



CPT/Inf (96) 5 [Part 1]

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

from 1 to 14 November 1994

The Hungarian Government has requested the publication of this report.

Strasbourg, 1 February 1996

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Copy of the letter transmitting the CPT's report

Strasbourg, 3 July 1995

Dear Ambassador,

In pursuance of Article 10, paragraph 1, of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment, I have the honour to enclose herewith the report to the Government of Hungary drawn up by the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) after its visit to Hungary from 1 to 14 November 1994. The report was adopted by the CPT at its twenty-fifth meeting, held from 12 to 16 June 1995.

I would draw your attention in particular to paragraph 160 of the report, in which the CPT requests the Hungarian authorities to provide an interim and a follow-up report on action taken upon its report. The CPT would be grateful if it were possible, in the event of the reports forwarded being in Hungarian, for them to be accompanied by an English or French translation.

More generally, the CPT is keen to establish an ongoing dialogue with the Hungarian authorities on matters of mutual interest, in the spirit of the principle of co-operation set out in Article 3 of the Convention. Consequently, any other communication that the Hungarian authorities might wish to make would also be most welcome.

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

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

Yours faithfully,

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

Mr János PERÉNYI
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Preface

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

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

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

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

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

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

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

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

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

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

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

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

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

I. INTRODUCTION

A. Dates of the visit and membership of the delegation

1. In accordance with Article 7 of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to Hungary from 1 to 14 November 1994. The visit formed part of the CPT's programme of periodic visits for 1994.

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

- Mrs Nora STAELS-DOMPAS, Second Vice-President of the CPT,
Head of the Delegation
- Mr Günther KAISER
- Mr Rudolf MACHACEK
- Mrs Gisela PERREN-KLINGLER
- Mr Stefan TERLEZKI.

It was assisted by:

- Mrs Catherine HAYES (General Practitioner and Representative to the Council of the Irish College of General Practitioners) (expert)
- Mr Gordon LAKES (former Deputy Director General of the Prison Service of England and Wales) (expert)
- Mr Istvan AMBROZY (interpreter)
- Mr Imre KARAKAI (interpreter)
- Mr Tibor KERTÉSZ (interpreter)
- Ms Marianne REVAH-BARTA (interpreter).

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

- Ms Geneviève MAYER
- Mr Mark KELLY.

B. Establishments visited

3. The delegation visited the following places of detention:

Budapest

- Budapest Remand Prison, Nagy Ignác u., 5-11 and Gyorskocsi u. 25-27;
- Police Central holding facility, Gyorskocsi u. 31;
- Pest County police holding facility, Aradi u. 21-23;
- 3rd District Police Station, Tímár u. 9/a;
- 5th District Police Station, Szalay u. 11-13;
- 6th and 7th Districts Police Station, Dózsa György u. 18-24;
- 8th District Police Station, Víg u. 36.

Kerepestarcsa

- Community Hostel of the Kerepestarcsa Police Regiment, Deák Ferenc, 1-3.

Tököl

- Tököl Prison and Remand Centre for Adolescents, Ráckevei u., 6.

C. Consultations held by the delegation

4. In addition to meetings with the local officials in charge of the places visited, the delegation held consultations with the national authorities and representatives of non-governmental organisations active in areas of concern to the CPT. A list of the authorities with which the delegation held talks is set out in Appendix II to this report.

D. Co-operation encountered during the visit

5. The talks with the national authorities, both at the beginning and at the end of the visit, took place in a spirit of close co-operation. Fruitful discussions were held with the Deputy State Secretary for Public Law at the Ministry of the Interior, the Administrative State Secretary at the Ministry of Defence, the Deputy State Secretary for Legal Affairs at the Ministry of Justice and the Deputy State Secretary at the Ministry of Welfare. The delegation also met with other senior officials from those Ministries at both the beginning and the end of the visit.

The CPT is most grateful for the assistance provided to the delegation by the various contact persons appointed by the Government, not only during but also before and after the CPT's visit to Hungary. Particular thanks are due to Dr György Vókó, Head of Department at the General Public Prosecutor's office and liaison officer to the Committee.

6. In general, the delegation received a very satisfactory reception from management and staff in all of the places of detention visited, including those which had not been notified in advance of the visit (although cf. paragraph 76). It found that they were aware of the possibility of a CPT visit and had at least some knowledge of the Committee's terms of reference.

7. Some delay was experienced in gaining access to a detained person whom the authorities considered to be particularly dangerous. Members of the delegation were eventually able to speak in private with the person concerned.

Reference should also be made to an internal circular issued to the police in connection with the CPT's visit. This specified, inter alia, that the Committee "may not make or ask for copies of completed documents" - a provision which was interpreted by certain police doctors as meaning that the delegation was not entitled to reproduce information from the medical files of detainees. On the few occasions when this difficulty arose, the delegation was subsequently able to obtain the information which it required, after the timely intervention of the Government's liaison officer. Nevertheless, the CPT wishes to recall that in terms of Article 8, paragraph 2 (d), of the Convention, a Party to the Convention is obliged to provide the CPT with information available to that Party which is necessary for the Committee to carry out its task. This implies, inter alia, that the Committee should have ready access to the medical records of detained persons.

8. In conclusion, the CPT welcomes the general spirit of co-operation encountered before, during and after the delegation's visit to Hungary, which was in accordance with Article 3 of the Convention.

E. Immediate observations under Article 8 (5) of the Convention

9. During the meeting held with the Hungarian authorities at the end of the visit, the CPT's delegation invoked Article 8 (5) of the Convention and made immediate observations in respect of the conditions of detention at the Community Hostel of the Kerepestarcsa Police Regiment and in the 8th District Police Station in Budapest.

10. At the time of the visit, the **Community Hostel of the Kerepestarcsa Police Regiment** (which holds illegal aliens) posed a serious risk to the health and well-being of the persons held there. Detainees had been placed in dormitories in which their personal safety could not be guaranteed, material conditions were very poor and, despite the extended periods for which persons might be held, there was no regime worthy of the name. Moreover, serious deficiencies were noted in the medical service provided to detainees.

Five cells situated in a disciplinary unit under the establishment's health care unit were found to be in a deplorable condition (filthy; no glass in the cell windows; no artificial light; no heating). Records at the Community Hostel showed that those cells had recently been used to hold persons for up to seven days. The delegation requested that they be taken out of service immediately.

11. At the **8th District Police Station in Budapest**, windowless cells measuring only 8m² were being used to hold up to three detainees on remand for months at a time. Apparently, they had, on occasion, be used to hold four detainees. The persons concerned were rarely granted more than ten minutes of outdoor exercise per day. The delegation made clear its view that the conditions obtaining in that establishment rendered it unfit as a place of detention.

12. After the visit, the Head of the Delegation confirmed the observations set out above in a letter of 8 December 1994, addressed to the Deputy Secretary of State for Public Law at the Ministry of the Interior. That letter recalled that the Hungarian authorities had been requested to provide, within three months, a report on the measures taken in response to the matters raised with them under Article 8 (5) of the Convention.

In a letter dated 7 March 1995, the Deputy Secretary of State informed the Committee that, in a written decision of 14 - 16 December 1994, the Director-General of the Police had ordered a range of measures designed to improve the conditions of detention at the Community Hostel of the Kerepestarcsa Police Regiment. A more detailed account of the measures concerned is to be found in the section of this report devoted to the Community Hostel (cf. paragraph 85). The Director-General had also ordered that the five cells situated in the Hostel's disciplinary unit be taken out of service and that no detainees be held in the cells at the 8th District Police Station until renovation work has been completed.

The CPT welcomes this constructive response to the immediate observations formulated by its delegation.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Establishments under the authority of the Ministry of the Interior

1. General information

13. As stated above (cf. paragraph 3), the CPT's delegation visited the Budapest Police Central holding facility and the holding facility for Pest County, as well as four other police stations in Budapest. The delegation's visit to the Community Hostel of the Kerepestarcsa Police Regiment is discussed in a separate section at the end of this chapter.

14. The periods for which people can be detained by the police are regulated by the Act on the Police¹ and by the Act on Criminal Procedure². Police officers may apprehend persons for the purpose of bringing them before the competent authority (public prosecutor/judge) within 8 hours. That period may be extended once, for four hours, by a senior police officer³.

The public prosecutor must request a court order that a person in police custody be detained on remand within 72 hours of his apprehension. If no such request is made within that time then the person concerned must be released. In terms of the Act on Criminal Procedure, the court must determine whether a person in police custody shall be detained on remand within a maximum of 5 days from the time of his apprehension⁴.

15. According to the Prison Rules⁵, persons may be held on remand in police establishments until the end of the period of pre-trial investigation⁶. In principle, pre-trial investigation should not exceed two months; however, that period may be extended by two months on the authority of the principal district prosecutor and by a further two months by the chief county prosecutor⁷.

The delegation found that, in practice, it was common for persons to be held on remand in police establishments for several months. Moreover, it was not unusual for persons who had been transferred to remand prisons to be returned to police premises for further questioning. Such transfers took place at the request of the police and subject to the approval of the competent public prosecutor (cf. also paragraph 56).

1. Act XXXIV of 1994 on the Police.

2. Act I of 1973 on Criminal Procedure (as amended).

3. cf. section 33 (3) of the Act on the Police.

4. cf. section 91 (2) of the Act on Criminal Procedure.

5. Statutory Rule 1979/11 on the Execution of Punishments and Measures, as amended by Act XXXII of 1993 on the Execution of Punishments and Measures.

6. cf. section 116 (2) of the Prison Rules.

7. cf. section 131 (3) of the Act on Criminal Procedure.

2. Torture and other forms of ill-treatment

16. The CPT's delegation heard no allegations of torture of persons held in police establishments in Hungary. Moreover, no other evidence of torture was found by the delegation.

17. The delegation did hear numerous allegations of physical ill-treatment inflicted by the police on detained persons, both at the time of arrest and during subsequent interrogations. Such allegations were made by persons being held in the various police establishments visited and by inmates in the Budapest Remand Prison and Tököl Prison and Remand Centre for Adolescents. The delegation also heard a number of allegations from women detainees that they had been subjected to verbal sexual harassment and that police officers had treated them in a demeaning fashion.

The majority of the allegations of physical ill-treatment heard were remarkably consistent as regards the precise form of ill-treatment involved. In most cases, the persons concerned alleged that, after their hands had been handcuffed behind them (or their ankles attached to an item of furniture), they had been struck with truncheons, punched, slapped or kicked by police officers. The delegation found that, in a number of cases, the allegations made were supported by medical evidence.

18. As an example, reference might be made to a person interviewed in the Police Central holding facility in Budapest, who claimed that, during his detention at the 11th District Police Station on the previous day, a group of police officers had struck him with truncheons whilst his hands had been handcuffed behind him. He also alleged that he had been punched in the stomach and threatened with a pistol.

The report on the medical examination carried by a doctor from the police forensic medicine service (cf. paragraph 46) later on the day in question recorded the following injuries: "1. A 6 x 1 cm reddish discolouration of the skin running backwards from each armpit; 2. 2 parallel 13 x 1 cm reddish discolourations of the skin on the right cheek; 3. A 7 x 6 cm reddish discolouration of the skin above the zygomatic arch on the left cheek; 4. A 1 x 2 cm faint blueish discolouration of the skin with indistinct edges in the corner of the left eye; 5. A faint reddish discolouration of the skin, 2-4 cm long and 3 mm across, proximal to each wrist."

The doctor had concluded that: "the injuries described may have been inflicted about 8 hours prior to the examination. It cannot be ruled out that they were caused by a blunt force impact." A medical examination of the person concerned by one of the delegation's doctors confirmed the existence of the above-mentioned injuries, as well as of a number of other similar marks of recent origin. She concluded that these findings were consistent with the detainee's allegations that he had been ill treated by the police on the previous day.

19. Further, in the course of a visit to the 3rd District Police Station, one of the delegation's doctors was shown a forensic medical report which recorded a detainee's allegations that, in August 1994, uniformed officers from that station had beaten him with fists and a wooden truncheon.

The medical report recorded the following injuries: "1. On the left side, a 5 cm long reddish skin laceration can be detected, one finger distance from the eye; 2. Cheek of left side, one finger mark size injury identical with no. 1.; 3. Skin discolouration can be detected behind left ear, two finger distance behind the ear, also along the sternomastoid muscle; 4. On the underarm and also around the wrist, there are skin lacerations; 5. 6.5 cm long livid discolouring of about 1 cm width along the scapula; 6. finger-tip size discolouration distal to the left patella; 7. exactly the same discolouration, same size distal to the right patella."

The doctor had concluded that "the above-described event could have happened at the time and in the way alleged."

20. During a visit to the Department of Forensic Medicine of the Health Division of Budapest Police Headquarters, one of the delegation's doctors was able to consult a number of other reports drawn up by police forensic doctors in cases where detainees had made allegations of ill-treatment by the police in Budapest. The four cases which follow were of particular interest:

- i. A middle-aged man, detained at the 20th District Police Station in Budapest in March 1994 claimed that, during an interrogation, detective officers had punched him on both sides, on the arms and on the cheeks. He also claimed that he had been kicked on the upper section of both thighs and on the arms.

