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Response

**of the Hungarian Government
to the report of the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)
on its visit to Hungary**

from 3 to 12 April 2013

The Hungarian Government has requested the publication of this response. The report of the CPT on its April 2013 visit to Hungary is set out in document CPT/Inf (2014) 13.

Strasbourg, 30 April 2014

REFLECTIONS AND COMMENTS OF THE HUNGARIAN GOVERNMENT ON THE CPT'S RECOMMENDATIONS

The Setting-up of a National Preventive Mechanism (NPM)

Remarks have been made by the delegation's interlocutors 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). The CPT requested for additional information on these issues.

We are still in the process of exploring possible courses of cooperation with domestic and international civil organizations based on local and foreign experience; therefore, for the time being, we cannot give you any exact details thereon. We would like to emphasize, however, that the Commissioner for Fundamental Rights is definitely counting on the input of the civil organizations concerned in the fields of formulating investigation methods, education and information, as well as in selecting outside experts who could be involved in the investigations.

During the implementation of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the assignment of the National Preventive Mechanism, based on the cost estimates drafted with due thoroughness, the Office of the Commissioner for Fundamental Rights received a firm promise from the Government on the provision, by the Budget Act, as of 2015, of adequate funding for the operation of the national preventive mechanism. (The relevant statute is to be adopted at the end of 2014.)

The OPCAT Office, which was established on January 1, 2014, is in full compliance with the criteria stipulated in the Guidelines on national preventive mechanisms (CAT/OP/12/5 of December 9, 2010) – it was established as a separate, independent organizational unit with its own staff. Its separate budget shall be provided by the prevailing Budget Act by means of specifying the NPM's budget either as a Title within the Budgetary Chapter of the Office of the Commissioner for Fundamental Rights or as Dedicated Budgetary Support.

A. Police establishments

1. Preliminary remarks

The CPT Report recommends to the Hungarian authorities to intensify their efforts in order to ensure that any person remanded in custody is promptly transferred to a prison establishment. (paragraph 11). They could only be returned in case when no other solution is viable, and even in such cases, only for the shortest possible term.

In the sense of Act XIX of 1998 on Criminal Proceedings (CCP), the person in pre-trial detention may be held in a police cell – prior to the filing of the indictment – only in exceptional cases, and only if justified by the interests of the investigation, and only for the period of the accomplishment of the particular investigatory action. The length of the pre-trial detention is determined by the law on the basis of Section 135, Subsection (2) of the CCP. If justified in order to take an investigatory action, based on the decision of the prosecutor, the person in pre-trial detention may be held in a police establishment for a period of maximum thirty days. When this period expires, a court decision – rendered on the prosecutor's motion

– shall dispose of the placement of the suspect in a police establishment for another period of thirty days.

The same approach is followed by Act CCXL of 2013 on the Execution of Punishments, Actions, Court-Ordered Supervision and Post-Charge Non-Criminal Detention (CEP): it regulates that (1) Unless the entity exercising the power to make decisions stipulates otherwise, pre-charge detention shall be implemented in the county (or metropolitan) penal institution of the seat of the entity exercising the power to make decisions. As an exception, the Commander-in-Chief of the Hungarian Prison Service shall be entitled to appoint another institute for this purpose. (2) In the cases set out in Article 135 (2) of the Code of Criminal Procedure, for periods set out therein, pre-charge detention may be implemented also in a detention cell of a police station.

So the basic rule is that the pre-trial detention should be executed in prison and according to the CCP it can be executed in police establishments only in exceptional cases if certain circumstances are fulfilled and only for a very limited period of time.

Section 21 (8) of Order No. 11/2003 (ÜK.7.) of the Prosecutor General provides that within his power of disposition the prosecutor shall ensure that pre-trial detention should be served in police holding facilities only in exceptional cases, only for the time period absolutely unavoidable for the specific procedural act to be carried out, and only when the procedural act concerning the pre-trial detainee cannot be carried out in a penal institute or by way of discharging the defendant from the penal institute without the need to detain him in a police holding facility.

