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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 3 to 12 April 2013

The Hungarian Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2014) 14.

Strasbourg, 30 April 2014

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Copy of the letter transmitting the CPT's report

Mr András Szűcs
Office of the Prosecutor General
1055 Budapest, Markó u. 16.
Hungary

Strasbourg, 19 July 2013

Dear Mr Szűcs,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Hungarian Government drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Hungary from 3 to 12 April 2013. The report was adopted by the CPT at its 81st meeting, held from 1 to 5 July 2013.

The recommendations, comments and requests for information formulated by the CPT are listed in Appendix I. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the Hungarian authorities to provide **within six months** a response giving a full account of action taken to implement them. The CPT trusts that it will also be possible for the Hungarian authorities to provide, in that response, reactions to the comments formulated in this report as well as replies to the requests for information made.

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

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

Yours sincerely,

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

I. INTRODUCTION

A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT carried out a periodic visit to Hungary from 3 to 12 April 2013. It was the seventh visit to Hungary to be carried out by the Committee.¹

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

- James McMANUS (Head of delegation)
- Maïté DE RUE
- Georg HØYER
- Arman TATOYAN
- Vincent THEIS
- Olivera VULIĆ.

They were supported by Johan FRIESTEDT and Petr HNÁTÍK of the CPT’s Secretariat and assisted by:

- Alan MITCHELL, Medical Doctor, Former Head of the Scottish Prison Health-Care Service, United Kingdom (expert)
- István AMBRÓZY (interpreter)
- Jozsef BENDIK (interpreter)
- Gábor KARAKAI (interpreter)
- Zoltan KÖRÖSPATAKI (interpreter)
- Tamas SCHILD (interpreter)
- Attila TÖRÖK (interpreter).

¹ The CPT has previously carried out four periodic visits to Hungary (November 1994, December 1999, March/April 2005 and March/April 2009) and two ad hoc visits (May/June 2003 and January/February 2007). The reports on these visits as well as the respective responses by the Hungarian authorities are available on the CPT’s website (<http://www.cpt.coe.int/en/states/hun.htm>).

B. Establishments visited

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

Police establishments

Budapest

- Central Holding Facility of the Budapest Police Directorate
- Holding Facility at the National Investigation Bureau of the National Police General Directorate

Csongrád County

- Holding Facility at Csongrád County Police Directorate in Szeged and Szeged Police Department

Győr-Moson-Sopron County

- Holding Facility at Győr-Moson-Sopron County Police Directorate in Győr and Győr Police Department
- Holding Facility at Győr-Moson-Sopron County Police Directorate in Sopron and Sopron Police Department

Somogy County

- Holding Facility at Somogy County Police Directorate in Kaposvár and Kaposvár Police Department

Prison Service establishments

- Central Prison Hospital and Unit for HIV-positive prisoners in Tököl
- Somogy County Remand Prison in Kaposvár
- Sopronkőhida Strict and Medium Regime Prison
- Szeged Strict and Medium Regime Prison's Special Regime Unit for prisoners serving lengthy sentences and Special Security Regime Unit.

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

4. In the course of the visit, the delegation held consultations with Mr Sándor PINTÉR, Minister of the Interior, and senior officials from the Ministry of the Interior, including the National Police General Directorate and the Prison Service, the Ministry of Public Administration and Justice, as well as the Ministry of Human Resources (State Secretariats for Health-Care and for Social, Family and Youth Affairs). It also met Mr Ervin BELOVICS, Deputy Prosecutor General.

The delegation also had discussions with Mr Máté SZABÓ, the Commissioner for Fundamental Rights, senior members of his office, and with representatives of the Independent Police Complaints Board.

Further, the delegation met members of non-governmental organisations active in areas of concern to the CPT.

A list of the ministerial authorities, other national bodies and non-governmental organisations met by the delegation is set out in Appendix II to this report.

5. The delegation received an excellent level of co-operation throughout the visit, both from the national authorities and from staff at the establishments visited. It enjoyed immediate access to all places it wished to visit (including ones not notified in advance), was able to interview in private persons deprived of their liberty with whom it wished to speak, and was granted ready access to all documentation it wished to consult. Further, the delegation was provided in advance with all the necessary documentation and additional requests for information made during the visit were promptly met.

The CPT wishes to express its appreciation for the assistance provided before and during the visit by the liaison officer appointed by the Hungarian authorities, Mr András SZŰCS.

6. It should be mentioned that, in a letter of 24 May 2013, the Head of the Hungarian Prison Service, András CSÓTI, informed the Committee of action taken on the basis of the delegation's preliminary observations. The information contained in that letter was taken into account when this report was drawn up.

7. As previously stressed by the CPT, the principle of co-operation as set out in Article 3 of the Convention is not limited to facilitating the work of visiting delegations, but also requires that recommendations made by the Committee are effectively implemented in practice.

In this respect, the Committee is pleased to note that some steps have been taken since its previous visit in 2009 to prevent police ill-treatment. In particular, it appeared that the role of health-care services had been strengthened and access to a lawyer improved in practice. That said, the information gathered during the 2013 visit, including details on a death-in-custody case which came to light in the course of the visit,² suggest that more remains to be done.

In the prison field, efforts have been made to improve the situation of prisoners serving lengthy sentences who are subjected to a special regime at Szeged Prison and to reduce resort to means of restraint in the context of movements of inmates within prison establishments. The Hungarian authorities should build on these encouraging developments. However, the CPT is seriously concerned by the lack of effective action to combat prison overcrowding. This had a major impact on many aspects of life in prison, including increased staff-inmate tension as well as cramped accommodation.

The Committee urges the Hungarian authorities to take determined action to improve the situation in the light of its recommendations, in accordance with the principle of co-operation which lies at the heart of the Convention.

D. The setting-up of a national preventive mechanism

8. Hungary acceded to the Optional Protocol to the United Nations Convention against Torture (OPCAT) on 12 January 2012. In accordance with Article 24 of the Optional Protocol, it made a declaration to the effect that it would postpone for three years the implementation of the obligations under Part IV of the Optional Protocol concerning national preventive mechanisms.

The new Ombudsman Act, which was adopted in 2011,³ stipulates that the function of the National Preventive Mechanism (NPM) will be carried out by the Commissioner for Fundamental Rights as from 1 January 2015. Whereas the delegation's interlocutors met during the 2013 visit welcomed this development, many raised questions as to the future involvement of civil society actors in the activities of the NPM and whether sufficient resources would be allocated to permit the effective functioning of the mechanism. **The CPT would like to receive the remarks of the Hungarian authorities on these two points.**

The Committee also trusts that due account will be taken of the Guidelines on national preventive mechanisms drawn up by the Subcommittee on the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT),⁴ and in particular paragraph 32 which reads as follows: "Where the body designated as the NPM performs other functions in addition to those under the Optional Protocol, its NPM functions should be located within a separate unit or department, with its own staff and budget."

² See paragraph 13.

³ Act CXI of 2011 on the Commissioner for Fundamental Rights.

⁴ Document CAT/OP/12/5 of 9 December 2010.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Police establishments

1. Preliminary remarks

9. The basic legal framework governing deprivation of liberty by the police has been described in previous visit reports⁵ and has remained by and large unchanged. A person may be apprehended by police officers, in order to be brought before the competent authority, and held for up to 12 hours. The maximum period a criminal suspect may spend in police custody is 72 hours (including the hours during which the person has had the status of an “apprehended” person); upon the expiry of this period, the person concerned must be released or presented before a judge who may remand him/her in custody.

The information gathered in the course of the 2013 visit indicates that the statutory time-limits for police detention were respected in practice.

10. The delegation was informed by the Hungarian authorities that the practice of holding misdemeanour offenders for up to 10 days in police holding facilities, criticised by the CPT in the previous visit report,⁶ had been discontinued. This is a welcome development. That said, consideration should be given to developing alternatives to the deprivation of liberty for misdemeanour offenders (see, in this context, paragraph 37).

11. There also appeared to be a further decrease in the number of remand prisoners held in police holding facilities. On the first day of the visit to Hungary, 63 remand prisoners were being kept in police holding facilities in application of Section 135 of the Code of Criminal Procedure⁷ (i.e. less than 3% of the total remand population).⁸ Nevertheless, in the course of the visit, the CPT’s delegation observed that this category of inmate still represented a not negligible proportion of the population held in some police establishments. In several cases, remand prisoners had been held in police holding facilities without any investigative activities taking place for prolonged periods.

⁵ For example, see documents CPT/Inf (2010) 16, paragraph 8.

⁶ See document CPT/Inf (2010) 16, paragraphs 8 and 30.

⁷ Section 135 of the Code of Criminal Procedure (Act No. XIX/1998) provides that persons remanded in custody may be held on police premises for up to 30 days upon the decision of a court, and may be sent back twice to police establishments, each time for a maximum of 15 days, in exceptional circumstances justified by the investigation and upon the decision of a prosecutor.

⁸ By way of comparison, there were 104 persons remanded in custody in police holding facilities at the time of the 2009 visit.

The CPT wishes to stress that, in the interests of the prevention of ill-treatment, the sooner a person remanded in custody passes into the hands of a custodial authority which is functionally and institutionally separate from the police, the better.⁹ Moreover, conditions of detention in police holding facilities are generally not suitable for long periods of detention; in this respect, reference is made to paragraph 33 of this report.

The CPT recommends that the Hungarian authorities intensify their efforts to ensure that any person remanded in custody is promptly transferred to a prison establishment. Any further interviews of a remand prisoner by the police which may be necessary should as far as possible be carried out in a prison establishment. The return of remand prisoners to police establishments should be sought only when there is absolutely no other alternative and for the shortest time possible; prosecutors should examine carefully any request for such returns and give a fully reasoned decision on the matter; in the event of a remand prisoner being returned to police custody, the prosecutor concerned should review regularly whether the reasons for which the return was authorised are still valid.

2. Ill-treatment

12. Many persons interviewed by the delegation who were – or recently had been – detained by the police stated that they had been treated correctly by police officers. However, several complaints were heard in the course of the 2013 visit about excessive use of force at the time of apprehension (even when the person concerned allegedly was not resisting apprehension or after he or she had been brought under control). Some allegations were also received of ill-treatment during questioning, in particular during the initial period of deprivation of liberty by the police of up to 12 hours. The alleged ill-treatment consisted of slaps, punches, kicks, kneeling and blows with batons or other hard objects to various parts of the body. Some of these allegations were supported by medical evidence.

Further, the delegation heard a few allegations of unduly tight handcuffing of persons during and after actual apprehension or of tightening of handcuffs during police questioning in order to inflict pain.

It also heard some accounts of verbal abuse, including of a racist nature, by police officers during actual apprehension, in the course of questioning and during subsequent detention in police holding facilities.

13. During a meeting held at the end of the visit with the Hungarian authorities, the delegation raised a particular case of alleged police ill-treatment which had reportedly taken place at Izsák Police Station (Bács-Kiskun County) on 8 April 2013. The first results of the investigation provided to the delegation suggested that the alleged victim was severely beaten by two police officers in the course of police questioning, most probably shortly after arrival at the above-mentioned police station. The delegation was told that the death of the person in question may well have been the result of the manner in which he had been treated. The delegation was also informed that the two alleged perpetrators had been dismissed from the police force and remanded in custody.

⁹ It is interesting to note in this connection that most persons who wished to complain about police ill-treatment had waited to do so until they were no longer in police custody.

This particular case had come as a surprise to the delegation's interlocutors, including the Minister of the Interior, who underlined that the seriousness of the charges against the alleged perpetrators was unique in Hungary's recent police history and should not be considered as illustrative of police culture. The Minister also remarked that prompt action had been taken, including by police staff, to ensure that those concerned would be held accountable. The CPT acknowledges that such action was indeed taken. At the same time, the delegation's findings during the 2013 visit suggest that further preventive steps are required to ensure that there is no repetition of such events in future; those steps should include the scrupulous application in practice of the safeguards against ill-treatment advocated by the CPT (see paragraphs 22 to 28 of this report).

14. In the light of the above, **the CPT recommends that the Hungarian authorities strengthen their action to prevent police ill-treatment, particularly:**

- i) **by delivering a firm message of “zero tolerance” of ill-treatment (whether of a physical or verbal nature) to all police officers and by reiterating it at regular intervals during police in-service training. Where appropriate,¹⁰ a public declaration should be adopted at the highest political level;**
- ii) **by developing a system of ongoing monitoring of interviewing standards and procedures; this will require the accurate recording of all police interviews (including any carried out whilst the person has the status of an apprehended person), which should be conducted with electronic recording equipment. It should also be required that a record be systematically kept of the time at which interviews start and end, of any request made by a detained person during an interview, and of the persons present during each interview. Further, a copy of the electronic recording should be made available to the detained person and/or his/her lawyer;**
- iii) **by providing police officers with further practical training relating to the proportionate use of force in the context of an apprehension;**
- iv) **by reminding police officers that:**
 - **where it is deemed essential to handcuff a person at the time of apprehension or during the period of custody, the handcuffs should under no circumstances be excessively tight¹¹ and should be applied only for as long as is strictly necessary;**
 - **any intentional tightening of handcuffs in order to inflict pain constitutes a criminal offence.**

Moreover, **the CPT wishes to receive up-to-date information on the progress and, in due course, on the outcome of the investigation into the alleged ill-treatment and subsequent death of the person at Izsák Police Station on 8 April 2013.**

¹⁰ For instance, when a particularly serious case of police ill-treatment comes to light.

¹¹ It should be noted that excessively tight handcuffing can have serious medical consequences (for example, sometimes causing a severe and permanent impairment of the hand(s)).

15. It is also essential to continue to promote a police culture where it is regarded as unprofessional to work and associate with colleagues who resort to ill-treatment. More precisely, proper conduct by police staff vis-à-vis detained persons must be fostered, in particular by doing more to encourage police officers to prevent colleagues from ill-treating detained persons and to report, through appropriate channels, all cases of ill-treatment (including racially-motivated abuse) by colleagues. There must be a clear understanding that culpability for ill-treatment extends beyond the actual perpetrators to anyone who knows, or should know, that ill-treatment is occurring/has occurred and fails to act to prevent or report it. This implies the development of a clear reporting line to a distinct authority outside of the police unit concerned as well as a framework for the legal protection of individuals who disclose information on ill-treatment and other malpractice. **The CPT recommends the adoption of such “whistle-blower” protective measures.**

Additional steps should also be taken to eradicate racially-motivated abuse and discriminatory behaviour by members of the police force, including by strengthening efforts to ensure that the composition of the police force reflects the diversity of the population.¹²

16. The delegation noted that custodial staff at the police holding facilities visited openly carried batons, tear gas canisters and handcuffs in the detention areas. Moreover, at the Central Holding Facility of the Budapest Police Directorate and the Holding Facility at the National Investigation Bureau in Budapest, the delegation observed that whenever custodial staff opened cell doors, they drew their baton. However, members of custodial staff interviewed by the delegation could not recall a single instance when resort had been had to batons or gas canisters; this begs the question whether the carrying of batons and gas canisters is really required.

If it is deemed necessary for staff to carry batons and handcuffs in detention areas, the CPT recommends that they be hidden from view. Moreover, tear gas canisters should not form part of the standard equipment of custodial staff and, given the potentially dangerous effects of this substance, tear gas should not be used in confined spaces.

17. As regards the role of health-care services in relation to preventing ill-treatment, it is positive that all persons interviewed by the delegation confirmed that they had been examined by a member of the medical staff prior to admission to a police holding facility. The delegation was also informed that if a person presented injuries on that occasion and/or made allegations of ill-treatment, he or she would be sent to hospital for an independent medical examination. In accordance with Decree No. 19/1995 of the Minister of the Interior on the regime of police holding facilities, if a detained person alleges to health-care staff that he or she has been ill-treated, a protocol should be drawn up. A copy of the protocol should be (systematically) forwarded to a prosecutor. During the 2013 visit, these regulations appeared to be followed in practice.

However, the CPT recommends that Decree No. 19/1995 be amended so that a protocol is drawn up and forwarded to a prosecutor whenever injuries are recorded by a doctor which are indicative of ill-treatment, even if the person concerned makes no allegations of ill-treatment.