The medical report recorded the following injuries: "1. a 3 x 4 cm faint livid area with an irregular-shaped reddish 2 cm abrasion in the centre on the skin overlying each zygomatic bone. 2. A 4 x 4 cm faint livid spot sensitive to pressure on the lower third of the extensor surface of the right elbow. 3. On the upper third of the anterolateral aspect of the thigh there is a 6 x 5 cm irregular-shaped swelling slightly elevated from its surroundings. It is sensitive to pressure and has in its centre a 2 x 3 cm reddish abrasion. 4. A 2 x 3 cm reddish abrasion on the lateral aspect of the upper third of the right thigh."

The doctor had concluded that "the above incident may have taken place at the time and place indicated".

- ii. A young man, detained by officers from the 9th District Police Station in April 1994, alleged that he had been ill-treated in the course of his arrest for a suspected road traffic offence.

The medical report recorded the following injuries: "1. A 2 cm swelling on the skin overlying the right zygomatic arch and a 4 cm one overlying the left zygomatic arch, both sensitive to pressure. 2. A 5 cm swelling sensitive to pressure on the scalp over the junction of the left temple and the occipital bone. 3. Three stripes tender to palpation pressure, each 3cm across and 25 - 30 cm long, reddish and slightly swollen along the edges and faded in the middle, running diagonally across the middle-upper third of the back. 4. A 1.5 cm wide, slightly grazed, reddish swelling sensitive to pressure running around both wrists."

The doctor had concluded that "the above injuries may have been caused in the manner and at the time indicated. Injuries nos. 3 and 4 are often found after ordinary forced measures applied by police and are considered typical marks of a truncheon or handcuffs. Injuries nos. 1 and 2 may have been caused by a strike with, or by hitting against, a blunt object, such as a fall to the ground."

- iii. A young man, detained by police officers from the 19th District Police Station in early October 1994, claimed that, at the time of his arrest, he had been struck four times with a truncheon - twice on the hand which had raised to cover his face and twice on the nose.

The medical report recorded the following injuries: "1. Lentil-sized traces of clotted blood in the right nostril. 2. A 7 cm long, 1.5 cm wide loss of epithelium on a reddish, striped swelling with a faded middle part running diagonally across the upper third of the left forearm, about 7 cm away from the elbow."

The doctor had concluded that "the injuries may have been caused at the time indicated. An authentic opinion about the cause of the nose bleeding should be obtained from a laryngologist. Injury no. 2 may have been caused by a blunt force impact in connection with a blow on the left forearm with a cylindrical object rather than the arm hitting an object with a convex surface."

- iv. A young man, detained by police officers from the 14th District Police Station in late October 1994, alleged that he had been handcuffed and then hit and kicked in the face at the time of arrest.

The medical report recorded the following injuries: "1. A 2 cm, livid, slightly swollen, rounded area sensitive to pressure over each zygomatic bone. 2. A slight but painful swelling, a 5 cm wide reddish stripe that fades on pressure applied by fingertip, and 8 mm circular marks corresponding to those caused by handcuffs around both wrists."

The doctor had concluded that "the injuries may have taken place at the time and in the manner indicated. The injuries may have been caused in the above manner, namely, 1. in consequence of a blunt impact of medium force in connection with the head hitting a hard blunt object, 2. correspondence with handcuff marks can be established."

21. Shortly after the visit to the Department of Forensic Medicine, the Hungarian authorities provided the Head of the delegation with details of the action which had been taken in response to the forensic medical reports to which reference is made in paragraph 20 (above). In respect of the first-mentioned case, the Public Prosecutor for the 20th District had issued an indictment against a named police officer on one count of forcible interrogation, a crime under section 227 of the Criminal Code. In each of the three other cases, a senior police officer had certified that the force which had been used on arrest was lawful and no disciplinary or criminal action had been taken against the police officers concerned.

22. The sheer number of allegations of ill-treatment by the police and their consistency as regards the precise form of ill-treatment involved are striking. These factors are alone sufficient to give rise to concern as regards the treatment received by persons detained by the police. That concern is reinforced by the medical and other information set out in paragraphs 17 to 21, above.

In the light of all the information at its disposal, the Committee can only conclude that persons deprived of their liberty by the police in Budapest run a not inconsiderable risk of ill-treatment. Given that the activities of the CPT's delegation were focused on the Budapest area, the Committee is not in a position to express a view about the situation in other parts of Hungary. However, it should be noted that certain young offenders interviewed at Tököl alleged that they had been ill-treated by the police outside the Budapest area.

23. The CPT fully recognises that the arrest of a suspected criminal may often be a hazardous task, in particular if the person concerned resists and/or is someone the officers concerned have good reason to believe may be armed and dangerous. The circumstances of an arrest may be such that injuries are sustained by the person concerned (and possibly also by police officers), without this being the result of an intention to inflict ill-treatment. However, no more force than is reasonably necessary should be used when effecting an arrest. Furthermore, once arrested persons have been brought under control, there can never be any justification for them being struck by police officers.

Having regard to the information gathered during the visit, **the CPT recommends that police officers be reminded of these precepts.**

24. With reference to the above-mentioned allegations of ill-treatment during interrogations, it is axiomatic that such acts would be totally inadmissible: they would be in flagrant violation of both domestic law and international instruments binding upon Hungary.

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

25. Hungarian law contains a number of specific provisions penalising ill-treatment by State officials (e.g. section 227 of the Criminal Code and section 16(3) of the Act on the Police). In addition, a range of legal safeguards (which are considered in some detail later in this report) are available to detained persons. However, it should be emphasised that legal and other technical safeguards - while important - will never be sufficient; the best possible guarantee against ill-treatment is for its use to be unequivocally rejected by police officers. **It follows that the provision of suitable education on human rights questions and of adequate professional training is an essential element of any strategy for the prevention of ill-treatment.**

In this respect, **the CPT would like to receive information on the provision of human rights education and professional training - both initial and ongoing - for police officers in Hungary.**

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

In this respect, **the CPT would like to receive the following information for 1993 and 1994:**

- **the number of complaints of ill-treatment by the police lodged 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 the police.**

3. Conditions of detention

a. introduction

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

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

28. In most countries visited by the CPT, persons are held for only a relatively short time in police premises; therefore, the question of activities for them has little relevance. However, as noted above (cf. paragraph 15), in Hungary it is commonplace for detainees to be held in certain police establishments for extended periods of time on remand (i.e. awaiting trial). In consequence, the question of the regime to which they are subject must also be addressed.

b. material conditions of detention

29. The cells seen in the **3rd and 6th/7th District Police Stations** in Budapest were of a reasonable size for the number of persons which they were used to hold. All of the cells were equipped with appropriate means of rest and natural and artificial light were of an adequate standard, as was ventilation. The delegation was particularly impressed by the quality of the renovated cellular accommodation at both establishments.

30. The **5th District Police Station** provided distinctly inferior conditions of detention. A cell which measured some 5m² was being used to hold 2 persons and cells measuring some 14m² were being used to hold up to 4 persons. The cells were equipped only with beds and shelves. Further, natural light was very limited, the artificial lighting was mediocre and, at the time of the visit, the cells were overheated, poorly-ventilated and malodorous. Many persons were being held in such conditions for extended periods on remand.

31. The conditions of detention observed in the **8th District Police Station** could fairly be described as extremely poor. The cells there measured some 8m² and were being used to hold up to three persons. Two detainees slept side-by-side on a platform and one on the floor - using a mattress which had to be pushed under the sleeping platform to enable the cell door to be opened. In most cells artificial light and ventilation were of an acceptable standard; however, none of the cells had windows. Moreover, both the cells and the adjacent lavatories were very dirty.

Such conditions of detention would not be acceptable for even short-term custody; however, at the time of the visit, 25 out of a total of 33 detainees were being held on remand - one such detainee had been there for five months. The Committee welcomes the fact that, following the immediate observations on this subject made by its delegation under Article 8 (5) of the Convention (cf. paragraph 11), these premises have been taken out of service pending renovation.

32. Conditions of detention at the **Pest County holding facility** were also a cause for concern. Up to 3 persons were being held in cells measuring only 9m² and 6 persons in a cell of 23m². Further, although ventilation was of a reasonable standard, artificial lighting left something to be desired and access to natural light was poor. It should nevertheless be added that the cells were adequately equipped with beds, tables and a washbasin.

33. The situation was also far from satisfactory at the **Police Central holding facility** in Budapest, bearing in mind, in particular, that the main function of this establishment was to hold persons on remand. Cells measuring between 6 and 8m² were used to hold two persons and cells of some 12m², four persons. The cell windows were fitted with wire mesh security grilles, which blocked out almost all natural light. Weak artificial lighting burned in the cells all day. The windows could only be opened by a few centimetres and, as a result, the atmosphere in the cells was, at best, stuffy and, at worst, fetid.

Eight cubicles, measuring 1 metre high, 80cm long and 60cm wide, were located in the reception area in the basement. They were fitted with a bench and the top of each cubicle was covered in wire mesh. According to the staff, they had not been used for several years.

34. The Committee recommends that steps be taken to improve the material conditions of detention at the 5th District Police Station and the Pest County and Police Central holding facilities, bearing in mind the remarks set out in paragraphs 30, 32 and 33 as well as the general criteria enunciated in paragraph 27. As regards, more particularly, the cubicles seen in the reception area of the Police Central holding facility, the Committee recommends that they be removed.

The CPT would also like to receive further information on the renovation work being carried out at the 8th District Police Station.

Finally, the CPT **recommends that appropriate steps be taken to ensure that conditions of detention in all police establishments in Hungary meet the criteria set out in paragraph 27.**

c. regime

35. None of the police establishments visited offered a suitable regime for persons detained for lengthy periods. Detainees on remand spent almost the entire day locked in overcrowded cells and, in most cases, outdoor exercise was limited to less than half an hour a day in small yards with wire mesh roofs. Further, some detainees claimed that they were not offered outdoor exercise every day - an assertion not contradicted by staff. The outdoor exercise facilities seen at the Police Central holding facility were especially poor - the five yards set aside for this purpose were of an oppressive design, as well as being far too small to allow detainees to exert themselves physically.

If authorised by the police, detainees on remand could receive one visit per month, generally in the office (and in the presence) of the police officer investigating their case. That, and outdoor exercise apart, they left their cells only to attend interrogation sessions, to shower or to use a lavatory.

No in-cell activities were provided, although a limited number of detainees at the Police Central holding facility had been allowed to have their own televisions, radios or reading materials in their cells. None of the detainees had access to a telephone.

36. To sum up, detainees on remand in the police establishments visited routinely spent over 23 hours per day locked in their cells in a state of idleness. If a detainee was not interrogated (and did not receive a visit) on a given day, that period would be closer to 24 hours. In this respect, it should be mentioned that many of the detainees interviewed alleged that it was not unknown for weeks to elapse between interrogation sessions - in the words of one such detainee, "between interrogations, we are left to rot in our cells".

37. It should be clear from the above that the regimes applied in the police establishments visited in Hungary do not offer appropriate activities to detainees held on remand; and it is highly doubtful whether it would be possible to offer such activities given the material constraints imposed by the premises concerned.

In this respect, it should be stressed that persons on remand should be able to spend a reasonable part of the day (i.e. eight hours or more) outside their cells, engaged in purposeful activity of a varied nature (education; sport; work, with preferably with vocational value). Further, all detainees held on remand should be offered at least one hour of outdoor exercise every day.

38. More generally, the Committee wishes to stress that the period of time during which a criminal suspect may remain in police premises has an important bearing upon the issue of the prevention of ill-treatment. Lengthy periods spent in police premises during criminal investigations can lead to high-risk situations. It would be far preferable, from the standpoint of the prevention of ill-treatment, for all persons remanded in custody to be held in premises managed and staffed by the prison authorities. Of course, such an approach would not necessarily exclude further questioning by the police (cf. also paragraph 56).

39. **The CPT recommends that:**

- **the practice of holding detainees on remand in police establishments be reviewed as a matter of urgency, in light of the above remarks;**
- **immediate steps be taken to ensure that all persons held on remand are offered at least one hour of outdoor exercise every day.**

4. Safeguards against the ill-treatment of persons detained by the police

a. introduction

40. The CPT attaches particular importance to three rights for persons detained by the police:

- the right of those concerned to have the fact of their detention notified to a close relative or third party of their choice,
- the right of access to a lawyer,
- the right to a medical examination by a doctor of their choice (in addition to any medical examination carried out by a doctor called by the police authorities).

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

41. Furthermore, in the view of the CPT, persons taken into police custody should be expressly informed without delay of all their rights, including those referred to in paragraph 40.

b. notification of custody

42. The Act on the Police provides that a detained person "shall be given the possibility to notify a relative or another person unless such notification would endanger the objective of the measure [of detention]. If the person in confinement is not in a condition to utilise this possibility, the Police shall be under the obligation to effect the notification."

Notification may be delayed only "to the extent required to prevent escape or hiding, the alteration or destruction of evidence, the perpetration of further criminal offences or to the extent which serves the safety of guarding and the maintenance of order of the jail [sic]."⁸

Notification may be delayed only "to the extent required to prevent escape or hiding, the alteration or destruction of evidence, the perpetration of further criminal offences or to the extent which serves the safety of guarding and the maintenance of order of the jail [sic]."⁹ If the detained person is a minor or under guardianship, the law provides that "his legal representative or guardian shall be notified without delay"¹⁰.

⁸. cf. section 18 (1) of the Act on the Police.

⁹ cf. section 18 (3) of the Act on the Police.