In 2006 the Office of the Prosecutor General carried out an examination with respect to investigations conducted in cases of persons held in pre-trial detention in penal institutions. One of the conclusions drawn as a result of the examination was that the reasons for permitting pre-trial detention to be served in police holding facilities, the number and nature of the procedural acts carried out during the term of that permission and requiring the participation of the defendant have proven that the then existing practice, which let pre-trial detainees to be kept in police holding facilities, was neither in compliance with Section 135 (2) of the Criminal Procedure Code nor with the correct interpretation of that provision, because the requirement to examine the reasons substantiating the exceptional use of pre-trial detention as a legal institution did not prevail, which resulted in unfounded and unlawful prosecutorial measures.

Concurrent to the time of the report, the Office of the Prosecutor General urged the bodies of the prosecution service to have their competent prosecutors to ensure entirely and without delay that pre-trial detention in police holding facilities is carried out only in exceptional cases, for lawful reasons, and that its duration, even in such cases, should not exceed the absolutely unavoidable period of time.

The guidelines for prosecutors formulated as a result of the examination have been issued by the Office of the Prosecutor General in a so called memorandum. The guideline in the memorandum regarding pre-trial detention carried out in police holding facilities states that prosecutors may only allow pre-trial detention to be executed in such facilities for the absolutely indispensable period of time required for procedural acts that cannot otherwise be

performed. The said guideline also includes the following: “Upon the well-reasoned motion of the head of the investigating authority the prosecutor shall decide in an order whether pre-trial detention is to be carried out in a police holding facility. In his order the prosecutor shall back up his reasons with facts why it is unavoidable to carry out the pre-trial detention in a police holding facility and he shall refer to the circumstance based on which he has determined the length of the pre-trial detention. Prior to his decision-making the prosecutor, based on a criminal investigation plan or in any other effective way, checks whether the investigating authority has arranged for the timely performance of the procedural act that cannot be conducted otherwise and keeps monitoring the timely performance of the procedural acts during the term of the pre-trial detention that is carried out in a police holding facility.”

In our view, the relevant provisions of the above-noted Order of the Prosecutor General and the described guideline comply with the CPT Recommendation, and we are not aware of any contrary practices.

2. Ill-treatment

In connection with paragraph 12 on page 10 of the Report we would like to note that:

In the course of the examination of detainee complaints [submitted in accordance with instructions no. 22/2010. (OT 10.) of the Hungarian National Police issued to implement the recommendations of CPT] it was revealed that persons taken under police measures misconceived the apprehension or the use of coercive measures and considered them as ill-treatment. Both the outcome of the criminal procedures and the examinations carried out by commanders verified the lawfulness of the measures of the policemen and the use of coercive means, which were appropriate and proportionate.

According to the report of Somogy County Police Directorate the Prosecution Service of Szekszárd are conducting a criminal procedure (case number 42/2013.) against a number of officers at the Marcali Police Department in connection with the “excessive use of force at the time of apprehension” and the “ill-treatment during questioning” highlighted in the CPT Report.

Regarding paragraph 13 on page 10, we note, that:

The examination of the police measures that could have led to the victim’s death on 8 April 2013 at Izsák Police Station (Bács-Kiskun County) has been pursued by the Hungarian National Police and its findings have been reported to the Minister of Interior. An ongoing criminal procedure takes place at this moment.

With regard to recommendations for the Hungarian authorities to strengthen their action to prevent police ill-treatment, particularly (paragraph 14):

i) by delivering a firm message of “zero tolerance” of ill-treatment

In order to decrease the number of complaints of ill-treatment the Police is planning to train the staff on the appropriate and lawful way of carrying out measures in the first line. We consider the good example set by the commander and the consistent checks are very important. With the aim of decreasing the number of complaints about policemen carrying out apprehension, escort, and custody we take the briefing of officers at the beginning of their

daily service and the check after it as main priorities. All officers who commit an infringement or fail to fulfil their obligations set out in the rules will be taken under examination. Once their liability is proved, the police will act consistently and rigorously against them.