¹² Reference is also made in this context to the Council of Europe Committee of Ministers resolution CM/ResCMN (2011) 13 of 6 July 2011 on the implementation of the Framework Convention for the Protection of National Minorities by Hungary as well as the relevant recommendations of the European Commission against Racism and Intolerance (ECRI), including ECRI General Policy Recommendation No. 11 on combating racism and racial discrimination in policing.

18. It is a welcome development that the practice of requesting persons presenting injuries prior to admission to sign statements to the effect that the injuries had been sustained before apprehension or due to resisting arrest has been discontinued. However, certain shortcomings identified by the CPT in previous visit reports persist.

19. In particular, the *confidentiality of medical examinations* was still not respected in the police establishments visited. The CPT notes in this context that an internal police instruction issued following the Committee's 2009 visit by the National Police General Directorate stipulates that "if it does not contradict custodial and security requirements, at the request of the detained person or the doctor, an opportunity must be given to perform medical examinations or treatment out of the hearing and possibly out of the sight of custodial staff."¹³ According to that instruction, the decision on the matter may be taken by the escorting authority or the officer in charge of the escort.

However, the findings of the 2013 visit clearly indicate that police officers were present during virtually all medical examinations carried out on detained persons, irrespective of whether they took place at police establishments or in civil hospitals where detained persons had been sent for an independent medical examination. Moreover, it would appear that medical examinations in hospitals could be carried out in the presence of the same police officers who had allegedly inflicted the ill-treatment. In a few cases, the detained persons claimed that they had been subsequently intimidated.¹⁴

The CPT recommends that the Hungarian authorities amend the relevant instructions to ensure that medical examinations (whether they are carried out in police establishments or in hospitals) are conducted out of the hearing and – unless the health-care professional concerned expressly requests otherwise in a given case – out of the sight of staff with no health-care duties. In order to facilitate the preservation of the confidentiality of medical examinations and treatment, it should be ensured that police holding facilities and the hospital structures concerned have a room available which provides appropriate security safeguards.

Further, the Committee recommends that the necessary steps be taken to ensure that the police officers charged with escorting a detained person to hospital for an independent medical examination are not the apprehending officers or other staff dealing with that person's case.

¹³ See section II.8 of the Instruction of the National Police General Director No. 22/2010 (OT 10.), on the implementation of the CPT's recommendations.

¹⁴ For instance, one person indicated to the delegation that the police officers escorting him to hospital were also those who had apprehended him, that at the hospital they first had a private talk with the examining doctor, that they were present during the examination and subsequently indicated to him that for every word he said to the doctor, he would receive a fine.

20. Moreover, the delegation again noted that the results of medical examinations were accessible to police officers. By way of example, at the Central Holding Facility of the Budapest Police Directorate, a medical report on a detainee's health was printed and handed to the police officer who presented the person for routine medical examination upon arrival to the holding facility. In other police establishments, the results of medical examinations were recorded in a journal accessible to police officers. Medical reports drawn up in hospitals (including the description of injuries and statements about police ill-treatment) were inserted in the police administrative file of the person concerned.

The CPT calls upon the Hungarian authorities to take the necessary measures to ensure that the confidentiality of medical documentation is strictly observed; naturally, doctors may inform custodial staff on a need-to-know basis about the state of health of a detained person, including medication being taken and particular health risks.

21. As regards the record drawn up after a medical examination of a person admitted to a police holding facility and after the independent medical examination of that person in hospital, it should be pointed out that progress appears to have been made in this area. For instance, hospital records seen by the delegation contained an account of statements made by the detained person (including allegations of ill-treatment) as well as detailed medical findings. Further, the records contained some observations as to the consistency between the allegations made and the objective medical findings. **The CPT encourages the Hungarian authorities to pursue this practice.**

3. Safeguards against ill-treatment

22. The delegation's findings indicate that the right of notification of custody generally became effective shortly after actual apprehension of a person by the police. The information about the deprivation of liberty to a third person designated by the detained person was usually conveyed by the police and, unlike the situation observed during the previous visit, feedback on whether or not it was possible to contact the third person was subsequently given to the detained person who was requested to confirm this fact by signing a form.

Nevertheless, it remains the case that according to the relevant legislation,¹⁵ the police are under the obligation to notify a third person designated by the detainee only "within 24 hours of apprehension".

The CPT considers in this respect that all persons deprived of their liberty by the police, for whatever reason, should be granted the right to notify a close relative or third party of their choice about their situation as from the outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with the police). **The CPT reiterates its recommendation that the Hungarian authorities amend the relevant legal provisions with a view to guaranteeing the right of persons detained by the police to inform a relative or third party of their choice of their situation as from the outset of deprivation of liberty.**¹⁶

¹⁵ See Section 128 (1) of the Code of Criminal Procedure.

¹⁶ The exercise of this right could be made subject to certain exceptions designed to protect the legitimate interests of the police investigation, provided those exceptions are clearly circumscribed in law and made subject to appropriate safeguards (e.g. any delay in notification of custody to be recorded in writing with the specific reasons therefor, to require the approval of a senior police officer unconnected with the case at hand or a public prosecutor, and to be applied for the shortest time necessary).

23. As regards the right of access to a lawyer, senior police officers informed the delegation that this right applied from the outset of police custody, i.e. including during the initial period of deprivation of liberty of up to 12 hours during which the detainee has a status of “apprehended” person, and many persons interviewed by the delegation confirmed that they were given the opportunity to contact a lawyer already during that stage. This is a welcome development.¹⁷

However, the delegation did receive a few allegations of refusal of access to a lawyer during deprivation of liberty by the police, in particular during the “apprehension” period of up to 12 hours, despite the explicit request by the detained persons concerned. Some persons interviewed by the delegation also complained that they had had no opportunity to talk to their lawyer in private prior to police questioning or to appearing before a judge. **The CPT recommends that the Hungarian authorities take further steps to ensure that access to a lawyer is granted to all detained persons (irrespective of their precise legal status) as from the outset of their deprivation of liberty. The right of access to a lawyer must include the right for any detained person to talk to his/her lawyer in private.**

24. A number of allegations was heard about *ex officio* lawyers acting in the interests of police officers rather than in the interests of the persons to whom they had been assigned. It is noteworthy in this context that police officers interviewed by the delegation indicated that they would choose themselves a lawyer from a list of lawyers known to the police authorities. Further, a number of persons interviewed stated that they met an *ex officio* lawyer for the first time only shortly prior to appearing before a judge who remanded them in custody, and some were not aware of having any lawyer even at that stage of the proceedings.

The CPT recommends to the Hungarian authorities that the necessary steps be taken, in consultation with the Bar Association, to ensure that *ex officio* lawyers are not chosen by police officers (or prosecutors) and that such lawyers meet their clients while in police custody. In addition, *ex officio* lawyers should be reminded, through the appropriate channels, of their duty to represent to the best of their ability the interests of the persons to whom they have been assigned. The Committee would also like to receive further information on the practical procedures for intervention by *ex officio* lawyers (on-call services, fees, etc.).

25. As regards access to a doctor, it has already been indicated that detained persons were systematically examined by a member of the medical staff upon admission to a police holding facility. Further, it transpired from the interviews with detained persons that individuals requiring medical assistance during their stay in such a facility were promptly granted access to a doctor. However, the right of access to a doctor as from the outset of deprivation of liberty (i.e. during the first 12 hours), including a doctor of one’s own choice, is still not formally guaranteed. **The CPT recommends that this shortcoming be remedied.**

¹⁷ The majority of the persons interviewed during the 2009 visit stated that they had not been allowed to contact a lawyer while having the status of “apprehended” persons (see document CPT/Inf (2010) 16, paragraph 24).

26. At the police holding facilities at the National Investigation Bureau in Budapest and in Kaposvár, certain medication not prescribed by a doctor, including sedatives, could be given to detained persons during the night by police officers. While in Budapest, the staff would first consult by phone the duty doctor of the Central Police Holding Facility, in Kaposvár, the medication could be administered without any prior consultation with health-care staff. In the CPT's view, **the management of medicines should always be carried out by health-care professionals.**

27. Most persons interviewed by the delegation stated that they had received verbal information on rights shortly after apprehension. However, while a written form setting out the rights was present in virtually all police establishments visited in nine different languages (with the exception of the police holding facility in Sopron where only the Hungarian version was available), the delegation's findings suggest that it was not always provided to detained persons. Moreover, with the exception of the Hungarian version updated in 2012, the other language versions of the form were outdated.¹⁸ On a positive note, detained foreign nationals met by the delegation indicated that they had benefited from the services of an interpreter and had orally been informed of their rights in a language they could understand before police questioning.

The CPT invites the Hungarian authorities to take further steps to ensure that an up-to-date information sheet is available in all police establishments in an appropriate range of languages and is systematically given to detained persons.

28. Complaints about police misconduct involving breaches of police ethics and discipline could be lodged either with the police or with the Independent Police Complaints Board.¹⁹ The Board can address its written opinion on the issue at stake to the Head of the National Police General Directorate; if the Head disagrees with the Board's opinion, his or her reasoned decision can be appealed to court. However, unlike the complainant, the Board may not lodge such an appeal and is not formally informed about the outcome of the court proceedings. Moreover, as noted in the previous visit report, the Board does not have the power to initiate inquiries *ex officio*.

The CPT recommends that a formal procedure be established to ensure that the Independent Police Complaints Board is informed about the outcome of appeals against decisions of the Head of the National Police General Directorate. Further, the Committee invites the Hungarian authorities to extend the powers of the Independent Police Complaints Board with a view to enabling it to lodge an appeal against the decisions referred to above, and to initiate *ex officio* inquiries into cases of alleged police misconduct.

Of course, whenever evidence comes to light during the complaints procedure of possible ill-treatment of detained persons by the police, the matter should be brought to the attention of the relevant prosecution service.

¹⁸ In their response to the 2009 visit report, the Hungarian authorities indicated that the obsolete leaflets would be replaced by an updated version in 2010 (see document CPT/Inf (2010) 17, pages 16-17).

¹⁹ The composition and *modus operandi* of the Board was described in the 2009 visit report and remained unchanged (see document CPT/Inf (2010) 16, paragraph 20).

4. Conditions of detention in police establishments

a. police holding facilities

29. Material conditions of detention in the police establishments visited during the 2013 visit were, on the whole, satisfactory.

Most cells seen by the delegation were in a reasonable state of repair and clean, were sufficient in size for the number of inmates they were intended to hold (i.e. as a minimum eight, 12 and 22 m² for cells with the capacity of two, three and four detainees, respectively), were adequately equipped (sleeping platforms, shelves, bedding), sufficiently heated and ventilated, and had adequate lighting. However, **access to natural light was often limited due to windows being fitted with frosted glass.**

Sanitary facilities were located in adjacent corridors and were in a good state of repair and clean, and detained persons were offered access to showers every day.

30. However, ventilation, access to natural light and artificial lighting remained far from optimal in the holding cells at the *Central Holding Facility of the Budapest Police Directorate* – a shortcoming which the CPT trusts will be addressed during the ongoing refurbishment of the facility.

In many cells of *Szeged Holding Facility* and in the *Holding Facility at the National Investigation Bureau in Budapest*, the delegation observed narrow beds (some 60 cm) which had already been criticised by the CPT in several previous visit reports. In addition, at Szeged, staff informed the delegation that cells were not sufficiently heated during winter months and ventilated in summer.

Further, some complaints were heard about delays in access to toilets in both of the holding facilities visited in Budapest (i.e. delays of up to one hour), in particular at night.

The CPT recommends that the Hungarian authorities take the necessary steps to remedy the shortcomings identified above. As regards more specifically the Central Holding Facility of the Budapest Police Directorate, the CPT wishes to receive detailed information on progress made on its refurbishment.

31. The vast majority of detained persons met by the delegation during the visit stated that they were offered one hour of access to outdoor exercise daily. However, the delegation again noted that the yards were generally of an oppressive design and not equipped with any means of rest (let alone any other equipment). Moreover, at Szeged and at the Holding Facility at the National Investigation Bureau in Budapest, there was no effective protection against inclement weather. **The CPT recommends that, as long as remand prisoners can be held in police holding facilities for prolonged periods, outdoor exercise yards be equipped with a means of rest and effective shelter against inclement weather. Further, anyone held for 24 hours or more should be guaranteed daily access to outdoor exercise.**

32. As was the case during previous CPT visits, none of the police holding facilities visited by the delegation during the 2013 visit offered any regime of activities to remand prisoners; they spent 23 hours a day locked up in their cells, with hardly anything to occupy them.

33. To sum up, the findings of the 2013 visit confirmed that conditions of detention in police holding facilities were, on the whole, adequate for the duration of police custody (i.e. up to 72 hours). However, as already noted in previous visit reports, they are not at all adequate for the prolonged periods for which remand prisoners may currently be held in such facilities. Reference is made in this context to the recommendation made in paragraph 11 of this report.

b. waiting rooms for apprehended persons

34. The police departments visited were equipped with waiting rooms for the holding of “apprehended” persons for periods of up to 12 hours. As was the case during the previous visit, these rooms were in a good state of repair, clean, ventilated, adequately lit and equipped with benches. Persons apprehended for longer than five hours were provided with food.

However, with the exception of the police establishments in Sopron and Szeged, no arrangements were made to provide a mattress and blankets for apprehended persons who remained in such rooms overnight. **The CPT reiterates its recommendation that measures be taken to ensure that, if apprehended persons have to spend the night in a police waiting room, they are provided with a mattress, blankets and clean bedding.**

B. Prison Service establishments

1. Preliminary remarks

35. The delegation visited a remand prison, namely Somogy County Prison in Kaposvár, a prison for inmates serving sentences under a strict or medium regime, i.e. Sopronkőhida Strict and Medium Regime Prison, and Hungary's Central Prison Hospital in Tököl, all three establishments being visited by the CPT for the first time. It also carried out follow-up visits to the Unit for HIV-positive prisoners in Tököl as well as to Szeged Strict and Medium Regime Prison to review the situation at the Special Regime Unit for prisoners serving lengthy sentences (HSR Unit) and Special Security Regime Unit (BSR Unit).

36. Since 2010, the responsibility for the administration of prisons has been placed, together with the police, under the authority of the Ministry of the Interior. When meeting the delegation, the Minister of the Interior considered this development as an opportunity to harmonise professional training for prison and police officers and to encourage mobility between both categories of staff.

The CPT is concerned that this approach may call into question the specificities of the respective tasks of police and prison officers. More particularly, as regards prison staff, their functions entail a duty of care which should be geared towards the reintegration of prisoners into society. It is noteworthy that a number of prison officers and representatives of prison trade-unions met by the delegation also expressed concern about a possible confusion of police and prison duties in the medium term. **The Committee invites the Hungarian authorities to reconsider their position on this matter, in the light of the above remarks.**

Reference should be made in this context to Rule 71 of the Recommendation Rec (2006) 2 of the Committee of Ministers to member states on the European Prison Rules²⁰ adopted on 11 January 2006, which reads as follows: “[p]risons shall be the responsibility of public authorities separate from military, police or criminal investigation services.” In the Commentary to that Rule, it is recalled that “there should be a clear organisational separation between the police and the prison administrations. In most European countries the administration of the police comes under the Ministry of the Interior while the administration of prisons comes under the Ministry of Justice.” **The CPT would like to receive the remarks of the Hungarian authorities on this matter.**

37. The Hungarian prison authorities indicated that action to combat prison overcrowding has continued to be a major issue. Indeed, the prison population has followed an upward trend over recent years: it stood at 18,120 inmates for the available accommodation of 12,573 places at the time of the 2013 visit, as compared with 15,367 prisoners for 12,566 places during the previous visit in 2009. In other words, the overpopulation rate doubled in four years (i.e. from 22 % to 44 %).

Several interlocutors explained such a situation by, among other things, stricter criminal policies, the underuse of alternatives to imprisonment and the failure to increase substantially the number of places in prison to meet the demand.

²⁰ Hereafter “European Prison Rules”.