¹⁰ cf. section 18 (1) of the Act on the Police.

43. Naturally, the exercise by a detained person of the right to have the fact of his custody notified to a relative or other third party may be made subject to exceptions designed to protect the interests of justice. However, in addition to being clearly-defined, any such exceptions should be accompanied by appropriate safeguards and be applied for as short a time as possible.

The CPT therefore recommends that the possibility to delay the exercise by detained persons of the right to inform a relative or third party of their detention be made subject to appropriate safeguards (e.g. any delay to be recorded in writing together with the reasons therefor and to require the approval of the court or public prosecutor) and strictly limited in time.

c. access to a lawyer

44. In terms of the Act on Criminal Procedure, a person suspected of a criminal offence "shall be advised that he may brief counsel, or may ask for the appointment of counsel"¹¹ The Act on Criminal Procedure also provides that a defence lawyer may be present during police interrogations, although the exercise of that right must not delay interrogation.¹²

From the delegation's discussions with persons held in police holding facilities and prisons, it appeared that these provisions were respected in practice and that persons suspected of a criminal offence who did not have their own lawyer were permitted to select a duty lawyer from a list held by the police.

45. However, **the Committee wishes to receive clarification of the precise moment at which the right of access to a lawyer becomes effective; does it always apply as from the very outset of custody (cf. paragraph 40, second sub-paragraph) or, in certain cases, does it only take effect at some later stage of police custody?**

d. medical examination of detained persons

46. Hungarian law provides that the police shall " ... provide the necessary care to prevent a deterioration of health due to confinement. A detained person who is injured, sick or who needs urgent medical attention for other reasons shall be given medical care"¹³

Medical care in the police stations and holding facilities visited was provided by a team of police doctors from the Department of Forensic Medicine of the Health Division of Budapest Police Headquarters. The doctors concerned provided a 24 hour on-call service including medical examinations on detention; medical reports on suspicion of police ill-treatment and a range of other forensic tests (e.g. performing blood/alcohol tests and taking intimate samples).

¹¹ cf. section 132 (2) of the Act on Criminal Procedure.

¹² cf. section 134 (1) of the Act on Criminal Procedure.

¹³ cf. section 18 (2) of the Act on the Police.

Medical services at the Budapest Police Central holding facility were provided by a full-time police doctor, assisted by a team of trained nurses who provided 24 hour cover. Such a level of staffing can be considered adequate in an establishment of the size and nature of the holding facility. Nevertheless, the delegation was concerned to find that the infirmary was in a very dilapidated condition.

47. The CPT's delegation was impressed by the professionalism of the police doctors whom it met during the visit. Nevertheless, it must be recognised that such doctors have the difficult task of combining aspects of the role of a treating doctor with the carrying out of certain duties requested by the police. In the view of the CPT, granting detained persons the right to a medical examination by a doctor of their choice (in addition to any medical examination carried out by a police doctor) is an essential additional safeguard for detainees. However, as far as the delegation could ascertain, such access was rarely, if ever, accorded.

48. **The CPT recommends that:**

- **the right of detained persons to be examined, if they so wish, by a doctor of their choice (in addition to any examination carried out by a police doctor) be formally guaranteed;**
- **all medical consultations be conducted out of the hearing and - unless the doctor concerned requests otherwise - out of the sight of police officers;**
- **the results of every examination, as well as any relevant statements by the detainee and the doctor's conclusions, be recorded in writing by the doctor and made available to the detainee and his lawyer;**
- **the infirmary at the Budapest Police Central holding facility be renovated.**

e. information on rights

49. The CPT has already indicated the importance it attaches to persons detained by the police being expressly informed, without delay and in a language they understand, of all their rights.

As regards persons suspected of a criminal offence, Hungarian law provides that the relevant authorities must inform them of the essence of the offence of which they are suspected and of the fact that they may brief a lawyer or ask for a lawyer to be appointed¹⁴.

In order to ensure that all persons in police custody are duly informed of all of their rights, including those referred to in paragraphs 42 to 48 above, **the CPT recommends that a form setting out those rights be systematically given to persons detained, at the outset of their custody. This form should be available in an appropriate range of languages. Further, the detained person should be asked to sign a statement attesting that he has been informed of his rights.**

¹⁴. cf. section 132 (1) and (2) of the Act on Criminal Procedure.

f. conduct of police interviews

50. The Act on the Police provides that, "the police officer shall not apply torture, interrogation under coercion, inhuman or degrading treatment and shall refuse to execute instructions to apply such treatment. The police officer shall take measures against a person to prevent such behaviour irrespective of the service assignment, rank or identity of that person."¹⁵ It emerged from the delegation's discussions with police officers that no more detailed guidance on the conduct of interrogations had been issued to them.

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

51. **The CPT therefore recommends that the Hungarian authorities draw up a code of practice for police interrogations.** The code should deal inter alia with the following: the systematic informing of the detainee of the identity (name and/or number) of those present at the interrogation; the permissible length of an interrogation; rest periods between interrogations and breaks during an interrogation; places in which interrogations may take place; whether the detainee may be required to remain standing while being questioned; the questioning of persons who are under the influence of drugs, alcohol, medicine, or who are in a state of shock. It should also be required that a record be systematically kept of the time at which interrogations start and end, of the persons present during each interrogation and of any request made by the detainee during the interrogation.

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

52. The CPT considers that the electronic recording of interrogations represents another important safeguard for those in custody, as well as offering advantages for the police. In particular, it can provide a complete and authentic record of the interrogation process, thereby greatly facilitating the investigation of allegations of ill-treatment and the correct attribution of blame. However, according to information received by the delegation, such a system was not currently used in Hungary.

The CPT invites the Hungarian authorities to consider the possibility of introducing a system for the electronic recording of police interrogations. The system should offer all appropriate safeguards (for example, the consent of the detainee and the use of two tapes, one of which would be sealed in the presence of the detainee and the other used as a working copy).

¹⁵. cf. section 16 (3) of the Act on the Police.

g. custody registers

53. At the time of the delegation's visit, the Hungarian police were in the process of introducing a computerised system to replace the manual registers which had been used to record certain aspects of detention by the police. The new system clearly had the potential to provide a single and comprehensive custody record for each person detained. In the view of the CPT, the creation of such records could serve to reinforce the fundamental safeguards offered to detained persons.

The CPT recommends that the Hungarian authorities endeavour to create an individualised custody record for each person detained, in which would be recorded all aspects of his custody and all the action taken in connection with it: time of and reason(s) for the arrest; when informed of rights; signs of injury, mental disorder etc; contacts with and/or visits from next of kin, lawyer, doctor or consular official; when offered food; when questioned; when brought before the relevant judge, when released, etc. For certain matters (for example, personal belongings removed, the fact of being informed of his rights and of invoking or waiving them), the detainee's signature should be obtained and, if necessary, the absence of a signature explained. The detainee's lawyer should have access to such a custody record.

h. procedures vis-à-vis allegations of ill-treatment

54. Persons detained by the police in Hungary may submit complaints directly to the public prosecutor, to the officer in charge of the establishment in which they are being held and, ultimately, to the Parliamentary Ombudsman¹⁶ (cf. also paragraph 142).

In addition, public prosecutors in Hungary are entitled to visit police establishments in order to confirm the legality of the measures taken by the police and to inspect the conditions in which detainees are being held. During such visits public prosecutors may talk in private with detained persons and receive any complaints which they may have about their treatment by the police¹⁷.

55. In a number of police stations, the CPT's delegation examined a register of visits by the public prosecutor - it gained the distinct impression that some public prosecutors approach this inspectorial role in a more conscientious fashion than others. The Committee considers that regular and unannounced visits by the competent public prosecutor to places where persons are detained by the police can make a significant contribution to the prevention of ill-treatment. In consequence, **the CPT recommends that public prosecutors be encouraged to accord a high priority to on-the-spot supervision of places of detention.**

¹⁶. At the time of the visit, the Parliamentary Ombudsman had yet to be appointed.

¹⁷ cf. Act V of 1972 on Prosecution, as amended.

- i. return to police custody of persons held in prison

56. The CPT's delegation found that it was a common practice for persons who had been transferred to remand prisons to be returned to police premises for further questioning. The police must request the formal authorisation of the public prosecutor to extract an inmate on remand from a prison. From the records of transfers seen by the delegation at Budapest Remand Prison it appeared that the public prosecutor invariably acceded to such requests.

From the standpoint of the prevention of ill-treatment, it would be far preferable for further questioning of persons committed to prison to take place within the establishment concerned rather than on police premises. The return of remand prisoners to police custody for further questioning should only be sought and authorised when it is absolutely unavoidable.

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

5. Community Hostel of the Kerepestarcsa Police Regiment

a. introduction

57. The Community Hostel of the Kerepestarcsa Police Regiment was located in a former military training school just outside Budapest. Two buildings (Units II and V) situated within a secure perimeter provided accommodation for up to 208 persons subject to an "Order of Residence at a designated place" imposed by the police authorities under the Aliens legislation¹⁸.

On the first day of the visit, the establishment was holding 171 persons (of whom 11 were children) of 32 different nationalities. Although the delegation was told by the establishment's Director at the outset of the visit that it was rare for persons to spend more than a few days there, it emerged that stays of several weeks to some months were not uncommon.

58. The creation of a special establishment for accommodating this category of detained person, rather than holding such persons in an ordinary police station or a prison, is, in principle, a most welcome measure. However, this is subject to the strict proviso that the establishment offers material conditions of detention and a regime appropriate to the legal status of the persons held. On both those counts, the Community Hostel failed miserably to reach an acceptable standard.

b. ill-treatment

59. The CPT's delegation heard a certain number allegations of ill-treatment of detainees at the Community Hostel. In one case, a detainee who had escaped from the Hostel shortly before the delegation's visit claimed that the police officers who re-captured him had struck him on the head with a torch and a truncheon. He also alleged that when returned to the Hostel, he was assaulted by two of the escorting police officers and five members of the Hostel's staff. He claimed that he had been refused access to a doctor and had received no medical treatment. He was then allegedly placed in a disciplinary cell at the Hostel (on which, see paragraph 77). When medically examined by one of the delegation's doctors, he displayed a fresh 2 x 2 cm scar on his scalp. The delegation also heard allegations that, during the incident in question, three other detainees had been struck with a truncheon on the body and the back.

In this connection, **the CPT would recall the recommendations made in paragraphs 23 and 24.**

¹⁸. According to section 43 of Act LXXXVI on the Entry, Stay in Hungary and Immigration of Foreigners, in force since 1 May 1994, the police authorities may order the residence at a designated place of foreigners who are not able to certify their identity or the legality of their stay in Hungary, or for the purpose of guaranteeing the execution of expulsion, or because the expulsion measure cannot be executed under the terms of section 32, paragraph 1 (prohibition of expulsion to a country where the foreigner risks persecution, torture or inhuman or degrading treatment). If a foreigner is indigent, he may be ordered to reside in a community hostel, such as the Kerepestarcsa Police Regiment. The law does not fix a time limit for residence orders, limiting itself to the provision that the detainee may request that the court review such an order.

60. The delegation also heard a number of allegations from detainees that they had been placed in rooms in which their physical safety and/or psychological well-being were at risk. The delegation's own on-site observations confirmed that this was indeed the case. As an example, a young woman who claimed that she had been sexually harassed by men in her dormitory had been moved to a bed in another dormitory occupied only by men¹⁹. More generally, none of the dormitories could be locked and some did not even have doors. As a result, detainees could circulate freely within each accommodation block throughout the day and night.

The risks inherent in the situation described above were compounded by the inadequate level of supervision of the activities of detainees. There was no effective staff presence in the accommodation units - the one police officer stationed in the entry hall of each unit rarely ventured past the iron gates which led to the dormitories and the reception area. The Director himself told the delegation that he could not remember the last occasion on which he had set foot inside the detainees' living areas.

61. As already indicated in the preface to this report, the CPT's task is to examine the treatment of persons deprived of their liberty with a view to strengthening their protection from torture and from inhuman or degrading treatment or punishment. It should be emphasised that this mandate is not circumscribed by the sources from which such ill-treatment may emanate. More specifically, it is not limited to ill-treatment of persons deprived of their liberty which is inflicted, or authorised, by supervisory staff. Of course, the CPT is especially attentive to the issue of abuses of detainees by staff. However, it is also very concerned when it discovers an establishment in which the environment is conducive to inter-detainee violence/intimidation.

62. The duty of care which is owed by law enforcement agencies to those in their charge includes the responsibility to protect them from other detainees who wish to cause them harm. Satisfactorily discharging that duty of care may often be a very onerous task; however, the CPT is convinced that more must be done to counter the risk of inter-detainee violence/intimidation at the Community Hostel.

63. In the view of the CPT, the single most important step which is required is to reinforce the number of supervisory staff at the Hostel. It is wholly unreasonable to expect two or three policemen to be able effectively to monitor the day-to-day activities of over 170 detainees.

More far reaching changes in staff attitudes will also be required, since to address the phenomenon of inter-detainee violence/intimidation requires of an establishment's staff that it be alert to signs of trouble and both resolved and properly trained to intervene when necessary. The existence of positive relations between staff and detainees is a decisive factor in this context; this will depend in large measure on staff possessing appropriate interpersonal communication skills (cf. also, paragraph 65 below). Further, management must be prepared to fully support staff in the exercise of their authority.