It is worth to mention in connection with the topic that the Act C of 2012 on the Criminal Code which came into force on 1 July 2013 amended almost half-hundred special acts. Concerning the scope of the CPT's activities we need to highlight some changes such as the stricter punishment of ill-treatment in official proceedings (section 301) and also adding the aggravating circumstance of commitment in a group to the above mentioned section as well as to the one on the third degree (section 303). So we can declare that the new Criminal Code has a stricter approach to the crimes that can be committed by public officials, in the case of committing the previous two crimes in a group the punishment may be reduced without limitation if one of the perpetrators reveals the circumstances of the case to the authority before the indictment is lodged. By using this extenuation the state can exercise its right to punish unlawfulness more effectively.

Concerning the subject it is also important that from 1 January 2013 the Decree No. 27/2007 (V. 31.) IRM of the Minister of Justice and Law Enforcement on the rules of implementation of the detention ordered in immigration procedure was amended by several provisions that appropriately clarify the frame of how the rights of detainees can be exercised or restrained. The Decree was modified in fields of:

- a) the use of certain facilities of the guarded shelter,
- b) the application of isolation,
- c) keeping of contacts via telephone set,
- d) access to educational and spare time activities,
- e) professional healthcare assistance,
- f) provision of interpreter during consulting hours at the doctor's.

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;

HU can accept the recommendation given by the CPT and the Police is strengthening its efforts to prevent ill-treatment in accordance with it. However, the procurement of electronic recording equipment to assure the accurate recording of police interviews are requiring significant financial resources that are not available at this moment.

iii) providing police officers with further practical training

In order to increase the standards of the executive measures carried out by police staff we are planning to issue a norm on operational tactics trainings. The main aim of these trainings is to teach the police staff how to avoid the unnecessary use of coercive means and to introduce more communication or tactics to facilitate successful conflict management. Using the given infrastructure we intend to appoint sites like cabinet for measure tactics and firing ranges

suitable for improving the standards of the trainings. In favour of the protection of the officers and the safe actions we are also planning to involve criminal executive staff in these trainings.

iv) intentional tightening of handcuffs

According to the Decree no. 30/2011 of the Minister of the Interior on Policies for police service using handcuffs in a way that causes unnecessary pain or harm or effectuate degrading treatment is prohibited. The handcuffs in use are designed to have double interlocks. If the handcuffs are used appropriately, this technology helps to avoid the injury of the person's hands when wearing them.

Comment on point 16 on page 12 of the Report (carrying batons and chemical devices)

Similarly to the comment provided after the Committee's visit to Hungary in 2009, we confirm the fact that just like in the practice of other countries holding and using baton is one of the coercive devices the police is equipped with regulated by Section 49, Subsection (1) of the Act on the Police, according to which the police officer may use the provided chemical or electric shocking device, police truncheon or flat of sword in order a) to avert an attack directly endangering the life, bodily integrity of others or his own or the security of property b) break resistance to a lawful action taken by police.

Taking the design and the distinctive features of the baton into consideration it falls into the same legal category with chemical or electric shocking devices and the flat of sword. With reference to the above, we still consider the holding of batons necessary by police officers completing service at the places of detainment, as no other coercive device the police is equipped with could be more effective or expedient when maintaining safety of custody or by the proportional, lawful, and appropriate averting of an attack. We aim to provide all police officers a basic or, if needed, a specialised training on the use of baton.

In paragraph 17 the CPT suggests 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

Wording of Decree no. 19/1995 of the Ministry of Interior on the order of the police facilities can be a bit confusing since it can be interpreted in a way that as would be the case if physical damage report would be required only if a detainee claims to have been abused but this is not the case. In accordance with Section 171 Subsection 2 of the CCP if there is any suspicious sign can be detected that a crime was committed the doctor delivering the examination shall report the case. The CCP contains the general rules, the Decree is an inferior law so the CCP should be taken into account.

However, in order to make this clear, within the framework of the next amendment of Decree No. 19/1995, the CPT's recommendation, which says that a protocol should be drawn up and forwarded to the prosecutor whenever injuries are recorded by doctors which are indicative of ill-treatment, even if the person concerned makes no allegations of ill-treatment, will be incorporated.