The delegation also learned with concern that, following a 2010 amendment to the rules on enforcement of prison sentences and pre-trial detention, the observance of 3 m² of living space per male prisoners and of 3.5 m² of living space per juvenile or women in cells (not counting floor space taken up by cell equipment) was no longer a strict legal requirement but more an objective.²¹ It was explained to the delegation that this amendment had been made because most Prison Service establishments were affected by overcrowding, with the notable exceptions of both prisons involving private contractors in Szombathely and Tiszalök (for contractual reasons) and the Central Prison Hospital.

Most of the delegation's interlocutors, including senior prison officials, indicated that the situation was likely to worsen with the entry into force, in July 2013, of a number of new criminal provisions which may well result in an even higher number of persons being sent to prison and/or being imprisoned for far longer terms.

38. In order to anticipate a further significant increase of the prison population and to make it possible to reverse the trend, the delegation was informed of measures to develop electronic monitoring, which was under trial at the time of the visit, and of plans to increase the capacity of the prison estate with 250 more places by the end of 2013.

That said, the main response to prison overcrowding has so far remained the introduction of a "balancing" programme whereby the Prison Service re-allocates prisoners nationwide to ensure some equality of overcrowding in each prison.²²

39. The CPT notes the efforts made by the Prison Service to cope with overcrowding. However, this problem is being aggravated rather than tackled, for example insofar as the overcrowding "balancing" process is not an effective long-term response and generates immediately a number of serious problems for the prison management, staff and prisoners. The inmates spend a significant amount of time being transferred from one establishment to another, which leads to organisational difficulties. Moreover, prisoners were frequently held far away from their families and, as a result, suffered in practice from further restrictions on visits.²³ This has led to tension between staff and inmates, as well as among prisoners themselves.

As regards the relaxing of minimum standards on living space per inmate, this may well have led to a trivialisation of the unacceptable situation that overcrowding generates in prison and thereby undermines efforts to combat the phenomenon.

²¹ According to the newly-adopted regulations, prisoners should be offered, *if possible*, 3 m² of living space (3.5 m² as regards juveniles and female prisoners). The surface areas taken up by cell equipment which reduce that space should not be included in the calculation. For more details, see Section 137 (1) and (2) of Decree 6/1996 (VII. 12.) of the Minister of Justice on the Rules on Enforcement of Prison Sentences and Pre-Trial Detention, as amended by Decree 12/2010 (XI. 9.), which entered into force in November 2010.

²² For instance, at the time of the visit, 41 inmates from Sopronkőhida Prison were being held in Vac within the framework of this programme.

²³ See paragraph 111.

The CPT also wishes to emphasise once again that providing additional accommodation cannot on its own offer a lasting solution. The only viable way to control overcrowding is to adopt policies designed to limit or moderate the number of persons sent to prison. The highest priority should be to ensure that imprisonment really is the ultimate sanction. This implies, in the first place, an emphasis on various non-custodial measures. Measures which facilitate the reintegration into society of persons who have been deprived of their liberty should also be further developed. As to the financial aspect, it is generally proven that imprisonment is more expensive than placement in a semi-open establishment or monitoring in an “open environment”.

More generally, the Prison Service should not be left alone in coping with the phenomenon of overcrowding. A more concerted approach should be developed, including through wide-ranging discussions involving all relevant parties, including parliamentarians, prosecutors, judges and representatives of monitoring bodies. The Government position should be based on a holistic and proactive approach rather than a reactive one.

40. The CPT calls upon the Hungarian authorities to redouble their efforts, in consultation with all the parties concerned, to combat prison overcrowding and, in so doing, be guided by all the relevant recommendations of the Committee of Ministers of the Council of Europe.²⁴

The Committee also recommends that strict minimum legal requirements be re-introduced as regards living space per inmate in prison cells. Every prisoner should benefit from at least 4 m² of living space in multi-occupancy cells; the floor area taken up by in-cell toilets/sanitary facilities should not be included in this calculation. With regard to single-occupancy cells, any cells of this type should measure no less than 6 m² (not counting the floor area taken up by in-cell toilets/sanitary facilities) and preferably be larger.

41. In their responses to previous visit reports,²⁵ the Hungarian authorities underlined that a number of the CPT’s recommendations in the prison field were taken into account when preparing a new legal framework for prisons. The CPT notes with interest that a Prison Concept was being drafted at the time of the visit and **would like to be informed of progress in this area. The Committee encourages the Hungarian authorities to use this opportunity to engage in a broad consultation process involving civil society.**

²⁴ See Recommendation Rec(99)22 of the Committee of Ministers of the Council of Europe concerning prison overcrowding and prison population inflation, Recommendation Rec(2000)22 on improving the implementation of the European rules on community sanctions and measures, Recommendation Rec(2003)22 on conditional release (parole), Recommendation Rec(2006)13 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse and Recommendation Rec(2010)1 on the Council of Europe Probation Rules.

²⁵ See, in particular, Government responses to the reports on the 2005 and 2009 periodic visits to Hungary (documents CPT/Inf (2006) 21 and CPT/Inf (2010) 17).

2. Ill-treatment

42. The delegation received no allegations of physical ill-treatment at the *Central Prison Hospital and Unit for HIV-positive prisoners* in Tököl.

Further, the majority of inmates interviewed in the prison establishments visited had no complaints against the prison officers. It should in particular be placed on record that prisoners who were, or had been held, *in the BSR and HSR Units at Szeged Strict and Medium Regime Prison* made very positive remarks about various categories of staff working in these units. Some inmates met at Szeged also referred to improvements in the attitude of prison officers, including members of the special response team, in other parts of the prison.

Notwithstanding this generally positive assessment, some allegations of physical ill-treatment of prisoners by staff were received at Somogy County Remand Prison in Kaposvár and Sopronkőhida Strict and Medium Regime Prison.

43. At the beginning of the visit to *Somogy County Remand Prison in Kaposvár*, the delegation was informed of action taken following the alleged ill-treatment and subsequent death of an inmate in February 2009, a matter which was raised by the CPT in its previous visit report.²⁶ In particular, this case had been referred to as an example of bad practice for all prison officers during regular staff meetings and training. It also appeared during the visit that the new management and the competent prosecuting authorities had put staff behaviour under closer scrutiny.

Nevertheless, the delegation did receive a few allegations of slaps and punches of inmates by custodial staff, after the inmates concerned had apparently committed a minor breach of the internal rules or after they had complained (or had been accused) of inter-prisoner intimidation. Many of the prisoners concerned were juveniles. The alleged ill-treatment had reportedly taken place in the cells or after the prisoners had been taken one by one to the establishment's multi-purpose activity room.

44. At *Sopronkőhida Strict and Medium Regime Prison*, the delegation received several consistent accounts of physical ill-treatment by custodial staff of inmates who were, or had been, held in that establishment, in particular in the course of the nine months preceding the CPT's visit. Practically all of the allegations related to Wings 1 and 4. The alleged ill-treatment consisted mainly of slaps, punches and kicks (whilst the inmates were handcuffed in some instances), most often in (or in front of) the cells, in the staircase and/or in the shower room. It was said to have involved from two to eight prison staff members; reference was made, in isolated cases, to the presence of senior members of staff. The majority of the prisoners in question considered that they had been ill-treated because they were of Roma origin,²⁷ had made complaints or had attempted suicide or self-harmed.

²⁶ See paragraph 61 of the report on the CPT's 2009 visit to Hungary and Government response (documents CPT/Inf (2010) 16 and CPT/Inf (2010) 17).

²⁷ The alleged physical ill-treatment apparently being preceded, accompanied and/or followed by insults with clear references to their Roma origin.

45. A number of accounts of verbal abuse of a racist nature were heard at Sopronkőhida Prison and to a lesser extent at Somogy County Prison. Further, some female prisoners complained of disrespectful remarks (bordering on sexual harassment) from male custodial staff at the Central Prison Hospital in Tököl and Somogy County Prison.

46. The local management of the establishments visited was generally aware of the above-mentioned problems, in particular at Sopronkőhida. The delegation was told that every case which came to light was reported without delay to the prosecuting authorities and that, whenever required, staff allegedly involved in the ill-treatment of inmates were temporarily removed from any position where they might be in direct contact with prisoners (see paragraphs 47 to 49 in this respect). Further, in a letter of 24 May 2013, the Hungarian prison authorities informed the Committee that, following the CPT's visit, prison staff were reminded of their obligations to treat inmates in a correct manner.

However, the delegation's findings during the 2013 visit suggest that more proactive measures should be taken at both central and local levels. **The CPT recommends that the Hungarian authorities redouble their efforts to combat ill-treatment by prison staff and to promote professional ethics within the Prison Service, through instruction and training, in the light of the newly-adopted European Code of Ethics for Prison Staff.²⁸ Proper conduct by prison staff vis-à-vis prisoners should also be fostered by increased efforts to oblige staff members to prevent colleagues from ill-treating prisoners and to report, through appropriate channels, all cases of ill-treatment involving colleagues.**

In this context, **the Committee recommends that prison staff working in the establishments visited be clearly and frequently reminded that:**

- **they should never inflict, instigate or tolerate any act of ill-treatment, in whatever form and under any circumstances, including when ordered by a superior;**
- **they should at all times treat prisoners with politeness and respect and take full account of the need to challenge and combat racism and xenophobia, as well as to promote gender sensitivity and prevent sexual harassment of any kind in relation to both prisoners and other staff;**
- **force should only be applied when – and to the extent – strictly necessary to maintain security and order, and never as a form of punishment;**
- **prison staff will be held accountable for any act of ill-treatment (including verbal abuse) or any excessive use of force.**

The CPT also recommends that the attitude and behaviour of custodial staff in direct contact with juveniles at Somogy County Prison and staff working in Wings 1 and 4 of Sopronkőhida Prison be subject to closer and more effective supervision.

²⁸ Recommendation Rec (2012) 5 of the Committee of Ministers of the Council of Europe to member states on the European Code of Ethics for Prison Staff adopted on 12 April 2012.

47. The CPT has serious misgivings about the effectiveness of investigations into complaints of ill-treatment by prison staff. For instance, complaints of ill-treatment by staff working at Sopronkőhida Prison were received on a regular basis by the competent prosecuting authorities. However, no indictments had been issued in recent years. Investigations were generally closed for the reason that the alleged ill-treatment was committed by “unknown perpetrators”, a catch-all phrase used by the prosecuting authorities to highlight either the failure to identify the members of staff involved or a lack of sufficient evidence.

Members of the competent prosecuting authorities met by the delegation stated that they faced a variety of obstacles. For instance, the alleged victims and witnesses often failed to identify the members of staff involved in the alleged ill-treatment because they could not read or remember the seven-digit service numbers on the staff’s uniforms or the prison officers concerned did not wear them. When the prison officers involved could be identified, the possibility of being charged with slander for making an unfounded allegation against particular staff members had a strong deterrent effect. In addition, prosecutors were often confronted with the staff’s attempts to back each other up and claims that injuries suffered by inmates were the result of legitimate resort to restraint. Gathering medical evidence could also prove to be a difficult task. Another obstacle raised by prosecutors was the poor CCTV coverage in some prisons.

48. A number of prisoners interviewed considered that, as it was impossible to prove what had happened to them, there was no point in complaining to the prosecuting authorities. One inmate indicated that he had consulted educators after he had been allegedly ill-treated; staff were reportedly sympathetic but advised him to forget about the case due to the lack of evidence at his disposal. Another inmate claimed that one member of staff ripped his uniform after having punched and kicked him in order to report that force had had to be used. In another case, the prisoner concerned decided not to complain after having been intimidated by members of staff who had allegedly ill-treated him. Some inmates also claimed that staff were very careful in choosing the places where the inmates had allegedly been ill-treated in order not to be visible to the CCTV cameras in operation.

49. To sum up, despite their efforts, the competent prosecuting authorities were experiencing great difficulties in securing the necessary evidence to take effective action against those responsible for the ill-treatment of prisoners. **The CPT recommends that the system for investigating allegations of ill-treatment be fundamentally reviewed in order to make it more effective.**²⁹ In this context, **the Committee would like to know whether it has been envisaged to extend the investigative powers of the National Defence Service so as to include, in addition to its anti-corruption activities, support of the competent prosecuting authorities in their investigations into cases involving possible ill-treatment by prison staff (and any other public officials).**

²⁹ See also paragraph 102 as regards medical screening after a violent episode in prison.

Further, **the Committee recommends that steps be taken to ensure that:**

- **prison staff are always identifiable, preferably by returning to the practice of wearing name tags and, in the meantime, by wearing shorter identification numbers in a visible manner at all times whilst on duty;**
- **prisoners who lodge complaints of ill-treatment by staff are protected from retaliatory action by staff.**

50. The delegation received a number of allegations of inter-prisoner violence and intimidation at Somogy County and Sopronkőhida Prisons. At Somogy County Prison, inter-prisoner violence and intimidation appeared to remain an issue, in spite of action taken after a juvenile inmate had been severely ill-treated by fellow inmates in 2012.³⁰ At Sopronkőhida Prison, many inmates held in medium-regime detention areas said that they were routinely victims of extortion and racketeering and felt unsafe. Further, opinions varied considerably as regards the effectiveness of the staff's interventions in the event of a conflict between inmates. While some prisoners said that staff responded promptly, other inmates claimed that they intervened far too late or did not intervene at all.

The CPT recommends that prison staff working at Somogy County and Sopronkőhida Prisons be firmly reminded that they should protect the physical, sexual and psychological integrity of all prisoners under their responsibility, including against assault by fellow inmates.

Countering inter-prisoner violence and intimidation will depend to a great extent on having an appropriate number of staff present in detention areas and in facilities used by prisoners for activities.³¹ In addition, steps should be taken in these two establishments to rationalise further the assessment, classification and allocation of individual prisoners, with a view to ensuring that prisoners are not exposed to other inmates who may cause them harm.

3. Staff-inmate relations

51. In the CPT's view, the development of constructive relations between staff and inmates, based on the notions of dynamic security³² and care, would not only help the prison authorities to combat ill-treatment of prisoners by staff or other inmates, but would also enhance control and security and render the work of prison officers more rewarding.

During the 2013 visit, the delegation observed some encouraging attempts to increase interaction and create more positive relations between staff and inmates. However, there was clearly much room for improvement in this area.

³⁰ The delegation was informed that the perpetrator received an additional sentence of four years' imprisonment.

³¹ See also paragraph 56.

³² Dynamic security is the development by staff of positive relationships with prisoners based on firmness and fairness, in combination with an understanding of their personal situation and any risk posed by individual prisoners (see Rule 51 of the European Prison Rules and paragraph 18.a of the Recommendation Rec (2003) 23 of the Committee of Ministers of the Council of Europe to member states on the management by prison administrations of life sentence and other long-term prisoners).

52. The CPT is pleased to note that, at Szeged Prison's BSR and HSR Units, there was a considerable increase in the interaction between staff and the inmates concerned as compared with the previous visit in 2007. Staff had a good knowledge of the personal situation of and the risks posed by each individual prisoner. They sought a constructive dialogue with the inmates concerned. As was stressed by staff during the 2013 visit, this generally allowed them to foster a climate of confidence, mutual respect and order, and to anticipate potential tensions before they arose. This state of affairs was naturally facilitated by a greater investment in human resources in these specific units, with a more favourable custodial staff-inmate ratio, a careful selection of prison officers and staff retention measures that generated high staff stability.³³ However, the delegation noted that there was still a heavy reliance on physical security. In particular, various categories of staff (including health-care staff) talked to virtually all HSR inmates – as well as prisoners on the right-hand side of the BSR Unit – through the metal bars of the cells. This is unnecessary, counter-productive and infringes upon the dignity of the prisoners concerned.

53. With the exception of the BSR and HSR Units, staff-inmate interaction appeared to be very limited in the prisons visited. This was partly due to understaffing within the detention areas, combined with manifest overcrowding. Such a situation left both prisoners and staff vulnerable. This was particularly evident at Sopronkőhida Prison, where recruitment and retention of staff were said to be more difficult.³⁴

It should also be noted that there was a lack of female members of custodial staff in the establishments visited. Further, at Somogy County Prison, the delegation observed that male staff simply entered the cells of female prisoners without first finding out if the women were dressed. As repeatedly stressed by the CPT in the past, the presence of mixed-gender staff can have a beneficial effect in terms of both the custodial ethos and in fostering a degree of normality in any prison establishment. Mixed-gender staffing also allows for appropriate staff deployment when carrying out gender-sensitive tasks in establishments regularly holding women.