¹⁹ At the request of the CPT's delegation, the woman concerned was transferred to another dormitory, which was occupied by families.

64. Urgent steps to improve the process by which persons are placed in particular dormitories will also be required. In this connection, it must be emphasised that an appropriate system for allocating detainees to dormitories cannot be separated from a genuine reception procedure for newly arrived detainees - which was lacking at the time of the visit. Such a reception procedure should be used as an opportunity to identify detainees who may be especially vulnerable and to allocate them to living accommodation within which they can be adequately protected. The development of such a procedure will require the active involvement of both supervisory and health care staff.

As regards, more particularly, female detainees, the CPT wishes to recall that, in principle, women and men should not be obliged to share dormitories. Separate accommodation must be provided for women unless they have expressed a wish to be placed with persons with whom they share an emotional or cultural affinity.

65. The CPT has already indicated (cf. paragraph 25 above) that there is no better guarantee against ill-treatment than a properly trained police officer. In this respect, it must be emphasised that staff of detention centres for foreign nationals such as the Community Hostel have a particularly onerous task. Firstly, there will inevitably be communication problems due to linguistic barriers. Secondly, many aliens will find the fact that they have been detained, when they are not suspected of any criminal offence, difficult to accept. Thirdly, there is also a risk of a rise in tension between the different nationalities involved.

It follows that supervisory staff must be carefully selected and receive appropriate training. As well as possessing well-developed qualities in the field of interpersonal communication (cf. paragraph 63, above), supervisory staff should be familiarised with the different cultures of the detainees and at least some of the staff concerned should have appropriate language skills.

66. Consequently, the CPT recommends the Hungarian authorities to carry out forthwith a detailed review of both staffing arrangements and procedures for allocating detainees to dormitories at the Community Hostel of the Kerepestarcsa Police Regiment, taking into account the remarks set out in paragraphs 60 to 65 above. The CPT also recommends that a high priority be given to providing separate accommodation for detainees who do not wish to be placed in dormitories with persons of the opposite sex.

c. conditions of detention

i. *material conditions*

67. Units II and V provided dormitory accommodation in rooms which measured between 12 and 20m². Some of the dormitories provided only cramped accommodation for the numbers held (e.g. 8 or 9 persons in 20m²). Further, most of the dormitories were equipped only with single or double bunk beds, a considerable number of which were in a very poor state of repair. In certain rooms, not all occupants had a bed (although, in a room designed as a gymnasium, the delegation found 37 unused beds, which were being kept in case a group of detainees arrived unexpectedly).

The delegation noted that many of the rooms were filthy, as were virtually all of the mattresses, sheets and blankets. It should be added, in this connection, that in a storage room in the basement of Unit I (which was empty at the time of the visit), the delegation found over a hundred new mattresses in their original packaging.

68. The sanitary facilities (washbasins, showers, lavatories) located on each floor were in a feculent condition - sinks were blocked, lavatories smeared with excrement and vomit and floors littered with waste matter. Those showers which worked delivered little more than a trickle of tepid water. To have to use such insalubrious sanitary facilities on a daily basis must be a degrading experience.

69. Numerous complaints were heard from detainees concerning the lack of cleaning materials and personal hygiene products. Apparently, only a small bar of soap was distributed weekly, and once a fortnight a limited quantity of washing powder was made available. The delegation was able to verify that other essential personal hygiene products were not provided. In addition, the delegation heard many complaints about the failure to take account of the particular needs of women and babies (sanitary towels, nappies). It is axiomatic that in a place which, by definition, provides accommodation to persons without means, basic personal hygiene products must be made available.

70. It should be added that piles of garbage had been left to rot in the corridor areas and stairwells in both buildings. In short, the living conditions of persons detained in Units II and V were unremittingly squalid.

71. The reception area, situated on the ground floor of Unit V, was in a lamentable state. Located behind bars, it consisted of a small corridor with sanitary facilities and a dormitory, apparently with an official capacity of 20 people (although there were beds for 25). Apart from the need for substantial improvements in hygiene, this area cannot be considered acceptable unless the official capacity is not exceeded (which means, in particular, that the surplus beds should be removed). Further, during the reception procedure, appropriate accommodation must be provided for particular categories of persons, especially for single women and children.

72. As already indicated, at the time of the visit the community hostel was accommodating 11 children. They lived with their families in Unit V, in the same conditions as the other adult detainees; no arrangements had been made to meet the particular needs of children, especially those of infants, whether in terms of sanitation or as regards the equipment of the dormitories. Nevertheless, in the course of the visit, the delegation was informed that there were plans to provide separate premises for families on the second floor of Unit I.

ii. food

73. Numerous complaints were received from detainees about the food which they were offered. Complaints were also heard about difficulties in obtaining baby food.

74. The delegation's on-site observations, in particular on the first day of the visit, demonstrated that those complaints were not without foundation. The preparation and presentation of meals did not take account of the dietary (including social and cultural) needs of the persons held in the Community Hostel. Further, the delegation's doctors noted that the calorific value of the food provided was insufficient. The delegation received conflicting information from the staff about whether food for infants was available.

iii. regime

75. Almost no activities were offered to the great majority of persons held in the Community Hostel. They were not offered outdoor exercise every day and many claimed that they left the accommodation blocks only to collect food or make telephone calls (and that, only when the staff allowed them to use the telephone boxes). A few out-of-date newspapers and magazines were available, in a limited number of languages. The only other activity offered was watching television in very austere common rooms.

To sum up, the great majority of detainees spent their days wandering aimlessly from dormitory to dormitory, with nothing which remotely resembled a regime to occupy their time.

iv. discipline

76. At the beginning of the delegation's visit, the Director of the Community Hostel stated categorically that the establishment contained no cells which were used for disciplinary purposes. He also asserted that he had no disciplinary powers and that his only option in cases of violation of the Community Hostel's rules was to withdraw "privileges". Nevertheless, the CPT's delegation subsequently found a disciplinary unit of 5 cells, located under the establishment's health care unit. As already indicated (cf. paragraph 10), conditions there were deplorable .

77. There was one small (4.5m²) cell containing one bed; three cells measuring around 9.5m² - one containing a bed, another a soiled foam mattress and the third, only two blood-stained cushions; the fifth cell measured nearly 15m² and contained four beds without mattresses. The windows in all five cells were fitted with bars, but were unglazed. None of the cells were equipped with artificial light or heating and all were very dirty.

Three of the cells contained objects which suggested that they had been in recent use (e.g. a plastic bottle containing urine, fresh faecal matter, a bowl of rotted food). This impression was confirmed by entries in the establishment's record of incidents and graffiti (names and dates) found on the cell walls. It was clear that a number of persons who had attempted to escape from the Hostel shortly before the delegation's visit had been held in the disciplinary unit for periods of up to seven days.

v. *information to detainees and complaints procedures*

78. At the time of the visit, detainees had virtually no information about the establishment's rules, their rights as regards contact with the outside world, arrangements for leave or requests and complaints procedures. An extremely concise information sheet was distributed to newly-arrived detainees who were expected to stay for prolonged periods.

Further, it emerged from a conversation with the police officer in charge of applications by detainees that there was no formal applications procedure, and that requests/complaints by detainees were not recorded.

vi. *medical care*

79. The medical staff resources (a team of 3 doctors providing 24-hour service on a rota basis) could be considered adequate. During the day, the doctor on duty was assisted by a nurse. An establishment of the capacity of the Community Hostel should benefit from the presence of a second nurse during the day. Such a reinforcement would contribute positively to the implementation of a preventive health-care policy, which was lacking at the time of the visit.

80. The surgery was in a satisfactory state of cleanliness. Nevertheless, its equipment was very rudimentary (in striking contrast to the surgery used for staff medical consultations).

The delegation also noted that the stock of medicines for detainees was very limited, consisting essentially of anti-inflammatory and analgesic drugs.

81. The delegation's doctors observed that medical examinations of newly arrived detainees were of a cursory nature. In essence, examinations were limited to disinfection and delousing of new arrivals during their stay in the reception unit. It should be noted, in this connection, that, in the ordinary units, the delegation's doctors met a number of adult and child detainees who had arrived recently and who suffered from a transmissible disease (scabies) which had not been detected.

It should also be mentioned that detainees had not been provided with information about basic measures of hygiene and about transmissible diseases.

82. The CPT is also seriously concerned by the manner in which medical consultations/examinations were carried out during stays at the Community Hostel. The delegation's doctors noted that these were performed in a superficial and perfunctory manner. No effort was made to explain the patient's state of health, the treatment proposed or the medicines prescribed (type of medicine and mode of administration). In short, no attempt was made to establish a doctor-patient relationship.

The delegation's doctors also heard allegations to the effect that, at times, there had been substantial delays in the delivery of prescription medicines to patients (cf. also paragraph 80). It should also be mentioned that the delegation heard complaints concerning access to dental treatment.

83. A number of detainees required psychological support which they had not received and it was evident that certain detainees required psychiatric care. The CPT's delegation met a Philippine woman who suffered from hallucinations (she had a psychotic reaction to detention) and who had been left, without treatment, in the care of a group of Philipinos accommodated in the same dormitory. In another unit, the delegation met a Romanian man suffering from serious psychiatric and physical problems and left to contend alone with other detainees, who took umbrage at his disturbed behaviour. It is axiomatic that such situations are unacceptable.

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vii. assessment and measures to be taken

84. At the time of the delegation's visit the Community Hostel of the Kerepestarcsa Police Regiment was an establishment in a state of serious neglect which, moreover, constituted a significant risk for the physical and mental health of all the detainees. On the basis of its delegation's findings, the Committee cannot but conclude that the living conditions of the persons held there were inhuman and degrading.

85. As already indicated (cf. paragraphs 9 and 10), at the end of its visit the CPT's delegation made a number of immediate observations under Article 8(5) of the Convention concerning the situation at the Hostel. The CPT was very pleased to be informed of the various measures ordered by the Hungarian authorities, on the basis of those observations. The measures ordered by the Director General of the Police in a written decision of 14-16 December 1994 include, in particular:

- the withdrawal from service of the disciplinary cells at the Community Hostel;
- the requirement to respect health care and hygienic requirements at the Community Hostel and to ensure that the premises are kept in a satisfactory state of repair and cleanliness;
- the requirement to provide living conditions which respect human dignity;
- the requirement, when allocating detainees to accommodation, to take due account of their national origins and to provide conditions which are free from physical and psychological tensions;
- giving consideration to the specific dietary needs of detainees when providing food;
- the organisation of sporting and cultural activities;
- the requirement for the Director of the Community Hostel to inspect the Hostel on a daily basis, if necessary in the presence of a doctor;
- the requirement for the Director to ensure that detainees have an effective right to make requests/complaints; and for the Director to meet with each detainee;
- the requirement to medically examine all newly-arrived detainees before allocating them to accommodation in the Community Hostel. The doctor to record in writing the conclusions from the examination and certify whether the conditions of admission have been met. He must also make proposals as regards the detainee's living conditions, in the light of his physical and psychological condition;
- all detainees whose condition so requires to have access to the services of a psychologist ;
- outside consulting hours, the doctor to monitor sanitary conditions and the treatment of detainees. The doctor to be empowered to draw the Director's attention to problems as regards: food, the hygiene of the Community Hostel and of persons accommodated there, the manner in which detainees are treated, equipment, furnishing, access to light and ventilation, and the quality and cleanliness of the personal belongings of detainees - and the Director to take all necessary measures.

86. The CPT welcomes these commitments and recommends that their detailed implementation be vigorously pursued; the Committee wishes to receive updated information on this subject. In the light of the remarks made in paragraphs 67 to 83, the Committee also recommends that:

- efforts be made to reduce the occupancy rates in the dormitories;
- basic cleaning materials and personal hygiene products be provided to detainees; and that the particular personal hygiene needs of certain categories of detainees (children, women) be taken into account;
- material conditions in the reception area be reviewed;
- a high priority be given to the implementation of plans to provide separate premises for families;
- steps be taken to ensure that detainees are provided with food of sufficient calorific value;
- urgent measures be taken in order to ensure that all detainees benefit from at least one hour of outdoor exercise every day;
- the establishment's rules (and the expressions most commonly used in everyday activities) be translated into an appropriate range of languages and made available to detainees, together with information about daily life in the Hostel and on the ways in which detainees may exercise their rights;
- the presence of a second nurse during the day be guaranteed;
- medicines prescribed be delivered without delay;
- the health care service provide to newly-arrived detainees, in an appropriate form (for example, a leaflet or brochure) and in a language which they understand, information about basic measures of hygiene and about transmissible diseases;
- efforts be made to improve communication between health care staff and detainees during medical consultations/examinations (if necessary, the use of interpreters should be envisaged), as well as to establish satisfactory doctor-patient relationships in accordance with medical ethics.
- during medical consultations/examinations, the patient be informed of his or her state of health, of the treatment proposed and of the medicines prescribed (type of medicines and mode of administration);
- steps be taken to provide access to dental treatment;
- detainees in need of psychiatric care be given access to such care without delay.

B. Establishments under the authority of the Ministry of Justice

1. General information

86. The CPT's delegation visited two establishments falling under the authority of the Ministry of Justice - Budapest Remand Prison and Tököl Prison and Remand Centre for Adolescents.

