184, 201, 223, 224, 257	58	46	53	54	41	52	42	58	9.68
Support and promotion of movements intent on suppressing human rights and freedoms, Sections 260, 261	0	0	0	0	0	1	0	0	0.00
Military crime, Sections 273-295	12	9	12	12	18	18	16	27	4.51
Other crimes	10	11	10	6	14	14	11	7	1.17
TOTAL	374	287	373	438	603	665	453	599	100

Appendix No 2 (Part A, paragraph 26)

**Information about complaints (submissions not related to crimes)
against Czech Police members 2001-2003**

Table No 3: Evaluation of submissions handled by inspectors of the Czech Police

	2001	2002	2003
Total complaints, notifications, and other submissions settled	5,205	5,247	5,725
of which: warranted	728 (14%)	654 (12.5%)	698 (12.2%)
unfounded	3 896	3 870	3 678
Settled by other means	581	723	1 349
Settled complaints (on an ongoing basis – not included in the figures cited)	1,849	1,861	1,521

Appendix No 3 (Part A, paragraph 26)

**Information about complaints (submissions not related to crimes)
against Czech Police members 2004**

**Table No 4: Evaluation of complaints handled, based on justification,
method of settlement, and order**

Evaluation and method of handling	Number	Share	of which					
			First		Repeated		Other	
			Number	%	Number	%	Number	%
Warranted complaint	718	13.31%	641	89.28%	75	10.45%	2	0.28%
Unfounded complaint	3875	71.83%	3311	85.45%	512	13.21%	52	1.34%
Transferred outside the department	64	1.19%	64	100.00%	0	0.00%	0	0.00%
Filed without investigation	114	2.11%	114	100.00%	0	0.00%	0	0.00%
Other	624	11.57%	198	31.73%	196	31.41%	230	36.86%
Total complaints handled: 5,395			4,328	80.22%	783	14.51%	284	5.26%

In most cases, complaints concerned inappropriate action and conduct by police officers, the procedure of police officers in the handling of submissions, the activities of transport police officers and the handling of traffic offences, failure to take receipt of a notification in accordance with the Rules of Criminal Procedure, and violence by police officers.³⁸

³⁸ Figures supplied by the Ministry of the Interior exceed the monitored period of 2004. Therefore these precise figures do not correspond to the given evaluations of the numbers of complaints handled.