In addition, the absence of prison officers reflecting the diversity of the inmate population had a negative impact on staff-inmate relations and led to increased tension. At Sopronkőhida Prison, despite efforts made in the past to recruit staff members of Roma origin, there were no such staff at the time of the visit, and many inmates complained about the clearly anti-Roma attitude of certain members of staff.³⁵

54. The delegation also noted that staff-inmate relations could at times be described as anachronistic. By way of illustration, it observed that prison staff entering the cells ordered certain prisoners to stand facing the wall at the Central Prison Hospital or that inmates had to report to staff in a submissive way when they went into the cells at Somogy County Prison.

³³ Two members of the custodial staff were allocated to each of the units (holding 13 and 14 inmates each) and worked 12-hour shifts (six hours in each unit). Permanent staff volunteered and received an extra wage for working in these units.

³⁴ At Sopronkőhida, there were 11 custodial staff present in the detention areas during the day (10 at night) for 788 inmates at the time of the visit. In addition, there were 14 educators. Many staff members had a second job in the region or in neighbouring Austria, which reportedly affected the performance of their duties in the prison.

³⁵ These allegations were received from Roma and non-Roma prisoners alike.

55. In most of the establishments visited, including the Central Prison Hospital, custodial staff were openly carrying batons, handcuffs and/or tear gas canisters³⁶ in the detention areas. Such an approach is not conducive to the establishment of positive relations between staff and inmates. This view was generally shared by senior members of staff with whom the delegation spoke, although custodial staff were often said to resist change in this respect. The management of Somogy County Prison, which considered such a practice unnecessary, appeared to be quite successful in encouraging staff to keep their equipment in the duty offices whilst in the detention areas. This apparently did not lead to an increase in incidents; on the contrary, staff-inmate relations appeared to be more relaxed.

56. In the light of the above, **the CPT recommends that the Hungarian authorities:**

- **make a major investment in developing a dynamic rather than a purely physical approach to security and order. Such an approach will depend to a great extent on staff possessing and making use of interpersonal communication skills;**
- **ensure that professional interviews are not carried out through the cell bars in the BSR and HSR Units. In case of need, interview rooms could be designed in such a way as to limit security risks;**
- **put an end to anachronistic practices relating to routine contacts with inmates such as those described in paragraph 54;**
- **develop more specialised training for staff working with certain categories of prisoner (e.g. women, juveniles, elderly inmates, actual life- and other long-term sentenced prisoners, prisoners held in special conditions of high security or control, inmates with specific health needs);**
- **review staff recruitment and retention policies so as to take due account of mixed-gender staffing requirements and of the need to ensure that the composition of prison staff reflects the diversity of the inmate population;**
- **conduct an in-depth analysis of the number and/or deployment of custodial staff in prisons and review staffing in detention areas and workshops accordingly.**

As regards the carrying of batons, handcuffs and gas canisters, **the recommendations made in paragraph 16 apply equally here.**

Further, **the CPT invites the Hungarian authorities to continue to build on staff-inmate interaction in Szeged Prison's BSR and HSR Units.**

³⁶ In this connection, the delegation noted that the tear gas canisters had not been used for many years.

4. Prisoners subjected to special regimes

- a. Szeged Prison's Special Regime Unit for prisoners serving lengthy sentences (HSR Unit) and Special Security Regime Unit (BSR Unit)

57. The 2013 visit provided an opportunity to assess the extent to which the CPT's recommendations had been implemented in respect of prisoners subjected to a special regime for lengthy sentences (including actual life sentences) at Szeged Prison following the Committee's previous visits in 2005 and 2007.

In its report on the 2007 visit, the CPT found that the Special Regime Unit for prisoners serving lengthy sentences (HSR Unit)³⁷ had not functioned in accordance with the original plan which emerged after the CPT's 2005 visit. The fact that staff found a hacksaw blade during a cell search in October 2006 apparently resulted in the whole nature of the Unit changing from an interactive regime to a lock-down regime unit, with a considerable number of restrictions applied to all HSR prisoners. The CPT recommended in particular that: i) the main objective of the HSR Unit be to prepare the prisoners concerned to live in prison for a particularly long period and to integrate them at some point into the mainstream prison population; ii) clear criteria be defined for the selection of suitable inmates to be placed in the HSR Unit, on the assumption that prisoners considered to be challenging should not be accommodated in this Unit; iii) the capacity of the Unit be reduced in order that the two-room cells of some 15 m² do not accommodate more than two inmates and that the two "crisis" cells never be used as ordinary prisoner accommodation;³⁸ iv) regular and frequent access to proper outdoor sports facilities be secured; v) the prison authorities return to the original concept of providing a broad range of activities to HSR prisoners on the basis of individualised activity plans; vi) only the minimum restrictions necessary for safe and orderly confinement be imposed on prisoners.

58. It was evident during the 2013 visit that the objective of the HSR Unit was now to function as a genuine induction unit for prisoners serving lengthy sentences. It transpires from delegation's interviews with HSR and former HSR inmates that the Unit had helped many of them to come to terms with their sentences (in particular actual life sentences) during an initial period of at least six months.³⁹ After the initial period of six months in the Unit, the inmates concerned had the possibility to stay in – or to return to – the HSR Unit for further, renewable, stays of six months. Ten HSR prisoners had left the Unit since the CPT's previous visit. In the Committee's view, **more frequent reviews of placement in an HSR Unit (e.g. every three months), in consultation with the prisoners concerned, should be introduced after the initial stay in the HSR Unit.**

59. A number of criteria were established for the placement of inmates in the *HSR Unit*. In particular, the inmates concerned should be sentenced to life (including actual life) imprisonment or to fixed terms of more than 15 years. In order to stay in or return to the Unit, the inmates should be co-operative and any stays after the initial period of six months should be based on their formal request.

³⁷ *Hosszú időtartamú Speciális Rezsím körlet (HSR-körlet).*

³⁸ See paragraph 14 of the report on the 2007 visit (document CPT/Inf (2007) 24).

³⁹ Nevertheless, the delegation learned that two suicides had occurred within the Unit since its entry into operation in 2005. A third HSR inmate had committed suicide in hospital.

Prisoners considered to be disruptive were no longer placed in the HSR Unit but were held in the Special Security Regime Unit (*BSR Unit*).⁴⁰ Placement in that Unit was reviewed at least once every three months by the prison reception committee. Many BSR prisoners interviewed were aware, at least unofficially, of the reasons for their allocation to this Unit and some had an idea of what to do to (re-)integrate into the mainstream inmate population or of the reasons why this was not yet possible. However, they were generally not heard by the committee deciding on the measure. A few inmates complained that they had almost no opportunities to challenge the decisions on continued placement. Moreover, it is of concern that the BSR Unit was holding prisoners requiring segregation for their own protection together with inmates considered to be aggressive or disruptive in their behaviour, even though staff did their utmost to prevent contacts between these categories of prisoner.

The CPT recommends that the procedures for the placement, and its renewal, in the BSR Unit be further improved so that BSR prisoners are always heard by the committee deciding on the measure (in addition to any prior interviews with professionals), receive a written, reasoned decision⁴¹ from that committee and an indication of how the decision may be appealed. After an initial decision, there should be a further review at least after the first month (and thereafter at least every three months). Moreover, alternative placement should be sought for prisoners segregated for their own protection; it is inappropriate to hold such inmates and prisoners segregated for preventative purposes within the same unit.

60. Following the 2007 visit, the official capacity of the HSR Unit had been reduced from 20 to 13 places. The delegation was informed that, in order to cope with an increasing number of inmates requiring placement in such a unit, the Special Security Unit (KBK) at Sátoraljaújhely Strict and Medium Regime Prison⁴² had recently been converted into a second HSR Unit, which entered into operation in January 2013, with an official capacity of seven places. The Hungarian authorities planned to open a third HSR Unit at Budapest Strict and Medium Regime Prison. **The CPT wishes to be informed of the implementation of this plan.**

At the time of the 2013 visit, Szeged Prison's HSR Unit was operating at full capacity. All HSR inmates were serving actual life sentences. All of them were considered to present particular security risks and were classified as Grade IV.⁴³ The prison management expected to return to a mix of actual lifers and other inmates serving long terms once the other HSR Units were fully operational. The BSR Unit had 14 occupants, including two former HSR inmates serving actual life sentences.

⁴⁰ *Biztonsági Speciális Rezsím körlet (BSR- körlet).*

⁴¹ It being understood that there might in certain cases be reasonable justification for withholding specific details on security-related grounds or in order to protect the interests of third parties.

⁴² Sátoraljaújhely Prison's KBK was visited by the CPT in 2009 (see document CPT/Inf (2010) 16).

⁴³ It should be recalled that, in addition to the type of prison regime to which a prisoner is subjected (in particular, low, medium and strict prison regimes), the level of security applied to a prisoner may vary from Grade I (when the prisoner concerned presents a low risk of violating the internal rules, absconding or committing an offence) to Grade IV (e.g. inmates considered to be escape risks, suicidal, prisoners seen as endangering prison order).

61. The material conditions seen in the cells of the HSR Unit were on the whole satisfactory, as was already the case in 2007.

In the BSR Unit, the cells measured some 8 m² (including the space taken up by the in-cell toilet) and could accommodate up to two inmates. On the right-hand-side of the Unit, the cells offered particularly cramped conditions. They contained a barred entrance leaving at best 5.5 m² of living space for up to two prisoners. **The CPT recommends that for as long as the barred areas remain in the cells of the right-hand side of the BSR Unit, there should be no more than one inmate in these cells. The other cells of the Unit should preferably also be of single occupancy.**

Moreover, in both units, in-cell toilets were generally not partitioned. In the BSR Unit, it is not acceptable to hold two prisoners in cells of about 8 m² without partitioning the toilets. **The CPT recommends that in-cell toilets be fully partitioned in the BSR Unit.** Further, **the Committee reiterates its position that the lack of proper partitioning of in-cell toilets is far from satisfactory when the cells in the HSR Unit are used for double occupancy. The Committee must also stress that in-cell toilets should not be within the scope of CCTV cameras in observation cells.**⁴⁴

62. The delegation noted that sports equipment had been installed in the HSR Unit's small exercise yard, which was located on the roof of the 'Csillag' building and could be accessed by up to two inmates for one hour per day. The management of the Unit did their best to encourage the prisoners to use the yard, in spite of its oppressive design. That said, a number of inmates indicated that the area was often underused during winter and summer periods. When the weather was clement, HSR prisoners had access to a more suitable outdoor sports area at ground level for up to one hour per week. BSR inmates had access to a yard at ground level on a daily basis. **The CPT encourages the Hungarian authorities to pursue their efforts to provide HSR prisoners with more regular and frequent access to proper outdoor sports facilities.**

63. The CPT is pleased to note that steps have been taken to return to the original concept of providing a suitable range of activities to HSR prisoners on the basis of individualised activity programmes. Up to three HSR inmates had access together to the Unit's activity room every day. Further, three occupants of the HSR Unit were involved in educational programmes. A "pet-therapy" programme was also introduced and appeared to be quite successful. Work had been offered to HSR inmates, although it was still of a mundane nature (e.g. assembling matchboxes).

In the BSR Unit, inmates had access to a fitness room twice a week for one hour. The CPT notes with satisfaction that several inmates also had access to educational programmes, together with prisoners held in ordinary accommodation areas; this was clearly a step towards (re)integrating the inmates concerned (including former HSR prisoners) into the mainstream inmate population. That said, a number of BSR prisoners remained locked up in their cells for 23 hours a day for most of the week, with little to occupy themselves, and there was an unmet need for work in the Unit.

⁴⁴ For instance, one BSR inmate considered to pose a high risk of escape was held under constant videosurveillance.

The CPT recommends that action be pursued in the BSR and HSR Units in order to enable the prisoners concerned to spend as many hours as possible each day outside their cells and to participate in regular, purposeful and varied activities tailored to their individual needs (including work with a vocational value, education, association, sport, etc.), with the objective of (re)integrating them into mainstream prison population.

64. Another positive development is the decrease in the application of means of restraint (handcuffs, body-belts and anklecuffs) to the inmates concerned since the previous visit in 2007. The use of such means was reviewed for each prisoner on the basis of a thorough individual risk assessment. About half of the HSR inmates and many BSR prisoners were not subjected to any such means during movements within their respective units or even within the establishment. Further, the delegation did not hear any accounts of prisoners handcuffed during outdoor exercise, as was the case in the past.

However, some inmates indicated that they were often kept in handcuffs during medical examinations in the health-care unit, a practice which infringes upon the dignity of the prisoners concerned, prohibits the development of a proper doctor-patient relationship and, in the Committee's experience, may be detrimental to the establishment of objective medical findings.

65. Staff working in the BSR/HSR Units explained to the delegation that they were changing their policy as to the use of means of restraint: whereas they had previously imposed the maximum restrictions on inmates at the outset, they now started by applying the minimum necessary restrictions. In the CPT's view, such a policy change should be strongly supported. **The CPT recommends that efforts be continued to ensure that the application of handcuffs and/or body-belts to any BSR or HSR inmate is an exceptional measure which is taken only when strictly necessary, based on an individualised assessment of real risks carried out by appropriately trained staff. Immediate steps should be taken to put an end to the practice of keeping prisoners in handcuffs during medical examinations and treatment (as well as any other interviews).**

66. As regards action taken to facilitate contact with the outside world, the delegation noted some progress, albeit modest, as regards the few inmates who still had ongoing relations with family members. For instance, in the HSR Unit, the prisoners had daily access to a telephone for up to 10 minutes. One HSR inmate was entitled to open visits without supervision, which indicates that restrictions on visits had become more individualised. Other HSR prisoners could be offered an open visit once a year. However, the monthly one-hour visit through a glass partition remained the rule, to the detriment of both inmates and their visitors (some of whom were children). **The CPT recommends that the imposition of visits through a glass partition (as well as any other restrictions) always be based on an individual evidence-based risk assessment.**

67. More generally, the CPT notes that commendable efforts have been made to implement its recommendations following the 2007 visit to Szeged Prison. The Hungarian authorities should build on these positive developments to address further the respective needs of both BSR and HSR inmates in the light of the above comments and recommendations and to make the best use of Szeged Prison's experience in other units of this type in the country.

68. Finally, it became evident during the visit why prisoners sentenced to actual life imprisonment⁴⁵ were given the highest priority in the HSR Unit. In their response to the report on the 2007 visit, the Hungarian authorities considered that the handling of prisoners who were deprived of any hope of release was a challenge for the prison authorities since, despite all the efforts made, the inmates concerned might come to believe that life was not worth living and might thus decide to harm themselves or others. A number of actual lifers interviewed during the 2013 visit lived regularly with the vision of their own death in prison or had suicidal thoughts. Some claimed that deprivation of hope of release was dehumanising precisely because it removed their ability, as human beings, to change for the better, in later life.

The CPT considers that it is inhuman to imprison a person for life without any realistic hope of release. Consequently, the Committee must reiterate that it has serious reservations about the very concept according to which life-sentenced prisoners are considered once and for all to be a permanent threat to the community and are deprived of any hope of being granted release. **The Committee would like to receive details about the possibility of inmates serving actual life sentences to be released (pardon/commutation procedures, statistics, etc.), in the light of the relevant recommendations of the Committee of Ministers of the Council of Europe on this matter.**⁴⁶

- b. Sopronkőhida Prison's Special Security Unit and Grade IV specially designated areas

69. Sopronkőhida Prison was the only prison establishment in Hungary which was running a Special Security Unit⁴⁷ (KBK), after the country's other KBK was converted into an HSR Unit (see paragraph 60). Sopronkőhida Prison's KBK was set up in 2004 and had an official capacity of seven places. The Unit was empty at the time of the visit and the fact that it had had no occupants for about a year was a clear indication that the Hungarian authorities had recently been more careful about placements in such units. This is a positive development.