87. **Budapest Remand Prison** is located in two different buildings. Unit I (Nagy Ignác u.) is housed in city centre premises close to the main courts and Unit II (Gyorskocsi u.) is situated some distance away, in a block which adjoins the Police Central holding facility (cf. paragraph 33). The establishment holds both male and female prisoners, the majority of whom are on remand.

The prison had a total capacity of 506 and, on the first day of the delegation's visit, was holding 770 inmates - 606 on remand (526 men and 80 women), 158 sentenced prisoners and 6 inmates on short term transfers from other prisons. Of the total inmate population, 109 were juveniles and 185 were foreigners.

88. Situated near a small village some 25 km from Budapest, **Tököl Prison and Remand Centre for Adolescents** is the only prison for male young offenders in Hungary. Although, in principle, the prison holds young offenders aged between 14 and 18, sentenced juveniles may remain there until they reach the age of 21. A number of adult male prisoners who undertake maintenance duties and building work are held in separate accommodation within the perimeter of the prison.

With an official capacity of 651, on the first day of the visit 570 inmates were being held, of whom 384 were juveniles and 186 adult males.

2. Torture and other forms of ill-treatment

89. The CPT's delegation heard no allegations of torture or other forms of physical ill-treatment of inmates by staff in either of the prison establishments which it visited, or in other prison establishments in Hungary; nor was any other evidence of such treatment found during the visit.

The CPT wishes to emphasise that its delegation was impressed by the good relations between staff and prisoners, as well as by the quality of the management in both establishments visited. This is especially noteworthy as regards Budapest Remand Prison, which suffered from significant difficulties linked to overcrowding and a poor regime.

90. Notwithstanding these favourable findings, **the CPT would like to receive information on:**

- **the number of complaints of ill-treatment lodged against prison officers in Hungary during 1993 and 1994 and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;**
- **an account of disciplinary/criminal sanctions imposed during 1993 and 1994 on the grounds of ill-treatment by prison officers.**

3. Conditions of detention

a. Budapest Remand Prison

i. material conditions of detention

91. Budapest Remand Prison was grossly overcrowded at the time of the delegation's visit. In principle, cellular accommodation at **Unit I** fell into one of four categories - 2 person cells (c. 7m²); 3 person cells (c. 14 m²); 4 person cells (c. 15 - 19 m²) and 5 person cells (c. 20m²). In the view of the Committee, the cells would provide only cramped accommodation even at those levels of occupancy, in particular insofar as the 7m² cells are concerned. In fact, in many cases their official capacities were being exceeded by 100% - for example, on the first floor of the establishment, the delegation found that four inmates were living in 7m² cells and 6 inmates in 14m² cells.

Unit II contained cells of a similar size and official capacity, as well as a number of larger dormitories - for 6 persons (c. 27m²); 7 persons (c. 30m²); 8 persons (c. 34m²); 9 persons (c. 39m²) and 10 - 11 persons (c. 40m²). Again those official capacities were being exceeded by a substantial margin - on the fifth floor, for example, twelve inmates were living in 30m² dormitories, fourteen inmates in 34m² dormitories, and sixteen inmates in a 39m² dormitory.

92. All of the cells/dormitories seen were equipped with lavatories and wash basins. They benefitted from adequate artificial light and ventilation and were fitted with a call system. However, as the cells/dormitories in both Units I and II faced inner courtyards, access to natural light in those on the lower floors tended to be rather poor. A typical cell was equipped with a table and stools and a number of small cupboards.

The cells/dormitories and, indeed, the rest of the establishment (with the exception of the reception area and some sanitary facilities) were clean and in a good state of repair - a remarkable achievement in view of the very limited living space accorded to prisoners.

93. Particular mention should be made of the 20 cubicles situated in the reception unit, where newly arrived prisoners were held for short periods (one or two hours) during the admission procedure. The cubicles were equipped with a bench, had a small window and benefitted from artificial light. However, these positive features were completely outweighed by the fact that the cubicles were very small, measuring only some 1.2m². The CPT considers that, in view of their size, these cubicles are not appropriate for any form of detention, no matter how short.

94. The full effect upon inmates of the material conditions observed in Budapest Remand Prison cannot be properly assessed in isolation from the question of the regime which was offered to them (on which, see paragraph 95). Nevertheless, the CPT wishes to make clear at this stage that the current occupancy levels in the establishment are quite unacceptable.

ii. regime

95. The CPT's delegation was not impressed by the regime offered to inmates at Budapest Remand Prison, in particular to those on remand.

Sentenced prisoners were allowed to circulate freely in the corridor area outside their cells during the day and had access to a television in a common area. As regards prisoners on remand (who, it should be recalled, made up the great majority of the population), at the time of the visit they were being released from their cells in small groups to play table-tennis in the corridors or five-a-side football in the exercise yards. From conversations with staff and prisoners, the delegation established that this was not a normal part of their regime. Most such prisoners stated that the only out-of-cell time usually offered to them (with the exception of visits, showers etc) was half an hour of outdoor exercise. Moreover, some inmates claimed that they had not been offered outdoor exercise every day - an assertion which was not contradicted by the staff. As regards in-cell activities, some remand prisoners had televisions in their cells and all were allowed to borrow library books and to buy magazines.

A limited number of prisoners (up to 100 at any one time, most of whom were sentenced) were allocated cleaning and maintenance duties; however, there were no workshops and no educational activities were available.

Young persons were not offered any appropriate programme of activities.

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96. To sum up, most inmates were subject to an extremely impoverished regime. They spent the bulk of their time locked in their cells, were not offered purposeful activities and apparently were on occasion deprived of outdoor exercise. Given that they were also being held in grossly overcrowded conditions (cf. paragraph 91), their quality of life was very low. Urgent measures are required to address this situation.

97. **The Committee recommends that:**

- **steps be taken immediately to bring the occupancy rates of the cells and dormitories at Budapest Remand Prison into line with their official capacities;**
- **serious efforts be made to reduce as soon as possible the above-mentioned official capacities and, in particular, to place no more than one person in a 7m² cell;**
- **the cubicles in the reception unit be enlarged or taken out of service;**
- **steps be taken immediately to ensure that all prisoners are offered at least one hour of outdoor exercise every day;**
- **a thorough examination of the means of improving the regime activities offered to all prisoners at Budapest Remand Prison be undertaken without delay; the aim should be to ensure that all prisoners spend a reasonable part of the day (i.e. eight hours or more) outside their cells, engaged in purposeful activity of a varied nature (work, preferably with vocational value; education; sport; recreation/association).**

With respect to young persons, they should be provided with a full regime of educational, recreational and other purposeful activities. Physical education should constitute a significant element of that regime.

b. **Tököl Prison and Remand Centre for Adolescents**

i. material conditions of detention

98. Young offenders at Tököl were accommodated in four single storey buildings (Units 12 to 15) and one three-storey building (known as the "Körlet").

All of the multi-occupancy rooms seen were of a reasonable size for the 5 or 6 inmates which they held. They were equipped with beds, a table and stools, and lockers. Every room contained a wash basin and a lavatory in a sanitary annex, to which inmates had access at all times. Natural light, artificial lighting and ventilation were all of a good standard.

Although Units 13 to 15 were in a rather poor state of repair, considerable efforts had been made to keep them clean and well-ordered. Unit 12 (which had been renovated in 1992) and the (recently-built) Körlet building provided somewhat better conditions of detention.

To sum up, the material conditions observed in the detention units can be described as quite acceptable. That said, **the units were somewhat austere and could usefully be made more stimulating for young people.** By contrast, the positive environment outside the units (flowers, green areas, etc.), undoubtedly contributed to the creation of a humane atmosphere.

ii. regime

99. It should be stated at the outset that the CPT's delegation gained a positive impression of the multidisciplinary approach adopted at Tököl and of the cooperation between the different participants (educators, psychiatrist, psychologists) in the planning and implementation of socio-therapeutic programmes for young offenders.

100. A range of regimes were applied to young offenders held at Tököl. The precise combination of activities which would be offered to a given group of inmates depended upon both their security classification (low or medium) and on the regime to which they were allocated after assessment in the establishment's reception unit. Both low and medium security inmates could be placed in regimes described as open, semi-open or semi-closed. In addition to these broad classifications, a number of "special groups" were in operation - inmates who had lodged an appeal; vulnerable inmates; those suspected of bullying and inmates considered to be especially dangerous.

The differences between the regimes applied to the above-mentioned groups of inmates lay in the additional privileges which they might receive (e.g. longer periods of free association, extended home leave, etc.) and in the approach of staff (e.g. more or less intensive supervision and different therapeutic techniques), rather than in the activities in which they might engage. All were offered the same core regime elements - outdoor exercise; sport; education and work.

In short, young offenders could move around during the day either within their unit or, outside, in the workshops.

101. In principle, all inmates were offered at least one hour of outdoor exercise per day; however, the delegation learned that, on occasion, outdoor exercise might be cancelled because of staff shortages. **The Committee recommends that steps be taken to ensure that the basic requirement of one hour of outdoor exercise every day is met.**

102. The delegation was impressed by the establishment's well-stocked library and good sports facilities. As regards the latter, a gymnasium was equipped for basketball, volleyball, badminton, 5-a-side football and gymnastics. A weight-training room and outdoor sports areas were also available. On an average day, around 100 inmates made use of the sports facilities.

103. At the time of the visit, 152 inmates were attending the Prison's education centre, which offered courses at elementary school level. Given that such education was mandatory for only 4 inmates (because they were under the age of 16), this level of attendance is, in itself, much to the credit of the education centre staff. Nevertheless, the delegation noted that educational opportunities for those inmates who had already completed elementary school were very limited. Moreover, almost no vocational training was provided (at the time of the visit, only 25 inmates were engaged in vocational training, in cookery, shopkeeping). However, the delegation was informed that funding had been requested for several professional training programmes.

The Committee recommends that the Hungarian authorities give a high priority to the development of further education and vocational training options for young offenders held at Tököl Prison and Remand Centre for Adolescents.

104. Work was offered to a total of 235 inmates - 122 in manufacturing paper products for an outside company (the "Duna" corporation), and a further 113 in gardening and maintenance work, as well as in the kitchen and the laundry.

Inmates in the "special groups" were offered activities such as sewing footballs and assembling artificial flowers within the units in which they were located.

However, all the above work activities had a low vocational value; **the Committee requests the Hungarian authorities to make efforts to remedy this situation.**

105. It should also be noted that in the case of inmates who had lodged an appeal against their sentence, work activities took place in their cell; as a result, they enjoyed considerably less out-of-cell time than other inmates. **The CPT wishes to be informed of the reasons justifying this approach.**

4. Medical issues

a. staff and facilities

106. In both establishments, the health care staffing levels could be considered acceptable. The number of doctors and nurses, as well as the time for which they were present, were sufficient to provide an adequate medical service (it should be noted that, in both establishments, a doctor and a nurse provided service on a 24 hour basis). Specialist consultations or even transfers to hospital were possible if required; the delegation did not receive complaints in this respect.

However, dental treatment at Budapest Remand Prison was generally limited to extractions and fillings; budgetary resources apparently did not permit the provision of other services. **The CPT invites the Hungarian authorities to diversify the dental treatment provided to prisoners.**

107. Both the health care service premises and their equipment were of a good standard: in Budapest, each unit had its own health care centre, which included a dental surgery. In Tököl, inmates had access to the prison hospital situated within its perimeter, and, in addition, the establishment itself had a small 6 bed infirmary.

108. Both establishments had a psychological service: there were two psychologists for the inmate population of Budapest Remand Prison (i.e. 770 detainees at the time of the visit), and three at Tököl (one post was vacant at the time of the visit). However, it appeared both from conversations with members of those services and from the delegation's own observations that these resources were not sufficient to respond to the needs of inmates. Consequently, **the CPT invites the Hungarian authorities:**

- **to reinforce the team of psychologists at Budapest Remand Prison:**
- **to fill the vacant post for a psychologist at Tököl Prison and Remand Centre for Adolescents.**

b. medical examination on admission

109. All detainees were seen on arrival by a member of the health care service and, within a period of up to 48 hours after arrival, by a doctor. The delegation observed, in particular at Budapest Remand Prison, that a special form was completed when a prisoner displayed injuries. The form recorded the patient's medical history and the doctor's findings and diagnosis, as well as any statements made by the person concerned. A similar form was completed when there were incidents at the establishment (in particular between inmates). The delegation noted that these forms were diligently completed.

In this respect, **the CPT recommends that these findings also be provided to the prisoner concerned.**

110. The delegation was informed that prisoners who were returned to police custody for more than a day also received a medical examination on their return. This did not apply to inmates who were returned to prison on the same day (an apparently frequent event at Unit II of Budapest Remand Prison, which adjoined the main police holding facility). However, such an examination could be carried out on the request of the inmate concerned or if he or she showed signs of injury.

Such an approach clearly contributes to the prevention of ill-treatment. **Nevertheless, it would be desirable that all inmates be seen by a member of the health care staff on their return to prison, regardless of the length of their stay in police custody.**

111. Finally, in relation to reception, **the CPT recommends that an information leaflet or brochure be given to all prisoners on their arrival, in a language which they understand, informing them of the existence of the health care service and reminding them of basic measures of hygiene.**

c. access to a doctor

112. In the course of interviews with inmates at Budapest Remand Prison, the delegation heard a number of complaints about (sometimes not inconsiderable) delays in gaining access to a doctor. Further, the delegation noted that there was room for improvement in the procedure for access to a doctor. Requests were made either orally or in writing to the prison staff, who transmitted them to the nurse during his rounds.