70. The single cells of the KBK measured about 14 m² (including a sanitary area of some 3 m²) and were each divided into a sleeping area and a living area. They were bright and well equipped. Nevertheless, the cell windows were fitted with opaque shutters, which prevented inmates from seeing outside the building, thereby generating a potentially oppressive effect. Further, a spy window looked straight onto the in-cell sanitary area; this left little privacy when using the sanitary annexe. In addition, in-cell living areas were under constant vide-surveillance. This is a significant intrusion into the privacy of prisoners, in particular when applied for prolonged periods; accordingly, the Committee is opposed to the routine installation of CCTV cameras in cells and considers that the resources devoted to such schemes can more usefully be deployed by having staff interact with prisoners who pose high risks. Finally, the exercise yard was small and poorly equipped. **The CPT recommends that, if the Hungarian authorities wish to keep this Unit in operation, the above shortcomings be remedied.**

⁴⁵ There were 24 such prisoners in Hungary (20 of whom were accommodated at Szeged) at the time of the visit.

⁴⁶ Reference should again be made in particular to the European Prison Rules as well as to paragraph 4.a of Recommendation Rec (2003) 22 of the Committee of Ministers of the Council of Europe on conditional release (parole) of 24 September 2003, which clearly indicates that the law should make conditional release available to all sentenced prisoners. The explanatory memorandum to the latter recommendation emphasised that life-sentenced prisoners should not be deprived of the hope of being granted release.

⁴⁷ *Különleges Biztonsági Körlet.*

71. Sopronkőhida Prison's Grade IV specially designated areas were holding a total of 25 prisoners in conditions of enhanced control at the time of the 2013 visit. 19 such inmates were accommodated in one larger area (i.e. 10 prisoners subject to a strict regime and 9 inmates under a medium regime) in Unit 1/1, next to the establishment segregation and disciplinary unit, and six other Grade IV prisoners were accommodated in another, smaller, area, in Unit 4/1.

72. As regards the *system classifying prisoners as Grade IV* at Sopronkőhida Prison, the delegation's findings during the 2013 visit suggest that the three-monthly reviews rarely led to a change of the grading. A number of inmates had been classified as Grade IV for extensive periods of time (e.g. several years). Many prisoners interviewed did not see any prospect of being returned to a normal location as they felt that their behaviour did not have an influence whatsoever on the decision. The prisoners had apparently not been heard by the committee deciding on the measure and some of them had not even been informed of the reasons for their (continued) allocation to Grade IV (apart from a vague statement invoking "prison needs"). Others were told why they were allocated to Grade IV but could never challenge the measure as it referred to incidents which had taken place many years before (e.g. an attempted escape 14 years before). The prison prosecutor had requested that a number of cases be reconsidered because of a lack of evidence supporting the decisions made, but this had not led to significant results.

73. In many respects, the cells offered acceptable *material conditions*. They were generally in a good state of repair, well lit and had appropriate equipment, including a fully partitioned toilet. However, many single cells were both too small (i.e. less than 6 m²) and too narrow (less than two meters between the walls) and conditions were rather cramped in multi-occupancy cells (e.g. four inmates in a cell of 13.5 m², including the in-cell toilet).

74. All inmates were entitled to one hour of *outdoor exercise* per day. Nevertheless, the yard which they used for exercise was small, poorly equipped and of an oppressive design while access to an outdoor sports facility was theoretically allowed once a week but this was apparently not always the case in practice.

75. As regards *activities*, Grade IV inmates subject to a medium regime benefited from an open-door policy for about seven hours a day during which time they could associate with other Grade IV medium-regime inmates, and had access to a sports room between two and four times a week for about one hour. Grade IV inmates subject to a strict regime were in a far less favourable situation. None of them had work. Many of them had very limited human contact (with staff or even other inmates) and were locked up in their cells for 23 hours a day, in a state of enforced idleness.

76. In a number of cases, the *application of handcuffs* to Grade IV prisoners when taken outside the cells appeared to be excessive. Further, the delegation learned that inmates were kept in handcuffs during medical consultations and interviews with the psychologists.

77. **The CPT recommends that:**

- **the system for allocating prisoners to Grade IV specially designated areas be reviewed at Sopronkőhida Prison. In particular, prisoners for whom such placement is considered should be invited to make representations to the committee deciding on the measure and should receive a written, reasoned decision⁴⁸ from the committee and information on how the decision may be appealed. A detailed plan should be established for every Grade IV inmate held in Sopronkőhida Prison's specially designated areas with a view to addressing the issues which required the inmates concerned to be kept in such conditions. After an initial decision, there should be a further review at least after the first month (and thereafter at least every three months), at which progress against the agreed plan can be assessed and if appropriate a new plan developed. The longer a Grade IV prisoner remains in this situation, the more thorough the review should be and the more resources, including resources external to the prison, made available to attempt to (re)integrate the prisoner into the mainstream prison community. The prison director or senior members of staff should make a point of visiting such prisoners on a regular basis and familiarising themselves with the prisoners' individual plans;**
- **cells measuring less than 6 m² and/or with less than two metres between the walls be withdrawn from service or enlarged (reference is also made to paragraph 40);**
- **Grade IV prisoners' frequent access to a suitable exercise yard/outdoor sports area be ensured;**
- **suitable programmes of purposeful activities (including work, education, sport, association and targeted rehabilitation activities) be developed, including for Grade IV prisoners subject to a strict regime. These programmes should be drawn up and frequently reviewed on the basis of an individualised risk and needs assessment by a multi-disciplinary team, in consultation with the inmates concerned;**
- **the policy on the application of handcuffs to Grade IV prisoners be thoroughly reviewed so as to ensure that such a measure is truly exceptional and is based on an individual and comprehensive risk assessment carried out by appropriately trained staff. Further, immediate steps should be taken to put an end to the practice of keeping Grade IV prisoners in handcuffs during medical consultations (as well as any other interviews).**

⁴⁸ It being understood that there might in certain cases be reasonable justification for withholding specific details on security-related grounds or in order to protect the interests of third parties.

5. Inmates held in mainstream prisoner accommodation

78. The prisons visited were no exception to the prevailing overpopulation in the country (see paragraph 37). Both Somogy County and Sopronkőhida Prisons had an overpopulation rate of about 60 %.

Built in the city of Kaposvár, in south-west Hungary, in 1907, *Somogy County Remand Prison* generally accommodated between 180 and 220 inmates for an official capacity of 129 places. At the time of the visit, it was holding 208 inmates (including 11 women and seven juveniles), i.e. 142 remand prisoners, 56 sentenced prisoners and 10 administrative detainees.

The construction of *Sopronkőhida Strict and Medium Regime Prison*, which is situated at the north-western border with Austria, was completed in 1886. The H-shape accommodation building underwent a thorough renovation from 1996 to 2006. With an official capacity of 500 places, it was holding a total of 788 male adult inmates, including 17 remand prisoners and 70 prisoners in transit.

79. Not surprisingly, overcrowding was evident in the cells seen by the delegation (e.g. ten inmates sharing a cell of some 27 m², including the space taken up by the toilet, at Somogy County Prison; three inmates in a cell of about 8 m² at Sopronkőhida Prison).⁴⁹

At Sopronkőhida Prison, a large number of cells were already substandard for single occupancy (i.e. as small as 5 m², including the in-cell toilet, and with no more than 1.5 m between the walls) and were in fact accommodating two inmates (see also paragraph 73). It should be added that many inmates were accommodated in such conditions for up to 23 hours a day and for years on end.

In both establishments, the situation could be particularly bad in the transit cells where each inmate could have as little as 1.6 m² of living space for days on end, including at weekends (e.g. while awaiting departure on the following Monday).

80. The CPT recommends that the Hungarian authorities strive to combat overcrowding and ensure that cells are of an appropriate size for their intended occupancy at Somogy County and Sopronkőhida Prisons, in the light of the recommendations made in paragraphs 40 and 77. As regards transit cells at Sopronkőhida Prison, organisational steps should be taken to ensure that they are not used at weekends.

81. In other respects, the material conditions in the cells were, on the whole, acceptable. In both prisons, the cells were in a rather good state of repair, were well lit and had all the necessary basic equipment. Further, the in-cell toilet facilities were all fully partitioned.⁵⁰

⁴⁹ The situation was not necessarily better at Szeged (e.g. 10 inmates sharing a cell of some 23 m², including the toilet and other cell equipment, in the 'Csillag' building).

⁵⁰ In comparison, only 70% of in-cell toilets were partitioned at Szeged.

That said, at Somogy County Prison, the delegation observed that additional spy holes looking onto in-cell sanitary annexes had been installed in a number of cells. **The CPT recommends that this type of equipment be taken out of use/removed.**

82. Working prisoners, women and juveniles had access to a shower every day, whereas the rest of the population was only entitled to a shower once a week. **The CPT recommends that the frequency of male non-working prisoners' access to a shower be increased, taking into consideration Rule 19.4 of the European Prison Rules.**⁵¹

83. In both establishments, the delegation received many complaints about meals, in particular the quality and the quantity of the food served to inmates. **The CPT invites the Hungarian authorities to carry out a review of the quality and quantity of the food provided to inmates at Somogy County and Sopronkőhida Prisons.**

84. All inmates in the prisons visited were entitled to one hour of outdoor exercise every day. The yards generally had means of rest and some sports equipment. However, they had no shelter against inclement weather. **This shortcoming should be remedied.**

85. As regards activities, at Somogy County Prison, 20 remand prisoners and 13 sentenced prisoners had work (i.e. about 15 % of the total inmate population). English courses and vocational training were also on offer. At Sopronkőhida Prison, 210 prisoners were employed by the State company in workshops (some 30 % of the total inmate population) and 100 inmates attended some educational programmes (about 15 % of the prison population). The prison also had a well-stocked library.

However, in both prisons, the bulk of the inmate population was being left to their own devices, with many of them being locked up for 23 hours a day in their cells. **The CPT recommends that the Hungarian authorities redouble their efforts to provide as many prisoners as possible with a broad range of purposeful activities (including work, preferably of vocational value, education, sports and cultural activities). As regards sentenced prisoners in particular, these activities should be offered on the basis of individual sentence plans reviewed at regular intervals, after consultations among the relevant staff and, as far as possible, with the prisoners concerned.**

⁵¹ Rule 19.4 of the European Prison Rules states: "Adequate facilities shall be provided so that every prisoner may have a bath or shower, at a temperature suitable to the climate, if possible daily but at least twice a week (or more frequently if necessary) in the interest of general hygiene."

6. Health care

a. Central Hospital of the Prison Service in Tököl

i. *introduction*

86. The Central Prison Hospital in Tököl shares a prison campus with the Tököl Juvenile Prison. The hospital provides both in-patient and out-patient somatic care;⁵² with a licence for 297 beds, it was accommodating 201 patients (including 35 women) on the first day of the visit.

The ground floor of the main hospital building was occupied by the admissions⁵³ and diagnostics wards; internal medicine and ophthalmology wards were located on the first floor and the surgery and otolaryngology (ENT) on the second. The third floor of the building accommodated all female patients,⁵⁴ including pregnant women who needed to be hospitalised and mothers with new born babies. Respiratory, infectious diseases and continuing care wards were located in a separate single-storey building.

87. At the beginning of the 2013 visit, the CPT's delegation was informed about plans to merge the Central Prison Hospital in Tököl with the Judicial and Psychiatric Observation Institute (IMEI). The Committee takes note of these plans with particular interest; in the report on its 2009 visit,⁵⁵ the CPT considered that it would be highly desirable for the IMEI, which is currently on the premises of Budapest Strict and Medium Prison, to be re-located. **The CPT would like to receive detailed information about the above-mentioned plans, including the time-schedule for their implementation. Further, the Committee would like to be informed whether the Hungarian authorities are considering the possibility of placing the future institution under the responsibility of the Ministry of Health.**

ii. *patients' living conditions*

88. Material conditions were very good in the *unit for mothers and new-borns*. It contained two rooms where mothers could spend the daytime with their babies, one double- and one triple-occupancy, which measured some 13 m² each, were adequately equipped (baby-cots, changing tables, bedside tables, chairs, a table and washbasins) and shared a fully-partitioned sanitary annexe. Two additional rooms were designated for the accommodation of babies during the night. The rooms in this unit were clean, well lit, adequately heated⁵⁶ and ventilated.

⁵² On average, there are some 1300 admissions to in-patient care and approximately 11000 out-patient consultations a year.

⁵³ The admission ward was used for the whole prison campus and was formally a part of the Juvenile Prison.

⁵⁴ With the exception of female TBC patients who were accommodated in the respiratory diseases ward.

⁵⁵ See documents CPT/Inf (2010) 16 and CPT/Inf (2010) 17 for the report and the response.

⁵⁶ However, complaints were heard that heating was insufficient during winter months due to problems with the hospital's central hot water boiler. See also paragraph 91.

89. In the *remaining part of the 3rd floor* of the main hospital building, as well as on the *1st and 2nd floors*, the situation was less favourable. Patients were accommodated in single, double and triple rooms measuring a minimum of 12 m² and larger dormitories with the capacity of seven to nine beds and measuring between 30 and 40 m².⁵⁷ Conditions were rather cramped in the majority of the dormitories seen by the delegation. In particular, there was almost no space between the beds and the equipment was sometimes limited (e.g. no chairs).

As regards the state of repair, most rooms displayed a number of deficiencies (stained and scratched walls, broken tiles, damaged and rusty washbasins and toilets, and sometimes damaged electric wiring). Specific mention should be made of the toilet in the 1st floor security room, which was in an appalling state.

90. Material conditions were far from satisfactory in the *admissions and diagnostics wards* located on the ground floor.

The admissions ward was composed of five “waiting” rooms, each measuring some 18 m² and equipped with benches, a washbasin and a fully partitioned toilet. The rooms were in a poor state of repair. Further, several complaints were heard by the delegation that upon arrival, patients are placed in one of the rooms where they may spend several hours in crowded conditions before a medical examination is carried out, without being provided with any food.⁵⁸

The diagnostics ward contained four rooms which accommodated patients who were awaiting test results before being discharged back to their prison or transferred to one of the in-patient wards or another hospital. As a rule, patients stayed in the diagnostics ward for up to one week. However, this period could occasionally be longer. Each of the rooms measured approximately 30 m² and was used to accommodate up to 10 patients. The rooms were dilapidated and poorly furnished.

91. Showers, located on each floor, could be accessed daily by patients in the in-patient wards and twice a week in the diagnostics ward. However, their state of repair could be improved. Moreover, the delegation was informed that on the 3rd floor of the main hospital building, there was often no hot water.⁵⁹

92. Material conditions in the *respiratory, infectious diseases and continuing care wards* (with a capacity of 99 beds) were satisfactory and call for no specific remarks.

⁵⁷ Nine rooms on the 3rd floor, seven ordinary and one security room on the 2nd floor and 12 and one security room on the 1st floor.

⁵⁸ The delegation learned that there could be up to 90 new arrivals to the hospital on a given day.

⁵⁹ With the exception of the delivery room which had its own hot water source.

93. **The CPT recommends that the Hungarian authorities improve the material conditions in the Central Hospital of the Prison Service in Tököl, in the light of the above remarks. In particular, steps should be taken to ensure that:**

- **all the premises are in a good state of hygiene and repair and all patients' rooms are suitably furnished;**
- **the supply of hot water is guaranteed in all parts of the hospital, including the 3rd floor of the main hospital building;**
- **the national minimum hospital standard of 6 m² of living space per patient is always observed in multi-occupancy rooms; particular attention should be paid in this respect to the diagnostics ward.**

Further, patients placed in the admissions ward should be given food at appropriate times.

94. As regards the daily regime, rooms of female patients in the unit for mothers and new-borns were open between 5 a.m. and 7.30 p.m. and mothers could normally spend this time together with their babies. During night hours, mothers were locked in their rooms (separately from the babies) but were allowed to feed their babies at regular intervals. In the other units of the hospital, patients spent virtually all day long locked up in their rooms, with no activities whatsoever being available.

In theory, access to outdoor exercise was offered for one hour a day and patients could also have 10-minute smoking breaks outdoors four times a day. However, the majority of patients interviewed by the delegation stated that they were certainly not offered a full hour of outdoor exercise every day, let alone smoking breaks. It should be noted in this context that during the two-day visit to the prison hospital, the delegation saw hardly any patients in the outdoor exercise yards. Moreover, patients in the surgery ward were not offered any access to fresh air, staff affirming that this restriction was necessary for medical reasons. Further, many complaints were heard that patients were not provided with adequate warm clothing for the time they could spend outdoors and had to wear only pyjamas, dressing gowns and slippers, irrespective of the weather conditions.

As for the hospital's outdoor exercise yards, they did not offer satisfactory conditions (e.g. a cage-like yard adjacent to the main hospital building, absence of a shelter in the yard for the respiratory, infectious diseases and continuing care wards).

The CPT recommends that the Hungarian authorities take the necessary steps to ensure that all patients in the Central Hospital of the Prison Service in Tököl:

- **are provided with some form of activity, such as books, newspapers/magazines, board games and radio/TV;**
- **are offered the possibility to take outdoor exercise in appropriate facilities for at least one hour every day, unless there are clear medical contraindications. Patients should be provided with adequate clothing when taking outdoor exercise.**

iii. staff and medical care

95. The CPT's delegation heard many positive comments about the attitude of the health-care staff from the patients interviewed during the visit, and observed that the general atmosphere in the hospital was relatively relaxed.

96. The health-care staff complement and the number of staff on duty at any given time also appeared to be adequate. The medical team consisted of 15 doctors employed by the hospital, including two GPs, two pulmonologists, two internists and three general surgeons working full time, and an ophthalmologist, a laboratory doctor, two anaesthetists, a gynaecologist and a radiologist working part time. The hospital was also visited by 16 additional medical doctors, who provided a range of specialist care (e.g. a cardiologist, a neonatologist, an otolaryngologist, a dermatologist, a neurologist, a dentist, etc.).

The hospital had 95 full-time posts of nurses, including nine midwives and six neonatal nurses. They worked 12-hour shifts and there were at least two nurses present in each ward at all times.

The unit for mothers and new-borns employed three female prisoners as "helpers". The CPT is concerned to note that they could work as nursing assistants helping with clinical evaluations and the delivery of babies. **The CPT recommends that steps be taken to ensure that prisoners are not involved in the performance of health-care tasks.**

97. As regards medical care, the delegation's findings indicate that it was generally of a good standard. Further, the hospital possessed a sufficient range of modern medication and medical confidentiality was respected.

98. Patients requiring specialised treatment in outside facilities were referred to other hospital facilities in Budapest.

However, it remains the case that prisoners transferred to outside hospitals could be physically attached to their beds. By way of example, the delegation met one patient, a Grade IV prisoner, who stated that while being hospitalised in a civil hospital, he had been constantly handcuffed and anklecuffed to his bed. Staff confirmed to the delegation that such means might be applied. **The CPT recommends that the Hungarian authorities take the necessary steps to ensure that prisoners sent to hospital to receive treatment are not physically attached to their hospital beds or other items of furniture for custodial reasons. Other means of meeting security needs satisfactorily can and should be found; the creation of a custodial unit in such hospitals is one possible solution.**

b. follow-up visit to the Unit for HIV-positive prisoners in Tököl

99. The Unit for HIV-positive prisoners, visited by the CPT for the first time in 1999, forms part of the Tököl Juvenile Prison and accommodates all prisoners from any Hungarian prison who are found to be HIV positive.⁶⁰ For an official capacity of 38 places in 19 double-occupancy cells (all used as single cells at the time of the visit), the unit was accommodating 14 male and three female prisoners.⁶¹

As was already the case during the previous visit, the unit was in a very good state of repair, clean and well-decorated, the rooms were sufficient in size, bright, and adequately equipped and ventilated. The door of the cells remained open during the day and inmates had access to two exercise yards. However, the exercise yards were devoid of any equipment; **the Unit's exercise yard should be equipped with a means of rest and a shelter against inclement weather.**

It also appeared that the treatment and monitoring of the state of health of the inmates complied with up-to-date treatment programmes.

100. More generally, the Hungarian authorities consider that the systematic transfer of HIV-positive prisoners to this Unit aims at providing better health-care services and living conditions to the inmates concerned.⁶² The CPT acknowledges the efforts made by the Hungarian authorities in this respect. However, despite the above-described positive aspects, the Committee remains concerned about the compulsory segregation of HIV-positive prisoners in the prison system.

As repeatedly stressed by the Committee in the past, **there is no medical justification for the compulsory segregation from the general prison population of an HIV-positive prisoner. Any segregation of an HIV-positive prisoner should be based on free and informed consent.**

⁶⁰ HIV testing of prisoners is carried out on a voluntary basis.

⁶¹ Male and female patients were accommodated separately within the unit.

⁶² See the authorities' response to the CPT's 2005 visit report (document CPT/Inf (2006) 21, page 34).

c. health-care services in prison

101. As regards health-care staff resources,⁶³ *Somogy County Prison* was visited by a general practitioner for mere six hours a week (three two-hour sessions). This is grossly inadequate for an establishment that regularly accommodates 200 or more inmates. Not surprisingly, the delegation found that the doctor concerned had a very heavy workload, regularly examining up to 30 inmates during one two-hour session. The situation was better as regards nursing staff resources, the establishment employing four full-time nurses who were present on weekdays from 7 a.m. to 7 p.m.

The health-care team at *Sopronkőhida Prison* consisted of two medical doctors (present on weekdays and on call during nights and weekends), nine full-time nurses (working 12-hour shifts and providing 24-hour cover seven days a week) and one health administrator. The attendance hours of the two doctors (they each worked four days a week) were barely sufficient for an establishment accommodating up to 800 inmates. And this problem was compounded by the fact that approximately one hour a day of the prison doctor's time was reserved for the treatment of prison staff.⁶⁴ As already noted in the 2009 visit report, the CPT has reservations about such a practice. First, sharing of doctors' working time between inmates and prison staff can clearly be to the detriment of the time the doctor has available to consult with the prisoners. Moreover, such a dual responsibility could also lead to a conflict of interest, which might ultimately compromise the perception of the professional independence of prison doctors.

It should also be noted that two out of the four nurses at Somogy Prison were full members of the prison staff and performed custodial tasks, such as body searches and escorting of female inmates. In the CPT's view, entrusting nurses working in prisons with custodial tasks is not conducive to the development of proper health-care staff/patient relations and could give rise to a potential conflict of interest (e.g. in the event of an allegation of ill-treatment of a prisoner by a member of the custodial staff).

The CPT recommends that the Hungarian authorities:

- **ensure the presence of a medical doctor at Somogy Prison for the equivalent of at least half-time post and increase the attendance hours of medical doctors at Sopronkőhida Prisons;**
- **increase nursing staff resources at Sopronkőhida Prison;**
- **review the practice of prison doctors treating both prisoners and prison staff;**
- **end the practice at Somogy Prison of nurses carrying out custodial tasks.**

⁶³ The situation was adequate at Szeged Prison. The establishment, which was holding 1,474 inmates, employed seven full-time general practitioners who were present on weekdays and were on call during nights and weekends and 20 nurses working 12-hour shifts and providing 24-hour cover.

⁶⁴ At Szeged Prison, mandatory annual screening of staff and approving staff's sick leave reportedly amounted to some 20% of the prison doctor's workload.

102. In the prisons visited, initial medical screening of newly-arrived prisoners was performed shortly after admission by a nurse and prisoners were examined by a medical doctor within 72 hours. HIV testing was offered to every newly-arrived prisoner on a voluntary basis; testing for tuberculosis was compulsory and was repeated at regular intervals in the course of the incarceration.

As regards the recording of injuries, the delegation observed at Somogy County Prison that medical records, whether drawn up on admission or following a violent episode in prison, were comprehensive and contained detailed descriptions of any injuries observed, together with the statement made by the prisoner concerned and some observations as to the consistency between the allegations made and the objective medical findings.

At Sopronkőhida Prison, while injuries observed by health-care staff upon arrival of a prisoner to the establishment were comprehensively described in the medical records, the description of traumatic injuries sustained in prison was incomplete. The statements of the inmates concerned were often absent, as were *a fortiori* the doctor's conclusions as to the consistency of any such statements with injuries recorded. Moreover, the delegation received allegations that examinations after a violent episode in prison either did not take place, despite the requests made by the inmates concerned, or the examining health-care professional did not record injuries or inmates' allegations. In a few cases, inmates also claimed that health-care staff took photographs of the absence of injuries on those body parts where force had allegedly been applied; however, they had no opportunity to see a doctor again when injuries later became visible.

The CPT recommends that action be taken at Sopronkőhida Prison to ensure that:

- **prisoners are seen by a doctor shortly after a violent episode and, thereafter, upon their request;⁶⁵**
- **a medical report is drawn up after a thorough medical examination of the prisoner;**
- **the medical report contains: (i) an account of statements made by the prisoner which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment), (ii) a full account of objective medical findings based on a thorough examination; (iii) the health-care professional's observations in the light of i) and ii), indicating the consistency between any allegations made and the objective medical findings.**

Whenever injuries are recorded by a doctor in a prison which are consistent with allegations of ill-treatment made by the prisoner (or which, even in the absence of the allegations, are indicative of ill-treatment), the record should be immediately and systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned. Moreover, the results of every examination, including the above-mentioned statements and the doctor's opinions/observations, should be made available to the prisoner and, upon request, to his/her lawyer.

⁶⁵ Any subsequent examination will provide an opportunity to supplement medical records, including by taking photographs of any visible injuries.

103. As regards medical confidentiality, it is positive that at Somogy Prison, prison officers were not routinely present during medical examinations of prisoners. In contrast, prison officers were always present during medical examinations of all Grade IV prisoners and many other inmates at Sopronkőhida Prison (as was also the case for BSR/HSR prisoners at Szeged Prison). The CPT notes in this context that in their response to the 2009 visit report, the Hungarian authorities considered that “the presence of custodial staff during medical examinations [...] [was] not considered a current practice in the penitentiary”. However, the findings of the 2013 visit indicate that the practice still persists in certain establishments. This practice violates medical confidentiality and can clearly deter prisoners from drawing health-care professionals’ attention to injuries and/or from making allegations of ill-treatment.

The CPT once again calls upon the Hungarian authorities to take steps to implement its long-standing recommendation that medical examinations of prisoners be conducted out of the hearing and – unless the health-care staff member concerned expressly requests otherwise in a given case – out of the sight of non-medical staff.

104. At Sopronkőhida Prison, the delegation noted that a specific section of inmates’ electronic medical files containing certain information on prisoners’ state of health was available to all staff. **Care should be taken to ensure that health-care staff share information with non-medical staff strictly on a need-to-know basis.**

105. As regards psychiatric care, Somogy County Prison was regularly visited by an outside specialist.⁶⁶ However, there was no psychiatric care available at Sopronkőhida Prison and inmates in need of psychiatric consultations were referred to the Judicial and Psychiatric Observation Institute (IMEI) in Budapest. Such an arrangement did not sufficiently cover all the needs and in practice led to medication being unnecessarily taken for prolonged periods.⁶⁷ The delegation was informed that it was not planned to recruit a psychiatrist as one of the two full-time medical doctors would soon be qualified as a psychiatrist. However, given the already insufficient medical staff resources (see paragraph 101 of this report), **the CPT recommends that steps be taken without delay to ensure regular visits by a psychiatrist, additional to the medical doctor already employed by the establishment.**

106. Concerning dental care, Somogy County Prison was visited by a dentist once a week for two hours; the delegation was informed by the staff that there was no waiting list and received no complaints from the prisoners. In contrast, the attendance hours of a dentist at Sopronkőhida Prison – six hours a week, two of which were reserved for the staff of the establishment – were insufficient and the delegation received a number of complaints from the inmates about difficult access to dental care. **The CPT recommends that the attendance hours of a dentist at Sopronkőhida Prison be increased.**

⁶⁶ As was the case at Szeged Prison.

⁶⁷ By way of example, the delegation met a prisoner who had been prescribed highly addictive medication by the IMEI and had been taking it for five months without any follow-up examination.

7. Other issues

a. discipline

107. The most severe disciplinary sanction is disciplinary confinement of up to 10 days for prisoners subject to a light regime and juveniles, 20 days for inmates subject to a medium regime and 30 days for prisoners subject to a strict regime.

Given the potentially very damaging effects of solitary confinement, the CPT considers that the maximum period of its use for disciplinary purposes should be no more than 14 days for a given offence, and preferably lower, irrespective of the regime to which a prisoner is subjected. With respect to juveniles, the Committee stated its preference for a maximum period not exceeding three days.⁶⁸ **The CPT recommends that the relevant legal provisions be reviewed in the light of these remarks.**

Further, the delegation observed at Sopronkőhida and Somogy County Prisons that inmates on segregation pending disciplinary proceedings could be held in conditions akin to disciplinary confinement for up to 15 days. By way of illustration, at Sopronkőhida Prison, inmates were held in the same disciplinary and segregation cell under a lighter regime than disciplinary confinement.⁶⁹ In the CPT's view, such segregation should be included in the overall time in disciplinary confinement. In the context of previous visits, the Hungarian authorities indicated that this issue would be dealt with in the context of a review of the legal framework on prisons (see paragraph 41). **The Committee would like to receive up-to-date information on this subject.**

108. Material conditions in disciplinary and segregation cells in Sopronkőhida do not call for particular comments. However, at Somogy County Prison, the cells offered poor access to natural light and call bells were not working. **The CPT recommends that action be taken to remedy these shortcomings.**

109. As regards the regime, as was the case in the past, all prisoners held in disciplinary cells had access to one hour of outdoor exercise every day. However, at Somogy County Prison, access to reading material for prisoners undergoing disciplinary confinement was limited to religious books, house rules and their criminal file. **The CPT recommends that the range of permitted reading material be broadened.**

The prisoners concerned were denied visits and access to a telephone while undergoing punishment. In their response to the report on the 2009 visit, the Hungarian authorities underlined that these rights are only suspended during the enforcement of the disciplinary measure. **The CPT considers that the measure of disciplinary confinement should not include a total prohibition on family contacts during the enforcement of the measure and that any restrictions on family contact as a form of punishment should be used only where the offence relates to such contacts.**⁷⁰

⁶⁸ See paragraph 26 of the 18th General Report on the CPT's activities (document CPT/Inf (2008)25) and paragraph 56 (b) of the 21st General Report on the CPT's activities (document CPT/Inf (2011)28).

⁶⁹ For instance, the prisoners could have some of their personal belongings with them and could receive visits and make phone calls.

⁷⁰ See also Rule 60.4 of the European Prison Rules.

110. The CPT is concerned about the role of prison health-care professionals during disciplinary proceedings. They were required to draw up certificates on whether inmates were fit to undergo segregation as a disciplinary sanction. In the opinion of the Committee, such involvement in the disciplinary proceedings is not conducive to the development of a positive doctor-patient relationship. **The CPT recommends that measures be taken to ensure that health-care staff working in prison are never required to certify that a prisoner is fit to undergo segregation as a disciplinary sanction (or any other type of segregation imposed against the prisoner's wishes).**

On the other hand, at Sopronkőhida Prison, the delegation noted that health-care staff were not visiting on a daily basis inmates placed in disciplinary confinement, unless the prisoners concerned were on medication. The Committee considers that health-care staff should be very attentive to the situation of all prisoners placed under solitary confinement. They should be informed of every such placement and should visit the prisoner immediately after placement and thereafter, on a regular basis, at least once per day, and provide them with prompt medical assistance and treatment as required. They should report to the prison director whenever a prisoner's health is being put seriously at risk by being held in solitary confinement. **The Committee recommends that action be taken to ensure that the practices of health-care staff working in prison comply with these requirements.**

b. contact with the outside world

111. The very limited visit entitlements have been an issue since the very first visit of the CPT to Hungary in 1994. Regrettably, little progress has been made in this area. The minimum visiting entitlement of half an hour per month has still not been increased while all prison officials with whom the delegation spoke agreed that this was clearly insufficient.

In practice, inmates could have visits of one to two hours per month in the establishments visited (with the exception of the small proportion of remand prisoners who were denied visits by a prosecutor). Partly due to the implementation of the overcrowding "balancing" programme (see paragraph 39), many prisoners were held far away from their families and had very few opportunities to receive visits from them.