The CPT wishes to stress that the health care service should be so organised as to enable requests to consult a doctor to be met without delay. Further, prisoners should be able to approach the health care service on a confidential basis, for example, by means of a message in a sealed envelope. **The CPT recommends that the Hungarian authorities take appropriate action in the light of these remarks.**

d. issues related to transmissible diseases

113. Although, at Budapest Remand Prison and Tököl Prison and Remand Centre for Adolescents, the delegation was informed that there were no HIV+ prisoners (apparently the presence of such prisoners or of prisoners who have developed AIDS is extremely rare in Hungarian prisons), certain aspects of this issue are of serious concern to the CPT.

114. The delegation was informed that all prisoners underwent an obligatory HIV test. In the event of a positive test, the prisoner would be placed in segregation (the delegation met an inmate in such a situation at the Prison Hospital in Tököl). Further, the test was not accompanied by information, counselling or psychological support, either before or after the test.

115. The CPT wishes to emphasise that there is no medical justification for the segregation of an HIV+ prisoner who is well. Moreover, appropriate counselling should be provided before any screening test and, in the case of a positive result, psychological support should be guaranteed. Further, it is axiomatic that information regarding HIV-positivity should be protected by medical confidentiality.

The CPT recommends that the Hungarian authorities ensure that the above-mentioned precepts are fully respected in practice. There should also be a policy of combatting transmissible diseases in general in places of detention, based upon the regular supply to both prison staff and inmates of detailed information about methods of transmission and means of protection as well as the application of adequate preventive measures. In drawing up such a policy, reference might usefully be made to Recommendation No R (93) 6 of the Committee of Ministers of the Council of Europe concerning prison and criminological aspects of the control of transmissible diseases including AIDS and related health problems in prison.

116. As regards, in particular, obligatory HIV testing, the CPT wishes to recall that in its Recommendation No R (89) 14 on the ethical issues of HIV infection in the health care and social settings, the Committee of Ministers of the Council of Europe recommended to national authorities to "consider ... compulsory screening as being unethical, ineffective, unnecessarily intrusive, discriminatory and counterproductive ... and to ensure that [it] is not introduced for any population group and especially for any given population group such as "captive" populations, for example prisoners, ...". Reference should also be made to the principles contained in the above-mentioned Recommendation No R (93) 6 and in its Appendix, especially to item I A.3 of the latter, according to which "...compulsory testing of prisoners should be prohibited since it would be ineffective and discriminatory and therefore unethical".

The CPT wishes to know if the Hungarian authorities intend to put into practice the aforementioned recommendations of the Committee of Ministers.

e. suicide and self-mutilation

117. In both establishments visited, attempted suicides and incidents of self-mutilation were identified as significant problems. At Tököl, the delegation noted that staff were aware of these issues and made efforts to provide, by means of an interdisciplinary approach, an adequate response to the problems of young offenders. The delegation did not encounter a similar attitude at Budapest Remand Prison, where the response was either to administer drugs or to place the inmate in a special cell (cf. paragraph 119) until he calmed down.

118. As regards more specifically suicide prevention, it falls, in particular, within the competence of a prison's health care service to ensure that there is an adequate awareness of this subject throughout the establishment and that appropriate procedures are in place.

In this respect, both medical screening on arrival and the reception process as a whole are decisive. Performed properly, they could help identify at least certain of those at risk and relieve some of the anxiety experienced by all newly-arrived prisoners.

Further, prison staff, whatever their particular job, should be attentive to (which implies being trained in recognising) indications of suicidal risk.

A person identified as a suicide risk should, for as long as necessary, be kept under a special observation scheme in a salutary environment, and should benefit from counselling, support and appropriate association.

Finally, steps should also be taken to ensure a proper flow of information - both within the establishment concerned and, as appropriate, between establishments (and more specifically between their respective health care services) - about persons who have been identified as potentially at risk.

119. In this context, the CPT has serious reservations about two special cells used at Budapest Remand Prison for accommodating inmates identified as representing a danger to themselves. These cells, which had padded walls and tops covered in wire mesh, measured less than 2m². Given their very small dimensions and oppressive character, these cells were hardly conducive to improving the psychological state of a desperate person. In fact, they were not suitable for accommodating any category of detainee.

120. The CPT recommends that a suicide prevention policy be implemented at Budapest Remand Prison, in the light of the considerations set out in paragraph 118. It further recommends that the special cells at Budapest Remand Prison be taken out of service.

f. professional independence

121. The health-care staff in any prison is potentially a staff at risk. Their duty to care for their patients (sick prisoners) may often enter into conflict with considerations of prison management and security. This can give rise to difficult ethical questions and choices.

In order to guarantee their independence in health-care matters, it is important that such personnel should be aligned as closely as possible with the mainstream of health-care provision in the community at large.

The CPT would like to receive information on the existing guarantees for ensuring the professional independence of health care staff.

122. Moreover, the CPT considers it very important that the quality and effectiveness of medical work should be assessed by a qualified medical authority. **The CPT would like to receive information about the situation in this respect in Hungary.**

5. Other issues related to the CPT's mandate

a. staff training

123. The CPT wishes to stress the great importance it attaches to prison staff having the right qualities and suitable training. There can be no better safeguard against ill-treatment than a properly recruited and trained prison officer, who knows how to adopt the appropriate attitude in his relations with prisoners. Advanced professional skills in communication techniques are an essential element in the make-up of such a prison officer. Such skills will often enable officers to defuse situations which could degenerate into violence. More generally, they will help to reduce tensions and improve the quality of life in the establishment concerned, to everyone's benefit.

124. At the beginning of the visit, the issue of prison staff training was discussed at length with the Ministry of Justice. The delegation was informed that junior prison staff underwent two weeks of training, middle ranking staff - 2 years, and senior staff - 3 years. The officials with whom the delegation spoke emphasised the need to change attitudes, to give a new value to the occupation of prison officer and to introduce human rights education.

The CPT recommends that a high priority be given to such initiatives and would like to be informed of the measures taken as regards professional training of prison staff of all grades.

b. food

125. **Complaints about the quality and the quantity of the food were widespread in both of the establishments visited.** It is very common for the CPT to receive such complaints from prisoners; however, this does not mean that they should be dismissed lightly. As the Explanatory Memorandum to the European Prison Rules states, "food and water are basic to life itself and inevitably are a focus of special interest to people who are bound to the monotony of institutional routines by virtue of imprisonment". It follows that poor food, badly served, can be a source of serious discontent within a prison.

126. Visits to the kitchen facilities at Unit II of Budapest Remand Prison and Tököl Prison and Remand Centre for Adolescents showed them to be unhygienic and dilapidated. Much of the equipment in use was very old and in poor condition. **The CPT invites the Hungarian authorities to upgrade the kitchen facilities in both establishments.**

c. contact with the outside world

127. It is very important for prisoners to be able to maintain reasonably good contact with the outside world. Above all, a prisoner must be given the means of safeguarding his relationships with his family and close friends, in particular with his wife/partner and children. The continuation of such relationships is of critical importance for all the interested parties, and especially for the social rehabilitation of a prisoner. The guiding principle should be the promotion of contact with the outside world; any limitations upon such contact should be based exclusively on security concerns of an appreciable nature or resource considerations. Such is the spirit of a number of recommendations contained in the 1987 European Prison Rules, in particular those in Article 43, paragraph 1 and Article 65, item e.

128. The situation at Budapest Remand Prison was not satisfactory in this respect. Prisoners (whether on remand or sentenced) were entitled to only one visit of one hour per month (although visits from lawyers were possible every day during working hours). This is hardly sufficient to enable a detainee to maintain good relations with his family and friends. Moreover, the conditions under which the visits took place left something to be desired: the visiting rooms were noisy and overcrowded.

The CPT recommends that the visit entitlement of inmates at Budapest Remand Prison be substantially increased. It also recommends that the possibility be explored of improving the conditions under which visits take place.

129. By contrast, inmates at Tököl were granted two hours of visits per month and in case of good behaviour, an extra visit of two hours per month. Moreover, in addition to these visits, family visits of a therapeutic nature could be authorised. Young offenders could also benefit from prison leave to visit their families.

To sum up, the frequency of visits calls for no particular comment. Similarly, the conditions under which visits took place were acceptable.

That said, Tököl is an establishment for juveniles from all over Hungary. Some young offenders mentioned that their families could not visit them because of the distance and costs involved. According to information received at the establishment, there were no special arrangements in this respect, with the exception of visits of a therapeutic nature (which could be financed by the prison authorities).

The CPT would like to receive further information on this subject from the Hungarian authorities.

130. At Tököl, young offenders had access to (card-operated) telephones. By contrast, there was no such option at Budapest Remand Prison. The CPT considers that such a situation is not acceptable, especially as regards inmates who do not receive regular visits because their families live a long way from the establishment. **The CPT recommends that the Hungarian authorities take steps to provide inmates at Budapest Remand Prison with access to telephones, if necessary, subject to appropriate supervision.**

d. discipline and segregation

131. In Hungary, the most severe disciplinary sanction is solitary confinement, for a period which varies according to the security classification of the establishment concerned (maximum security, 30 days; medium security, 20 days and low security, 10 days²⁰). At both Budapest Remand Prison and Tököl, adult prisoners could be subject to a maximum of 20 days disciplinary solitary confinement, and young offenders to 10 days (it should be noted that, according to section 52 (1) of the Prison Rules, young offenders under the age of 18 cannot be placed in a disciplinary unit).

Prisoners are heard on the subject of the offence of which they are suspected and can appeal against the disciplinary sanction of solitary confinement to a supervisory judge, who must issue a decision within 5 days. Such an appeal has suspensive effect (cf. sections 7/B and 43 (4) of the Prison Rules).

132. From a material point of view, the disciplinary cells at Budapest were of an appropriate size (a little over 6m²) and were equipped with a folding wooden bed, a chair fixed to the floor and a lavatory. They were also fitted with a call system and benefitted from natural light and artificial lighting (of variable intensity for day and night). Nevertheless, no mattresses were provided, and only two blankets were supplied at night.

At Tököl, the disciplinary cells were somewhat smaller (around 5,5m²), but still acceptable. They were equipped with a bed and a mattress, a stool fixed to the floor and a lavatory. There was no call system. The cells had practically no access to natural light (only a few rays of daylight filtered through a very small window) and the artificial lighting was mediocre.

133. **The CPT recommends that the Hungarian authorities:**

- **ensure that all inmates placed in disciplinary solitary confinement are provided with a mattress, at least at night;**
- **equip the disciplinary cells at Tököl with a call system and remedy the defects observed in those cells as regards access to natural light and artificial lighting.**

134. At the time of the visit to Tököl, only one adult prisoner was in disciplinary solitary confinement. He was granted one hour of outdoor exercise and one shower every day. He also had access to reading material (in particular, books could be borrowed from the establishment's library).

²⁰ cf. section 42 (4) of the Prison Rules. The law also contains special provisions for certain categories of detainee. Thus, a pregnant woman or a mother with an infant cannot be subjected to disciplinary solitary confinement.

The disciplinary regime at Budapest Remand Prison was notably more rigorous. In addition to the fact that prisoners did not have mattresses, their folding beds were unclipped from the wall only between 8 p.m. and 4 a.m. (when their day began). Moreover, outdoor exercise took place just after rising and the only reading material allowed was the Bible.

The CPT invites the Hungarian authorities to make available a more varied range of reading material to prisoners held in disciplinary solitary confinement at Budapest Remand Prison and, more generally, to explore the possibility of attenuating the rigour of the disciplinary regime at that establishment.

135. As regards segregation for non-disciplinary purposes, it should be mentioned that Budapest Remand Prison was preparing to receive a prisoner who was reputed to be dangerous. The prisoner concerned was to be transferred from the Police Central holding facility, where he had been held in segregation for several months (without outdoor exercise, visits rarely authorised, activities limited to playing with an electronic game) under high security conditions including constant surveillance. The prisoner in question was to be placed in a specially designed cell, situated in the disciplinary area of Unit I of the Remand Prison.

The special cell offered good material conditions. However, at the time of the visit, the regime to which the prisoner was to be subject had not yet been clearly defined.

136. The CPT recognises that it may exceptionally be necessary to arrange special conditions of detention for certain prisoners considered to be "dangerous". However, such prisoners are of particular concern to the CPT, in view of the fact that the need to take exceptional measures in respect of them brings with it a greater risk of inhuman treatment than is the case with the average prisoner.

The dangers inherent in this area are well described in paragraphs 40 and 43 of the Explanatory Memorandum to Recommendation No R (82) 17 of the Committee of Ministers of the Council of Europe on the custody and treatment of dangerous prisoners. It should be mentioned, in this context, that it is widely acknowledged that all forms of isolation without appropriate mental and physical stimulation are likely in the long term to have damaging effects, resulting in changes in social and mental faculties.

The CPT recommends that the Hungarian authorities provide such prisoners with purposeful activities and guarantee them appropriate human contact.

137. It is axiomatic that solitary confinement should last no longer than is absolutely necessary. This implies that all placements in solitary confinement for extended periods should be subject to a full review at least every three months, if necessary, on the basis of a medico-social report.