The CPT once again calls upon the Hungarian authorities to increase significantly the visit entitlements of prisoners. All categories of inmate should have the right to receive the equivalent of at least one visit of one hour per week; preferably, they should be able to receive a visit every week. There should also be the possibility of accumulating visit entitlements for periods during which no visits have been received. Further, in the context of the overcrowding "balancing" programme, prisoners should be allocated, to the greatest extent possible, to prison establishments situated in close proximity to their families.

112. The conditions under which the visits took place at Somogy County and Sopronkőhida Prisons are also of concern. The facilities were noisy, crowded and offered almost no privacy. In addition, at Somogy County Prison, the facilities were austere, poorly ventilated and had no access to natural light. At Sopronkőhida Prison, the visiting arrangements generally did not allow any physical contact. **The CPT recommends that the visiting facilities be re-designed in Somogy County and Sopronkőhida Prisons so as to ensure that prisoners receive visits under appropriate conditions; all prisoners should be able in particular to receive visits from family members without physical separation, except in individual cases where there may be a clear security concern.**

113. As regards phone calls, inmates were generally entitled to at least two phone calls of about 10 minutes every week, depending on how much money the inmates had in their personal accounts. Nevertheless, at the Central Prison Hospital, the delegation heard many complaints about access to a telephone; patients could not make phone calls until the money transfer from the local prison to the hospital was made, which could take more than a week. **The CPT trusts that this shortcoming will be remedied. The Committee would also like to know whether there are any arrangements for indigent prisoners.**

c. means of restraint and padded cells

114. In the past, the CPT has criticised an over-emphasis on means of restraint in the context of movements of prisoners⁷¹ both within and outside the secure perimeter (e.g. excessive use of body-belts during transfers, prisoners being handcuffed to their beds in outside hospitals, prisons being issued electric stun devices, etc.). The Committee recommended that the rules concerning the use of means of restraint be reviewed so as to ensure that they are applied in a proportionate way and that prison staff be trained and encouraged to use other methods of controlling prisoners. The CPT also opposed the use of electric stun body-belts and recommended that the appropriate regulations on stun devices be revised in order to include all appropriate safeguards.

At the beginning of the 2013 visit, the delegation was informed that there had been a decline in the use of means of restraint throughout the country. Further, following the CPT's previous visit, the Prison Service had decided to remove all electric stun devices (including electric stun body-belts) from prisons.

115. These are clearly very positive steps. However, the delegation's findings during the visit indicate that there is still room for further reduction of such means. In particular, there appeared to be an excessive application of means of restraint on a regular basis to particular groups of prisoners (including BSR, HSR and, more generally, Grade IV prisoners). It is of all the more concern that health-care staff were involved in that process and were required to certify the fitness of the inmates concerned for the application of such means.

Moreover, the delegation learned that guard dogs were occasionally used in cases of shortage of staff and/or as a "means of deterrence" within the prison premises at Sopronkőhida and Szeged Prisons.

⁷¹ *Mozgáskorlátozó eszköz.*

The Committee recommends that the Hungarian authorities redouble their efforts to reduce the use of means of restraint applied to any category of prisoner, taking due account of the European Prison Rules.⁷² Further, health-care professionals should never be required to certify that a prisoner is fit for application of such means. In addition, the regulations must make it clear that guard dogs should not be used for routine prison duties involving direct contact with inmates.

116. Somogy County Remand Prison had a “padded cell” for prisoners considered to be agitated and/or aggressive, which was dark, small (i.e. 3.6 m²) and poorly ventilated.⁷³ **This cell should be taken out of service; more suitable facilities should be set up for holding aggressive and/or agitated prisoners.**

d. inspections carried out by prison prosecutors

117. It appeared during the 2013 visit that the inspections carried out by prison prosecutors contributed to the improvement in the situation of inmates. This is partly due to the fact that they often succeeded in gaining the confidence of prisoners. They appeared to be committed to their job, routinely visited the detention areas, carefully examined the documentation and had private interviews with prisoners on a regular basis.

Nevertheless, prison officials were apparently not always co-operative (e.g. problems in the provision of information, lack of follow-up to invitations or instructions). Furthermore, the delegation received accounts from prisoners who had allegedly been threatened or beaten by prison staff following a private interview with a prison prosecutor at Sopronkőhida.

The CPT recommends that:

- **determined action be taken to ensure that the management and staff of prisons co-operate effectively with prison prosecutors;**
- **measures be taken at the highest level to prevent any intimidatory or retaliatory action against inmates who talk to representatives of the prosecuting authorities or any other monitoring bodies (including the CPT), including by means of a clear message to all prison staff that any such action will be punished accordingly.**

⁷² Rule 68.2 reads as follows: “[h]andcuffs, restraint jackets and other body restraints shall not be used except: a. if necessary, as a precaution against escape during a transfer, provided that they shall be removed when the prisoner appears before a judicial or administrative authority unless that authority decides otherwise; or b. by order of the director, if other methods of control fail, in order to protect a prisoner from self-injury, injury to others or to prevent serious damage to property, provided that in such instances the director shall immediately inform the medical practitioner and report to the higher prison authority”.

Rule 68.3 reads as follows: “[i]nstruments of restraint shall not be applied for any longer time than is strictly necessary”.

⁷³ It had been used in 2011 and 2012, in a limited number of cases, for stays of up to 50 minutes, in combination with means of restraint (handcuffs/anklecuffs) in some instances.

APPENDIX I

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

The setting-up of a national preventive mechanism

requests for information

- the remarks of the Hungarian authorities as regards the future involvement of civil society actors in the activities of the NPM and the resources to be allocated to the functioning of the mechanism (paragraph 8).

Police establishments

Preliminary remarks

recommendations

- the Hungarian authorities to intensify their efforts to ensure that any person remanded in custody is promptly transferred to a prison establishment. Any further interviews of a remand prisoner by the police which may be necessary should as far as possible be carried out in a prison establishment. The return of remand prisoners to police establishments should be sought only when there is absolutely no other alternative and for the shortest time possible; prosecutors should examine carefully any request for such returns and give a fully reasoned decision on the matter; in the event of a remand prisoner being returned to police custody, the prosecutor concerned should review regularly whether the reasons for which the return was authorised are still valid (paragraph 11).

Ill-treatment

recommendations

- the Hungarian authorities to strengthen their action to prevent police ill-treatment, particularly:
 - i) by delivering a firm message of “zero tolerance” of ill-treatment (whether of a physical or verbal nature) to all police officers and by reiterating it at regular intervals during police in-service training. Where appropriate, a public declaration should be adopted at the highest political level;

- ii) by developing a system of ongoing monitoring of interviewing standards and procedures; this will require the accurate recording of all police interviews (including any carried out whilst the person has the status of an apprehended person), which should be conducted with electronic recording equipment. It should also be required that a record be systematically kept of the time at which interviews start and end, of any request made by a detained person during an interview, and of the persons present during each interview. Further, a copy of the electronic recording should be made available to the detained person and/or his/her lawyer;
- iii) by providing police officers with further practical training relating to the proportionate use of force in the context of an apprehension;
- iv) by reminding police officers that:
 - where it is deemed essential to handcuff a person at the time of apprehension or during the period of custody, the handcuffs should under no circumstances be excessively tight and should be applied only for as long as is strictly necessary;
 - any intentional tightening of handcuffs in order to inflict pain constitutes a criminal offence.

(paragraph 14);

- “whistle-blower” protective measures as described in paragraph 15 to be adopted (paragraph 15);
- additional steps to be taken to eradicate racially-motivated abuse and discriminatory behaviour by members of the police force, including by strengthening efforts to ensure that the composition of the police force reflects the diversity of the population (paragraph 15);
- if it is deemed necessary for staff to carry batons and handcuffs in detention areas, they should be hidden from view (paragraph 16);
- tear gas canisters not to form part of the standard equipment of custodial staff and, given the potentially dangerous effects of this substance, tear gas not to be used in confined spaces (paragraph 16);
- Decree No. 19/1995 to be amended so that a protocol is drawn up and forwarded to a prosecutor whenever injuries are recorded by a doctor which are indicative of ill-treatment, even if the person concerned makes no allegations of ill-treatment (paragraph 17);
- the Hungarian authorities to amend the relevant instructions to ensure that medical examinations (whether they are carried out in police establishments or in hospitals) are conducted out of the hearing and – unless the health-care professional concerned expressly requests otherwise in a given case – out of the sight of staff with no health-care duties. In order to facilitate the preservation of the confidentiality of medical examinations and treatment, it should be ensured that police holding facilities and the hospital structures concerned have a room available which provides appropriate security safeguards (paragraph 19);

- the necessary steps to be taken to ensure that the police officers charged with escorting a detained person to hospital for an independent medical examination are not the apprehending officers or other staff dealing with that person's case (paragraph 19);
- the Hungarian authorities to take the necessary measures to ensure that the confidentiality of medical documentation is strictly observed (paragraph 20).

comments

- doctors may inform custodial staff on a need-to-know basis about the state of health of a detained person, including medication being taken and particular health risks (paragraph 20);
- the CPT encourages the Hungarian authorities to pursue the practice of noting in the record drawn up after a medical examination of a person admitted to a police holding facility and after the independent medical examination of such a person in hospital, statements made by the detained person (including allegations of ill-treatment), detailed medical findings and observations as to the consistency between allegations made and the objective medical findings (paragraph 21).

requests for information

- up-to-date information on the progress and, in due course, on the outcome of the investigation into the alleged ill-treatment and subsequent death of a person detained at Izsák Police Station on 8 April 2013 (paragraph 14).

Safeguards against ill-treatment

recommendations

- the Hungarian authorities to amend the relevant legal provisions with a view to guaranteeing the right of persons detained by the police to inform a relative or third party of their choice of their situation as from the outset of deprivation of liberty (paragraph 22);
- the Hungarian authorities to take further steps to ensure that access to a lawyer is granted to all detained persons (irrespective of their precise legal status) as from the outset of their deprivation of liberty. The right of access to a lawyer must include the right for any detained person to talk to his/her lawyer in private (paragraph 23);
- the Hungarian authorities to take the necessary steps, in consultation with the Bar Association, to ensure that *ex officio* lawyers are not chosen by police officers (or prosecutors) and that such lawyers meet their clients while in police custody (paragraph 24);
- *ex officio* lawyers to be reminded, through the appropriate channels, of their duty to represent to the best of their ability the interests of the persons to whom they have been assigned (paragraph 24);
- the right of access to a doctor as from the outset of deprivation of liberty (i.e. during the first 12 hours), including a doctor of one's own choice, to be formally guaranteed (paragraph 25);

- a formal procedure to be established to ensure that the Independent Police Complaints Board is informed about the outcome of appeals against decisions of the Head of the National Police General Directorate (paragraph 28).

comments

- the management of medicines should always be carried out by health-care professionals (paragraph 26);
- the CPT invites the Hungarian authorities to take further steps to ensure that an up-to-date information sheet is available in all police establishments in an appropriate range of languages and is systematically given to detained persons (paragraph 27);
- the Committee invites the Hungarian authorities to extend the powers of the Independent Police Complaints Board with a view to enabling it to lodge an appeal against the decisions of the Head of the National Police General Directorate if the Head disagrees with the Board's opinion and to initiate *ex officio* inquiries into cases of alleged police misconduct (paragraph 28);
- whenever evidence comes to light during the complaints procedure of possible ill-treatment of detained persons by the police, the matter should be brought to the attention of the relevant prosecution service (paragraph 28).

requests for information

- on the practical procedures for intervention by *ex officio* lawyers (on-call services, fees, etc.) (paragraph 24).

Conditions of detention in police establishments

recommendations

- the Hungarian authorities to take the necessary steps to remedy the shortcomings as regards material conditions identified in paragraph 30 (paragraph 30);
- as long as remand prisoners can be held in police holding facilities for prolonged periods, outdoor exercise yards to be equipped with a means of rest and effective shelter against inclement weather (paragraph 31);
- anyone held for 24 hours or more to be guaranteed daily access to outdoor exercise (paragraph 31);
- measures to be taken to ensure that, if apprehended persons have to spend the night in a police waiting room, they are provided with a mattress, blankets and clean bedding (paragraph 34).

comments

- access to natural light was often limited due to windows being fitted with frosted glass (paragraph 29).

requests for information

- detailed information on progress made on the refurbishment of the Central Holding Facility of the Budapest Police Directorate (paragraph 30).

Prison Service establishments

Preliminary remarks

recommendations

- the Hungarian authorities to redouble their efforts, in consultation with all the parties concerned, to combat prison overcrowding and, in so doing, to be guided by all the relevant recommendations of the Committee of Ministers of the Council of Europe (paragraph 40);
- strict minimum legal requirements to be re-introduced as regards living space per inmate in prison cells. Every prisoner should benefit from at least 4 m² of living space in multi-occupancy cells; the floor area taken up by in-cell toilets/sanitary facilities should not be included in this calculation. With regard to single-occupancy cells, any cells of this type should measure no less than 6 m² (not counting the floor area taken up by in-cell toilets/sanitary facilities) and preferably be larger (paragraph 40).

comments

- the Committee invites the Hungarian authorities to reconsider their position on the matter raised in paragraph 36, in the light of the remarks in that paragraph (paragraph 36);
- the Committee encourages the Hungarian authorities to use the opportunity of drafting a Prison Concept to engage in a broad consultation process involving civil society (paragraph 41).

requests for information

- the remarks of the Hungarian authorities on the matter raised in the third sub-paragraph of paragraph 36 (paragraph 36);
- information on progress in the drafting of a Prison Concept (paragraph 41).

Ill-treatment

recommendations

- the Hungarian authorities to redouble their efforts to combat ill-treatment by prison staff and to promote professional ethics within the Prison Service, through instruction and training, in the light of the newly-adopted European Code of Ethics for Prison Staff. Proper conduct by prison staff vis-à-vis prisoners should also be fostered by increased efforts to oblige staff members to prevent colleagues from ill-treating prisoners and to report, through appropriate channels, all cases of ill-treatment involving colleagues (paragraph 46);
- prison staff working in the establishments visited to be clearly and frequently reminded that:
 - they should never inflict, instigate or tolerate any act of ill-treatment, in whatever form and under any circumstances, including when ordered by a superior;
 - they should at all times treat prisoners with politeness and respect and take full account of the need to challenge and combat racism and xenophobia, as well as to promote gender sensitivity and prevent sexual harassment of any kind in relation to both prisoners and other staff;
 - force should only be applied when – and to the extent – strictly necessary to maintain security and order, and never as a form of punishment;
 - prison staff will be held accountable for any act of ill-treatment (including verbal abuse) or any excessive use of force.
(paragraph 46);
- the attitude and behaviour of custodial staff in direct contact with juveniles at Somogy County Prison and staff working in Wings 1 and 4 of Sopronkőhida Prison to be subject to closer and more effective supervision (paragraph 46);
- the system for investigating allegations of ill-treatment of prisoners to be fundamentally reviewed in order to make it more effective (paragraph 49);
- steps to be taken to ensure that:
 - prison staff are always identifiable, preferably by returning to the practice of wearing name tags and, in the meantime, by wearing shorter identification numbers in a visible manner at all times whilst on duty;
 - prisoners who lodge complaints of ill-treatment by staff are protected from retaliatory action by staff
(paragraph 49);
- prison staff working at Somogy County and Sopronkőhida Prisons to be firmly reminded that they should protect the physical, sexual and psychological integrity of all prisoners under their responsibility, including against assault by fellow inmates (paragraph 50);

- steps to be taken at Somogy County and Sopronkőhida Prisons to rationalise further the assessment, classification and allocation of individual prisoners, with a view to ensuring that prisoners are not exposed to other inmates who may cause them harm (paragraph 50).

comments

- countering inter-prisoner violence and intimidation will depend to great extent on having an appropriate number of staff present in detention areas and in facilities used by prisoners for activities (paragraph 50).

requests for information

- whether it has been envisaged to extend the investigative powers of the National Defence Service so as to include, in addition to its anti-corruption activities, support of the competent prosecuting authorities in their investigations into cases involving possible ill-treatment by prison staff (and any other public officials) (paragraph 49).