The CPT wishes to receive information about the current situation in this respect.

e. complaints and inspection procedures

138. Effective complaints and inspection procedures are basic safeguards against ill-treatment in prisons. Prisoners should have avenues of complaint open to them, both within and outside the prison system, and be entitled to have confidential access to an appropriate authority.

The CPT attaches particular importance to regular visits to all prison establishments by an independent body (for example, a visiting committee or a supervisory judge) with authority to receive and, if necessary, take action upon prisoners' complaints and to inspect the establishment's premises.

139. In Hungary, prisoners can address complaints either to the prison authorities or to outside bodies (public prosecutors, supervisory judges, members of parliament, etc.). Prisoners enjoy confidential access in writing to the latter authorities. **The CPT invites the Hungarian authorities to add the President of the CPT to the list of authorities with which prisoners can communicate by confidential letter.**

140. As regards internal complaints procedures, the CPT noted that, at Budapest Remand Prison, complaints were generally addressed orally to the Director in the course of his weekly visits to the units. At Tököl, complaints were transmitted through the educators. **In the view of the CPT, it would be desirable for inmates to be granted confidential access in writing to the Director.**

141. As part of their legal duties, public prosecutors are obliged to supervise the manner in which deprivation of liberty is implemented and conditions of detention in the establishments concerned. Further, supervisory judges have the power to inspect the living conditions of prisoners and to talk with them.

The CPT's delegation had the opportunity to meet a member of the General Public Prosecutor's office and a supervisory judge. It was emphasised that public prosecutors regularly inspect places of detention. Similarly, the judge stressed that he talked personally to inmates and strove to be seen as independent of the prison administration and staff.

The CPT welcomes this approach and invites the Hungarian authorities to encourage all public prosecutors and supervisory judges regularly to visit the places of detention within their competence. During their visits, these authorities should make themselves "visible" both to the prison authorities and staff and to the prisoners themselves. They should not limit their activities to seeing persons who have expressly requested to meet them, but should take the initiative and visit the establishments' detention areas (including cells in which inmates under special regimes may be placed) and enter into contact with prisoners.

142. As already indicated in paragraph 54, Law LIX of 1993 established the institution of Ombudsman. This law has invested the Ombudsman with important powers of investigation, including access to official premises.

The CPT would like to be informed if the Ombudsman has now been appointed and, if so, to receive a summary of the activities which he or she may have undertaken in respect of places of detention.

III. RECAPITULATION AND CONCLUSIONS

A. Establishments under the authority of the Ministry of the Interior

1. Police stations and holding facilities

143. The CPT's delegation heard no allegations of torture of persons held in police stations and holding facilities in Hungary. Moreover, no other evidence of torture was found by the delegation.

However, the delegation did hear numerous allegations of physical ill-treatment inflicted by the police on detained persons, both at the time of arrest and during subsequent interrogations. In addition, a number of allegations were heard from women detainees to the effect that they had been subjected to verbal sexual harassment and that police officers had treated them in a demeaning fashion.

The majority of the allegations of physical ill-treatment heard were remarkably consistent as regards the precise form of ill-treatment involved. In most cases, the persons concerned alleged that, after their hands had been handcuffed behind them (or their ankles attached to an item of furniture), they had been struck with truncheons, punched, slapped or kicked by police officers. The delegation found that, in a number of cases, the allegations made were supported by medical evidence.

144. In the light of all of the information at its disposal, the Committee has concluded that persons deprived of their liberty by the police in Budapest run a not inconsiderable risk of ill-treatment.

145. The CPT has emphasised the fundamental importance of suitable education on human rights questions and of adequate professional training in any strategy for the prevention of ill-treatment.

Further, it has recommended that police officers be reminded that no more force than is reasonably necessary should be used when effecting an arrest and that, once arrested persons have been brought under control, there can be no justification for striking them. It has also recommended that senior police officers deliver to their subordinates the clear message that the ill-treatment of detained persons is not acceptable and will be the subject of severe sanctions.

In addition, the Committee has stressed that one of the most effective means of preventing ill-treatment by police officers lies in the diligent examination of complaints of such treatment and, where appropriate, the imposition of suitable disciplinary and penal sanctions.

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

It has recommended that the possibility to delay the exercise by detained persons of the right to inform a relative or third party of their detention be made subject to appropriate safeguards (e.g. any delay to be recorded in writing together with the reasons therefor and to require the approval of the court or public prosecutor) and strictly limited in time.

As regards access to a doctor, the CPT's delegation was impressed by the professionalism of the police doctors whom it met during the visit. Nevertheless, the CPT has recommended: that the right of detained persons to be examined, if they so wish, by a doctor of their choice (in addition to any examination carried out by a police doctor) be formally guaranteed; that all medical consultations be conducted out of the hearing and - unless the doctor concerned requests otherwise - out of the sight of police officers; and that the results of every examination, as well as any relevant statements by the detainee and the doctor's conclusions, be recorded in writing by the doctor and made available to the detainee and his lawyer.

The CPT has also sought clarification of the precise moment at which the right of access to a lawyer becomes effective. In the Committee's view, this fundamental safeguard against ill-treatment should apply from the very outset of custody (i.e. from the moment when those concerned are obliged to remain with the police).

147. A number of other measures designed to provide additional safeguards for persons held by the police have been recommended (a form setting out the rights of such persons to be given to them at the outset of their custody, a code of practice for police interrogations to be drawn up, and an individualised custody record to be created for each person detained).

Unannounced visits by the competent public prosecutor to places where persons are detained by the police - such as already take place in Hungary - can also make a significant contribution to the prevention of ill-treatment. The Committee has recommended that public prosecutors be encouraged to accord a high priority to this on-the-spot supervision of places of detention.

148. The material conditions of detention observed in the police stations and holding facilities visited varied from good to extremely poor. The conditions seen at the 8th District Police Station in Budapest rendered it unfit as a place of detention - a view which the CPT's delegation communicated to the Hungarian authorities in the form of an immediate observation under Article 8 (5) of the Convention. The Director General of the Police subsequently ordered that no detainees are to be held in that establishment until it has been renovated. The Committee has also recommended improvements to material conditions of detention at the 5th District Police Station and the Central holding facility in Budapest and at the Pest County holding facility.

149. Many of the police establishments visited were being used to hold persons on remand for periods of months at a time. The detainees concerned routinely spent over 23 hours per day locked in their cells in a state of idleness. The CPT has stressed, in this respect, that persons on remand should be able to spend a reasonable part of the day (i.e. eight hours or more) outside their cells, engaged in purposeful activity of a varied nature (education; sport; work, preferably with vocational value). Further, all detainees held on remand should be offered at least one hour of outdoor exercise every day.

The CPT has recognised that it is highly doubtful whether it will be possible to offer such a regime, given the material constraints imposed by the premises concerned. The Committee has also made the more general point that it would be far preferable, from the standpoint of the prevention of ill-treatment, for all persons remanded in custody to be held in premises managed and staffed by the prison authorities. Accordingly, it has recommended that the practice of holding detainees on remand in police establishments be reviewed as a matter of urgency.

2. The Community Hostel of the Kerepestarcsa Police Regiment

150. The CPT's delegation heard a certain number of allegations of ill-treatment of detainees at the Community Hostel (which held illegal aliens). In one case, a detainee who had escaped from the Hostel shortly before the delegation's visit claimed that the police officers who re-captured him had struck him on the head with a torch and a truncheon and that, on his return to the establishment, he was assaulted by members of the Hostel's staff. The delegation also heard allegations that, during that latter incident, three other detainees had been struck with a truncheon on the body and the back.

The Committee has recalled, in this context, the recommendations made in respect of the prevention of physical ill-treatment of other categories of persons detained by the police.

151. During the meeting held with the Hungarian authorities at the end of the visit, the CPT's delegation invoked Article 8 (5) of the Convention and made an immediate observation in respect of the conditions of detention observed at the Community Hostel.

Detainees had been placed in dormitories in which their personal safety could not be guaranteed, material and hygienic conditions were very poor, food was inadequate and, despite the extended periods for which persons might be held, there was no regime worthy of the name. It should be added that the cells situated in the establishment's disciplinary unit were found to be in a deplorable condition (filthy; no glass in the cell windows; no artificial light; no heating) and that significant deficiencies were noted in the health care provided to detainees.

In short, at the time of the delegation's visit the Community Hostel was an establishment in a state of serious neglect which, moreover, constituted a significant risk for the physical and mental health of all detainees. On the basis of its delegation's findings, the Committee has been led to conclude that the living conditions of the persons held there were inhuman and degrading.

152. In a letter dated 7 March 1995, the Deputy Secretary of State for Public Law at the Ministry of the Interior informed the Committee that, in a written decision of 14 - 16 December 1994, the Director-General of the Police had ordered a range of measures designed to improve the conditions of detention at the Community Hostel of the Kerepestarcsa Police Regiment. The CPT has welcomed these commitments and recommended that their detailed implementation be vigorously pursued. The Committee has asked to receive updated information on this subject and has made a number of other recommendations designed to afford additional protection to persons deprived of their liberty at the Community Hostel.

B. Establishments under the authority of the Ministry of Justice

153. The CPT's delegation heard no allegations of torture or other forms of physical ill-treatment of inmates by staff in either of the prison establishments which it visited, or in other prison establishments in Hungary; nor was any other evidence of such treatment found during the visit.

Indeed, the Committee has emphasised that its delegation was impressed by the good relations between staff and prisoners in both establishments visited.

154. Nevertheless, at the time of the visit, **Budapest Remand Prison** was grossly overcrowded and most of the inmates held there were subject to an extremely impoverished regime. They spent the bulk of their time locked in their cells, were not offered purposeful activities and apparently were on occasion deprived of outdoor exercise. In short, their quality of life was very low. The Committee has recommended several measures designed to address this situation.

155. By contrast, material conditions of detention at **Tököl Prison and Remand Centre for Adolescents** were quite acceptable, although the detention units were somewhat austere and could usefully be made more stimulating for young people.

As regards the regime, the CPT's delegation gained a positive impression of the multidisciplinary approach adopted at Tököl and of the cooperation between the different participants (educators, psychiatrist, psychologists) in the planning and implementation of socio-therapeutic programmes for young offenders. However, the delegation noted that educational opportunities for those inmates who had already completed elementary school were very limited. Moreover, almost no vocational training was provided. The Committee has recommended that the Hungarian authorities give a high priority to the development of further education and vocational training options for young offenders held at Tököl.

It should be added that the CPT's delegation learned that, on occasion, outdoor exercise might be cancelled because of staff shortages. The Committee has recommended that steps be taken to ensure that the basic requirement of one hour of outdoor exercise every day is met.

156. The CPT's report addresses a number of health care issues which arose in the course of its delegation's visit. The Committee considered that the health care staffing levels were acceptable in both of the Ministry of Justice establishments visited. Moreover, the health care service premises and their equipment were of a good standard.

Nevertheless, the CPT has recommended that an information leaflet or brochure be given to all prisoners on their arrival, informing them of the existence of the health care service and reminding them of basic measures of hygiene. The Committee has also stressed that a health care service should be so organised as to enable requests to consult a doctor to be met without delay, and that prisoners should be able to approach the health care service on a confidential basis (for example, by means of a message in a sealed envelope). It has recommended that appropriate action be taken to improve the procedure for access to a doctor in the light of those remarks.

The Committee has also outlined the elements of a suicide prevention policy which it has recommended be implemented at Budapest Remand Prison. In this context, it has called for two cells, used for accommodating inmates identified as representing a danger to themselves, to be withdrawn from service; they were not suitable for accommodating any category or detainee.

157. The CPT is particularly concerned by the policy of segregating prisoners who are found to be HIV positive. There is no medical justification for the segregation of an HIV+ prisoner who is well; the CPT has recommended that this precept be fully respected in practice. It has added that appropriate counselling and support should be provided both before and, if necessary, after any HIV screening test and that information regarding HIV-positivity should be protected by medical confidentiality.

More generally, the CPT has recommended that there should be a policy of combatting transmissible diseases in places of detention, based upon the regular supply to both prison staff and inmates of detailed information about methods of transmission and means of protection as well as the application of adequate preventive measures.

158. The CPT has made a number of recommendations and comments about a variety of other issues of relevance to the Committee's mandate (staff training; food; contact with the outside world; discipline and segregation; and complaints and inspection procedures). Of these, it would emphasise, in particular, its recommendations that all inmates placed in disciplinary solitary confinement be provided with a mattress (at least at night) and that prisoners segregated on the grounds of their "dangerousness" be provided with purposeful activities and guaranteed appropriate human contact.

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

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

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

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

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

APPENDIX I

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

A. Establishments under the authority of the Ministry of the Interior

1. Torture and other forms of ill-treatment

recommendations

- police officers to be reminded that no more force than is reasonably necessary should be used when effecting an arrest and that, once arrested persons have been brought under control, there can be no justification for striking them (paragraph 23);
- senior police officers to deliver to their subordinates the clear message that the ill-treatment of detained persons is not acceptable and will be the subject of severe sanctions (paragraph 24).

comments

- the provision of suitable education on human rights questions and of adequate professional training is an essential element of any strategy for the prevention of ill-treatment (paragraph 25).

requests for information

- information on the provision of human rights education and professional training - both initial and ongoing - for police officers in Hungary (paragraph 25);
- for 1993 and 1994:
 - the number of complaints of ill-treatment by the police lodged 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 the police (paragraph 26).