Staff-inmate relations

recommendations

- the Hungarian authorities to:
 - make a major investment in developing a dynamic rather than a purely physical approach to security and order. Such an approach will depend to a great extent on staff possessing and making use of interpersonal communication skills;
 - ensure that professional interviews are not carried out through the cell bars in the BSR and HSR Units. In case of need, interview rooms could be designed in such a way as to limit security risks;
 - put an end to anachronistic practices relating to routine contacts with inmates such as those described in paragraph 54;
 - develop more specialised training for staff working with certain categories of prisoner (e.g. women, juveniles, elderly inmates, actual life- and other long-term sentenced prisoners, prisoners held in special conditions of high security or control, inmates with specific health needs);
 - review staff recruitment and retention policies so as to take due account of mixed-gender staffing requirements and of the need to ensure that the composition of prison staff reflects the diversity of the inmate population;
 - conduct an in-depth analysis of the number and/or deployment of custodial staff in prisons and review staffing in detention areas and workshops accordingly (paragraph 56);

- if it is deemed necessary for prison staff to carry batons and handcuffs in detention areas, they should be hidden from view (paragraph 56);
- tear gas canisters not to form part of the standard equipment of prison staff and, given the potentially dangerous effects of this substance, tear gas not to be used in confined spaces (paragraph 56).

comments

- the CPT invites the Hungarian authorities to continue to build on staff-inmate interaction in Szeged Prison's BSR and HSR Units (paragraph 56).

Prisoners subjected to special regimes

recommendations

- the procedures for the placement, and its renewal, in the BSR Unit to be further improved so that BSR prisoners are always heard by the committee deciding on the measure (in addition to any prior interviews with professionals), receive a written, reasoned decision from that committee and an indication of how the decision may be appealed. After an initial decision, there should be a further review at least after the first month (and thereafter at least every three months). Alternative placement should be sought for prisoners segregated for their own protection; it is inappropriate to hold such inmates and prisoners segregated for preventative purposes within the same unit (paragraph 59);
- for as long as the barred areas remain in the cells of the right-hand side of the BSR Unit, there should be no more than one inmate in these cells (paragraph 61);
- in-cell toilets to be fully partitioned in the BSR Unit (paragraph 61);
- action to be pursued in the BSR and HSR Units in order to enable the prisoners concerned to spend as many hours as possible each day outside their cells and to participate in regular, purposeful and varied activities tailored to their individual needs (including work with a vocational value, education, association, sport, etc.), with the objective of (re)integrating them into mainstream prison population (paragraph 63);
- efforts to be continued to ensure that the application of handcuffs and/or body-belts to any BSR or HSR inmate is an exceptional measure which is taken only when strictly necessary, based on an individualised assessment of real risks carried out by appropriately trained staff. Immediate steps should be taken to put an end to the practice of keeping prisoners in handcuffs during medical examinations and treatment (as well as any other interviews) (paragraph 65);
- the imposition of visits through a glass partition (as well as any other restrictions) to be always based on an individual evidence-based risk assessment (paragraph 66);
- if the Hungarian authorities wish to keep Sopronkőhida Prison's Special Security Unit in operation, the shortcomings set out in paragraph 70 to be remedied (paragraph 70);

- the system for allocating prisoners to Grade IV specially designated areas to be reviewed at Sopronkőhida Prison. In particular, prisoners for whom such placement is considered should be invited to make representations to the committee deciding on the measure and should receive a written, reasoned decision from the committee and information on how the decision may be appealed. A detailed plan should be established for every Grade IV inmate held in Sopronkőhida Prison's specially designated areas with a view to addressing the issues which required the inmates concerned to be kept in such conditions. After an initial decision, there should be a further review at least after the first month (and thereafter at least every three months), at which progress against the agreed plan can be assessed and if appropriate a new plan developed. The longer a Grade IV prisoner remains in this situation, the more thorough the review should be and the more resources, including resources external to the prison, made available to attempt to (re)integrate the prisoner into the mainstream prison community. The prison director or senior members of staff should make a point of visiting such prisoners on a regular basis and familiarising themselves with the prisoners' individual plans (paragraph 77);
- cells measuring less than 6 m² and/or with less than two metres between the walls to be withdrawn from service or enlarged (paragraph 77);
- Grade IV prisoners' frequent access to a suitable exercise yard/outdoor sports area to be ensured (paragraph 77);
- suitable programmes of purposeful activities (including work, education, sport, association and targeted rehabilitation activities) to be developed, including for Grade IV prisoners subject to a strict regime. These programmes should be drawn up and frequently reviewed on the basis of an individualised risk and needs assessment by a multi-disciplinary team, in consultation with the inmates concerned (paragraph 77);
- the policy on the application of handcuffs to Grade IV prisoners to be thoroughly reviewed so as to ensure that such a measure is truly exceptional and is based on an individual and comprehensive risk assessment carried out by appropriately trained staff. Immediate steps should be taken to put an end to the practice of keeping Grade IV prisoners in handcuffs during medical consultations (as well as any other interviews) (paragraph 77).

comments

- more frequent reviews of placement in an HSR Unit (e.g. every three months), in consultation with the prisoners concerned, should be introduced after the initial stay in the HSR Unit (paragraph 58);
- the cells of the BSR Unit which do not have a barred entrance should preferably also be of single occupancy (paragraph 61);
- the lack of proper partitioning of in-cell toilets is far from satisfactory when the cells in the HSR Unit are used for double occupancy (paragraph 61);
- in-cell toilets should not be within the scope of CCTV cameras in observation cells (paragraph 61);

- the CPT encourages the Hungarian authorities to pursue their efforts to provide HSR prisoners with more regular and frequent access to proper outdoor sports facilities (paragraph 62).

requests for information

- on the implementation of the plan to open a third HSR Unit at Budapest Strict and Medium Regime Prison (paragraph 60);
- details about the possibility of inmates serving actual life sentences to be released (pardon/commutation procedures, statistics, etc.), in the light of the relevant recommendations of the Committee of Ministers of the Council of Europe on this matter (paragraph 68).

Inmates held in mainstream prisoner accommodation

recommendations

- the Hungarian authorities to strive to combat overcrowding and ensure that cells are of an appropriate size for their intended occupancy at Somogy County and Sopronkőhida Prisons, in the light of the recommendations made in paragraphs 40 and 77. As regards transit cells at Sopronkőhida Prison, organisational steps should be taken to ensure that they are not used at weekends (paragraph 80);
- additional spy holes installed in a number of cells at Somogy County Prison and looking onto in-cell sanitary annexes to be taken out of use/removed (paragraph 81);
- the frequency of male non-working prisoners' access to a shower to be increased, taking into consideration Rule 19.4 of the European Prison Rules (paragraph 82);
- outdoor exercise yards to be equipped with a shelter against inclement weather (paragraph 84);
- the Hungarian authorities to redouble their efforts to provide as many prisoners as possible with a broad range of purposeful activities (including work, preferably of vocational value, education, sports and cultural activities). As regards sentenced prisoners in particular, these activities should be offered on the basis of individual sentence plans reviewed at regular intervals, after consultations among the relevant staff and, as far as possible, with the prisoners concerned (paragraph 85).

comments

- the CPT invites the Hungarian authorities to carry out a review of the quality and quantity of the food provided to inmates at Somogy County and Sopronkőhida Prisons (paragraph 83).

Health care

recommendations

- the Hungarian authorities to improve the material conditions in the Central Hospital of the Prison Service in Tököl, in the light of the remarks formulated in paragraphs 88 to 92. In particular, steps should be taken to ensure that:
 - all the premises are in a good state of hygiene and repair and all patients' rooms are suitably furnished;
 - the supply of hot water is guaranteed in all parts of the hospital, including the third floor of the main hospital building;
 - the national minimum hospital standard of 6 m² of living space per patient is always observed in multi-occupancy rooms; particular attention should be paid in this respect to the diagnostics ward;
(paragraph 93);
- patients placed in the admissions ward of the Central Hospital to be given food at appropriate times (paragraph 93);
- the Hungarian authorities to take the necessary steps to ensure that all patients in the Central Hospital:
 - are provided with some form of activity, such as books, newspapers/magazines, board games and radio/TV;
 - are offered the possibility to take outdoor exercise in appropriate facilities for at least one hour every day, unless there are clear medical contraindications. Patients should be provided with adequate clothing when taking outdoor exercise;
(paragraph 94);
- steps to be taken to ensure that prisoners are not involved in the performance of health-care tasks (paragraph 96);
- the Hungarian authorities to take the necessary steps to ensure that prisoners sent to outside hospitals to receive treatment are not physically attached to their hospital beds or other items of furniture for custodial reasons. Other means of meeting security needs satisfactorily can and should be found; the creation of a custodial unit in such hospitals is one possible solution (paragraph 98);
- the exercise yard of the Unit for HIV-positive prisoners in Tököl to be equipped with a means of rest and a shelter against inclement weather (paragraph 99);

- the Hungarian authorities to:
 - ensure the presence of a medical doctor at Somogy Prison for the equivalent of at least half-time post and increase the attendance hours of medical doctors at Sopronkőhida Prisons;
 - increase nursing staff resources at Sopronkőhida Prison;
 - review the practice of prison doctors treating both prisoners and prison staff;
 - end the practice at Somogy Prison of nurses carrying out custodial tasks (paragraph 101);
- action to be taken at Sopronkőhida Prison to ensure that:
 - prisoners are seen by a doctor shortly after a violent episode and, thereafter, upon their request;
 - a medical report is drawn up after a thorough medical examination of the prisoner;
 - the medical report contains: (i) an account of statements made by the prisoner which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment), (ii) a full account of objective medical findings based on a thorough examination; (iii) the health-care professional's observations in the light of i) and ii), indicating the consistency between any allegations made and the objective medical findings (paragraph 102);
- whenever injuries are recorded by a doctor in a prison which are consistent with allegations of ill-treatment made by the prisoner (or which, even in the absence of the allegations, are indicative of ill-treatment), the record should be immediately and systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned. Moreover, the results of every examination, including the above-mentioned statements and the doctor's opinions/observations, should be made available to the prisoner and, upon request, to his/her lawyer (paragraph 102);
- the Hungarian authorities to take steps to implement the CPT's long-standing recommendation that medical examinations of prisoners be conducted out of the hearing and – unless the health-care staff member concerned expressly requests otherwise in a given case – out of the sight of non-medical staff (paragraph 103);
- steps to be taken without delay to ensure regular visits to Sopronkőhida Prison by a psychiatrist, additional to the medical doctor already employed by the establishment (paragraph 105);
- the attendance hours of a dentist at Sopronkőhida Prison to be increased (paragraph 106);

comments

- there is no medical justification for the compulsory segregation from the general prison population of an HIV-positive prisoner. Any segregation of an HIV-positive prisoner should be based on free and informed consent (paragraph 100);
- care should be taken to ensure that health-care staff share information with non-medical staff strictly on a need-to-know basis (paragraph 104).

requests for information

- on the plans to merge the Central Prison Hospital in Tököl with the Judicial and Psychiatric Observation Institute (IMEI), including the time-schedule for their implementation (paragraph 87);
- whether the Hungarian authorities are considering the possibility of placing the future institution under the responsibility of the Ministry of Health (paragraph 87).

Other issues

recommendations

- the relevant legal provisions concerning the sanction of disciplinary confinement to be reviewed, in the light of the remarks in paragraph 107 (paragraph 107);
- action to be taken to remedy the shortcomings observed as regards material conditions in the disciplinary and segregation cells in Somogy County Prison (paragraph 108);
- the range of permitted reading material for prisoners undergoing disciplinary confinement to be broadened at Somogy County Prison (paragraph 109);
- measures to be taken to ensure that health-care staff working in prison are never required to certify that a prisoner is fit to undergo segregation as a disciplinary sanction (or any other type of segregation imposed against the prisoner's wishes) (paragraph 110);
- action to be taken to ensure that the practices of health-care staff working in prison comply with the requirements set out in paragraph 110 (paragraph 110);
- the Hungarian authorities to increase significantly the visit entitlements of prisoners. All categories of inmate should have the right to receive the equivalent of at least one visit of one hour per week; preferably, they should be able to receive a visit every week. There should also be the possibility of accumulating visit entitlements for periods during which no visits have been received. Further, in the context of the overcrowding "balancing" programme, prisoners should be allocated, to the greatest extent possible, to prison establishments situated in close proximity to their families (paragraph 111);

- visiting facilities to be re-designed in Somogy County and Sopronkőhida Prisons so as to ensure that prisoners receive visits under appropriate conditions; all prisoners should be able in particular to receive visits from family members without physical separation, except in individual cases where there may be a clear security concern (paragraph 112);
- the Hungarian authorities to redouble their efforts to reduce the use of means of restraint applied to any category of prisoner, taking due account of the European Prison Rules. Health-care professionals should never be required to certify that a prisoner is fit for application of such means. In addition, the regulations must make it clear that guard dogs should not be used for routine prison duties involving direct contact with inmates (paragraph 115);
- the “padded cell” at Somogy County Remand Prison to be taken out of service; more suitable facilities should be set up for holding aggressive and/or agitated prisoners (paragraph 116);
- determined action to be taken to ensure that the management and staff of prisons co-operate effectively with prison prosecutors (paragraph 117);
- measures to be taken at the highest level to prevent any intimidatory or retaliatory action against inmates who talk to representatives of the prosecuting authorities or any other monitoring bodies (including the CPT), including by means of a clear message to all prison staff that any such action will be punished accordingly (paragraph 117).

comments

- the CPT considers that the measure of disciplinary confinement should not include a total prohibition on family contacts during the enforcement of the measure and that any restrictions on family contact as a form of punishment should be used only where the offence relates to such contacts (paragraph 109);
- the CPT trusts that the shortcoming as regards patients’ access to a telephone referred to in paragraph 113 will be remedied (paragraph 113);

requests for information

- on the inclusion of the time inmates spent in segregation pending disciplinary proceedings in the overall time in disciplinary confinement (paragraph 107);
- whether there are any arrangements enabling indigent prisoners to make a phone call (paragraph 113).

APPENDIX II

**LIST OF THE MINISTERIAL AUTHORITIES, OTHER NATIONAL BODIES
AND NON-GOVERNMENTAL ORGANISATIONS
WITH WHICH THE CPT'S DELEGATION HELD CONSULTATIONS**

A. Ministerial authorities

Ministry of the Interior

Sándor Pintér Minister of the Interior

Krisztina Berta Deputy State Secretary

István Erdős Head of Department

National Police Headquarters

Károly Papp Director General

Zsolt Halmosi Deputy Director General

National Prison Service

András Csóti Head

János Schmehl Deputy Head

Ministry of Public Administration and Justice

Orsolya Jeney Deputy State Secretary

Veronika Pázsit Counsellor

Ministry of Human Resources

András Doncsev State Secretary for Human Resources

State Secretariat for Social, Family and Youth Affairs (Ministry of Human Resources)

Erika Zupcsán Asztalos	Deputy State Secretary
Péter Kecskés	Head of Department
Mariann Géher	Deputy Head of Department
József Serafin	Deputy Head of Department
Éva Bódy	Head of Division
Erika Nádai	Chief adviser

State Secretariat for Healthcare (Ministry of Human Resources)

Hanna Páva	Deputy State Secretary
Attila Németh	Head of the Psychiatry and Psychotherapy Medical Collegium
Edit Sára Marton	Adviser

B. Other national bodies

Office of the Commissioner for Fundamental Rights

Máté Szabó	Commissioner for Fundamental Rights
Beáta Borza	Head of Department
Erika Csóré Pajcsics	Head of Department
Katalin Haraszti	Deputy Head of Department
Ágnes Lux	Deputy Head of Department
István Perosa	International adviser
Éva Varga	Legal adviser
Zoltán Elek	International legal adviser

Prosecution service

Ervin Belovics	Deputy Prosecutor General
Rolland Waltner	Deputy Chief Prosecutor (senior military prosecutor)
András Szűcs	CPT's liaison officer

Independent Police Complaints Board

Kristóf András Kádár	Member
Ágnes Bruszt	Adviser
Emese Pásztor	Adviser
Dominika Rácz	Adviser

C. Non-governmental organisations

European Roma Rights Centre

Hungarian Helsinki Committee

Mental Disability Advocacy Centre (MDAC)

Mental Health Interest Forum (PEF)