2. Conditions of detention

recommendations

- steps to be taken to improve the material conditions of detention at the 5th District Police Station in Budapest and at the Pest County and Budapest Police Central holding facilities, bearing in mind the remarks set out in paragraphs 30, 32 and 33 as well as the general criteria enunciated in paragraph 27 (paragraph 34);
- the cubicles seen in the reception area of the Budapest Police Central holding facility to be removed (paragraph 34);
- appropriate steps to be taken to ensure that conditions of detention in all police establishments in Hungary meet the criteria set out in paragraph 27 (paragraph 34);
- the practice of holding detainees on remand in police establishments to be reviewed as a matter of urgency (paragraph 39);
- immediate steps to be taken to ensure that all persons held on remand are offered at least one hour of outdoor exercise every day (paragraph 39).

requests for information

- further information on the renovation work being carried out at the 8th District Police Station in Budapest (paragraph 34).

3. Safeguards against the ill-treatment of persons detained by the police

recommendations

- the possibility to delay the exercise by detained persons of the right to inform a relative or third party of their detention to be made subject to appropriate safeguards (e.g. any delay to be recorded in writing together with the reasons therefor and to require the approval of the court or public prosecutor) and strictly limited in time (paragraph 43);
- the right of detained persons to be examined, if they so wish, by a doctor of their choice (in addition to any examination carried out by a police doctor) to be formally guaranteed (paragraph 48);
- all medical consultations to be conducted out of the hearing and - unless the doctor concerned requests otherwise - out of the sight of police officers (paragraph 48);
- the results of every medical examination, as well as any relevant statements by the detainee and the doctor's conclusions, to be recorded in writing by the doctor and made available to the detainee and his lawyer (paragraph 48);

- the infirmary at the Budapest Police Central holding facility to be renovated (paragraph 48);
- a form setting out the rights of persons in police custody to be systematically given to those detained, at the outset of their custody. That form to be available in an appropriate range of languages (paragraph 49);
- detained persons to be asked to sign a statement attesting that they have been informed of their rights (paragraph 49);
- the Hungarian authorities to draw up a code of practice for police interrogations (paragraph 51);
- the Hungarian authorities to endeavour to create an individualised custody record for each person detained, in which would be recorded all aspects of his custody and all the action taken in connection with it: time of and reason(s) for the arrest; when informed of rights; signs of injury, mental disorder etc; contacts with and/or visits from next of kin, lawyer, doctor or consular official; when offered food; when questioned; when brought before the relevant judge, when released, etc. For certain matters (for example, personal belongings removed, the fact of being informed of his rights and of invoking or waiving them), the detainee's signature to be obtained and, if necessary, the absence of a signature explained. The detainee's lawyer to have access to such a custody record (paragraph 53);
- public prosecutors to be encouraged to accord a high priority to on-the-spot supervision of places of detention (paragraph 55).

comments

- the Hungarian authorities are invited to consider the possibility of introducing a system for the electronic recording of police interrogations. The system should offer all appropriate safeguards (for example, the consent of the detainee and the use of two tapes, one of which would be sealed in the presence of the detainee and the other used as a working copy) (paragraph 52).

requests for information

- clarification of the precise moment at which the right of access to a lawyer becomes effective; does it always apply as from the very outset of custody or, in certain cases, does it only take effect at some later stage of police custody? (paragraph 45);
- the comments of the Hungarian authorities on the practice of persons held in remand prisons being returned to police premises for further questioning (paragraph 56).

B. Community Hostel of the Kerepestarcsa Police Regiment

recommendations

- the Hungarian authorities to carry out forthwith a detailed review of both staffing arrangements and procedures for allocating detainees to dormitories at the Community Hostel, taking into account the Committee's remarks in paragraphs 60 to 65 (paragraph 66);
- a high priority to be given to providing separate accommodation for detainees who do not wish to be placed in dormitories with persons of the opposite sex (paragraph 66);
- in the light of the remarks made in paragraphs 67 to 83:
 - efforts to be made to reduce the occupancy rates in the dormitories;
 - basic cleaning materials and personal hygiene products to be provided to detainees. The particular personal hygiene needs of certain categories of detainees (children, women) to be taken into account;
 - material conditions in the reception area to be reviewed;
 - a high priority to be given to the implementation of plans to provide separate premises for families;
 - steps to be taken to ensure that detainees are provided with food of sufficient calorific value;
 - urgent measures to be taken in order to ensure that all detainees benefit from at least one hour of outdoor exercise every day;
 - the establishment's rules (and the expressions most commonly used in everyday activities) to be translated into an appropriate range of languages and made available to detainees, together with information about daily life in the Hostel and on the ways in which detainees may exercise their rights;
 - the presence of a second nurse during the day to be guaranteed;
 - medicines prescribed to be delivered without delay;
 - the health care service to provide to newly-arrived detainees, in an appropriate form (for example, a leaflet or brochure) and in a language which they understand, information about basic measures of hygiene and about transmissible diseases;
 - efforts to be made to improve communication between health care staff and detainees during medical consultations/examinations (if necessary, the use of interpreters should be envisaged), as well as to establish satisfactory doctor-patient relationships in accordance with medical ethics;

- during medical consultations/examinations, the patient to be informed of his or her state of health, of the treatment proposed and of the medicines prescribed (type of medicines and mode of administration);
- steps to be taken to provide access to dental treatment;
- detainees in need of psychiatric care to be given access to such care without delay (paragraph 86).

requests for information

- updated information on the detailed implementation of the commitments made by the Hungarian authorities, as set out in paragraph 85 (paragraph 86).

C. Establishments under the authority of the Ministry of Justice

1. Torture and other forms of ill-treatment

requests for information

- the number of complaints of ill-treatment lodged against prison officers in Hungary during 1993 and 1994 and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints (paragraph 90);
- an account of disciplinary/criminal sanctions imposed during 1993 and 1994 on the grounds of ill-treatment by prison officers (paragraph 90).

2. Conditions of detention

recommendations

- steps to be taken immediately to bring the occupancy rates of the cells and dormitories at Budapest Remand Prison into line with their official capacities (paragraph 97);
- serious efforts to be made to reduce as soon as possible the official capacities of the cellular/dormitory accommodation at Budapest Remand Prison and, in particular, to place no more than one person in a 7m² cell (paragraph 97);
- the cubicles in the reception unit at Budapest Remand Prison to be enlarged or taken out of service (paragraph 97);
- steps to be taken immediately to ensure that all prisoners at Budapest Remand Prison are offered at least one hour of outdoor exercise every day (paragraph 97);

- a thorough examination of the means of improving the regime activities offered to all prisoners at Budapest Remand Prison to be undertaken without delay; the aim should be to ensure that all prisoners spend a reasonable part of the day (i.e. eight hours or more) outside their cells, engaged in purposeful activity of a varied nature (work, preferably with vocational value; education; sport; recreation/association).

Young persons to be provided with a full regime of educational, recreational and other purposeful activities. Physical education to constitute a significant element of that regime (paragraph 97);

- steps to be taken at Tököl Prison and Remand Centre for Adolescents to ensure that the basic requirement of one hour of outdoor exercise every day is met (paragraph 101);
- the Hungarian authorities to give a high priority to the development of further education and vocational training options for young offenders held at Tököl Prison and Remand Centre for Adolescents (paragraph 103).

comments

- the detention units at Tököl Prison and Remand Centre for Adolescents were somewhat austere and could usefully be made more stimulating for young people (paragraph 98);
- the Hungarian authorities are requested to enhance the vocational value of the work activities offered at Tököl Prison and Remand Centre for Adolescents (paragraph 104).

requests for information

- the reasons why young offenders at Tököl Prison and Remand Centre for Adolescents who had lodged an appeal against their sentence enjoyed considerably less out-of-cell time than other inmates (paragraph 105).

3. Medical issues

recommendations

- in cases where a special form is used to record injuries, a copy of those medical findings to be provided to the prisoner concerned (paragraph 109);
- an information leaflet or brochure to be given to all prisoners on their arrival, in a language which they understand, informing them of the existence of the health care service and reminding them of basic measures of hygiene (paragraph 111);
- appropriate action to be taken to ensure that health care services are so organised as to enable requests to consult a doctor to be met without delay (paragraph 112);
- prisoners to be able to approach the health care service on a confidential basis, for example, by means of a message in a sealed envelope (paragraph 112);

- the Hungarian authorities to ensure that HIV+ prisoners who are well are not subject to segregation, that appropriate counselling is provided before an HIV screening test and, in the case of a positive result, psychological support is guaranteed, and that information regarding HIV-positivity is protected by medical confidentiality (paragraph 115);
- a policy to be drawn up on combatting transmissible diseases in general in places of detention, based upon the regular supply to both prison staff and inmates of detailed information about methods of transmission and means of protection as well as the application of adequate preventive measures (paragraph 115);
- a suicide prevention policy to be implemented at Budapest Remand Prison, in the light of the considerations set out in paragraph 118 of the report (paragraph 120);
- the special cells at Budapest Remand Prison, used to accommodate detainees identified as representing a danger to themselves, to be taken out of service (paragraph 120).

comments

- the Hungarian authorities are invited to diversify the dental treatment provided to prisoners (paragraph 106);
- the Hungarian authorities are invited to reinforce the team of psychologists at Budapest Remand Prison and to fill the vacant post for a psychologist at Tököl Prison and Remand Centre for Adolescents (paragraph 108);
- it would be desirable that all inmates be seen by a member of the health care staff on their return to prison, regardless of the length of their stay in police custody (paragraph 110).

requests for information

- whether the Hungarian authorities intend to put into practice the recommendations of the Committee of Ministers of the Council of Europe regarding obligatory HIV testing (paragraph 116);
- information on the existing guarantees for ensuring the professional independence of health-care staff (paragraph 121);
- information about the mechanisms used to assess the quality and effectiveness of medical work in prisons (paragraph 122).

4. Other issues related to the CPT's mandate

recommendations

- a high priority to be given to initiatives to enhance the professional training provided to prison staff (paragraph 124);
- the visit entitlement of inmates at Budapest Remand Prison to be substantially increased and the possibility of improving the conditions under which visits take place to be explored (paragraph 128);
- steps to be taken to provide inmates at Budapest Remand Prison with access to telephones, if necessary, subject to appropriate supervision (paragraph 130);
- all inmates placed in disciplinary solitary confinement to be provided with a mattress, at least at night (paragraph 133);
- disciplinary cells at Tököl Prison and Remand Centre for Adolescents to be equipped with a call system and the defects observed in those cells as regards access to natural light and artificial lighting to be remedied (paragraph 133);
- prisoners considered to be "dangerous" to be provided with purposeful activities and guaranteed appropriate human contact (paragraph 136).

comments

- complaints about the quality and the quantity of the food were widespread in both of the establishments visited (paragraph 125);
- the Hungarian authorities are invited to upgrade the kitchen facilities at Unit II of Budapest Remand Prison and at Tököl Prison and Remand Centre for Adolescents (paragraph 126);
- the Hungarian authorities are invited to make available a more varied range of reading material to prisoners held in disciplinary solitary confinement at Budapest Remand Prison and, more generally, to explore the possibility of attenuating the rigour of the disciplinary regime at that establishment (paragraph 134);
- the Hungarian authorities are invited to add the President of the CPT to the list of authorities with which prisoners can communicate by confidential letter (paragraph 139);
- it would be desirable for inmates to be granted confidential access in writing to the Director of the establishment in which they are being held (paragraph 140);

- the Hungarian authorities are invited to encourage all public prosecutors and supervisory judges regularly to visit the places of detention within their competence. During their visits, these authorities should make themselves "visible" both to the prison authorities and staff and to the prisoners themselves. They should not limit their activities to seeing persons who have expressly requested to meet them, but should take the initiative and visit the establishments' detention areas (including cells in which inmates under special regimes may be placed) and enter into contact with prisoners (paragraph 141).

requests for information

- details of the measures which have been taken to enhance professional training for prison staff of all grades (paragraph 124);
- further information on arrangements made at Tököl Prison and Remand Centre for Adolescents to facilitate visits by families living a long way from the establishment (paragraph 129);
- information on the current situation as regards the review of placements in solitary confinement (paragraph 137);
- whether the Ombudsman has now been appointed and, if so, a summary of the activities which he or she may have undertaken in respect of places of detention (paragraph 142).

APPENDIX II

**LIST OF THE NATIONAL AUTHORITIES
WITH WHICH THE CPT'S DELEGATION HELD CONSULTATIONS**

National authorities

Ministry of the Interior

Dr. Róbertné BARACZKA	Deputy State Secretary for Public Law
Dr. Károly NAGY	Head of Department for Public Order

Ministry of Defence

Dr József FEHÉR	State Secretary
Dr. István SÁROSI	Lieutenant Colonel, Staff Secretariat
Dr. András MÁRKUS	Colonel, Retired Judge, Department for Legal Affairs

Ministry of Justice

Dr. Károly BÁRD	Deputy State Secretary for Legal Affairs
Dr. Maria GRÁBER BARSINÉ	Head of Department for the Execution of Punishments

Ministry of Foreign Affairs

Iván CSOBÁNCZI HORVÁTH	Department for International Legal Affairs
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Ministry of Welfare

Dr. Miklos FEHÉR	Deputy State Secretary
Dr. László MOGYORÓS	Head of Division

Office of the Chief Public Prosecutor

Dr. György VÓKÓ	Head of Division
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