In paragraph 19 of the Report the CPT encourages 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 explicitly requests otherwise in a particular case – out of the sight of staff with no health-care duties.

In our opinion the content of the rules referred to in the Report are in line with the recommendation made by the CPT. Section 22, subsections 1-2 of the Decree of the Ministry of Interior stipulates that medical services shall be provided to detainees at police custodial establishments primarily by the police medical service or in the lack of such by a contracted public or municipality healthcare service. In every establishment for detention there is a room to perform medical activities in connection with the detainees' admission to the police holding facility or any other activities concerning their health conditions. As these premises are located in the territory of the police custody establishments, they are properly guarded.

According to the 2012 report of the Division of Healthcare and Psychology (HR Management Service) on the public health, epidemiological, and labour safety conditions, the health and psychological services provided to detainees, and the extraordinary events concerning public health or labour safety in the police holding facilities, guarded shelters, and waiting rooms for apprehended persons the examined medical rooms are in satisfactory general condition with appropriate equipment, they are usually tidy and clean.

Referring to the recommendation concerning the detainees' transport to the place of the medical examination by independent police staff we consider it important to draw the CPT's attention to instructions of the Section 17, Subsection 2 of the Police Act as among the common principles and rules of measures and the use of coercive means that kind of assistance shall be promptly given to the person injured in the course of a Police action. Section 18, Subsection 2 also stipulates that the Police shall take care of the accommodation of detainees and the provisions necessary for preventing the deterioration of their health during custody. Injured, ill detainees or those who require urgent medical aid for any other reason shall be given medical aid. The management of these tasks should be the responsibility of the policeman who is carrying out measures although in practice it is usually not the same person.

The National Police Headquarters is examining the possibility of setting up an escort guard subdivision at every police custody establishment or applying the number of staff that can entirely fulfil all the escorting tasks that might appear at a county police directorate.

Regarding questions in paragraph 20 and 21 on page 14 of the Report:

On the amendment of regulations concerning the police custody the National Police Headquarters will take into consideration the recommendation of the CPT about ensuring that 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

3. Safeguards against ill-treatment

Guaranteeing the right of persons detained by the police to inform a relative (paragraph 22)

Applicable rules on this issue are in line with the CPT's recommendation thus it is not necessary to supplement or modify them. Section 18, Subsection 1 of the Act on Police specifically stipulates that the person in custody shall be given an opportunity to inform one of his/her relatives or another person provided that it does not jeopardize the goal of the measure. If the detainee is not in a position to exercise this right then the Police shall inform those concerned. If the person in custody is a minor or placed under a legal guardianship, his/her legal representative or guardian shall be promptly informed.

Ensuring the access to a lawyer (paragraphs 23-24)

HU notes that both the Act on Criminal Proceedings and the Decree of the Ministry of Interior contain instructions to ensure detainees' rights.

In accordance with CCP Section 43, Subsection 3, point a) the defendant is entitled to contact his/her defence counsel, and, in the case of foreign citizens, the representative of the consulate of his or her native country and communicate with them both in writing and verbally without control. Section 3, Subsection 3 a) of the Decree stipulates that all kinds of detainee (criminal offence, minor offence, public safety custody, pre-trial detention, and convict) are entitled to keep contact with their defence counsel or legal representative in connection with the case without control under safety supervision. Section 2, Subsection 1 a) declares that detainees shall practise their criminal procedural rights and keep contact with their legal representative in connection with the case leading to custody without control under safety supervision.

Considering the safety of the custody in order to protect the detainees and the visitors on the territory of the police establishment; point 53 of Police Order no. 19/1996. (VIII. 23.) on the Police Regulation of the Detention room service the custody guard shall pay attention to the activities of the persons in case of receiving visitors under no control. However, guards shall stay at a place from where the conversation cannot be overheard but they can intervene if it is necessary, especially in case of an attack against the visitor or a behaviour that is against the law or the regulations of the detention room.

In accordance with Section 73, Subsection 1 of the Act No. II of 2012 on the minor offences, the proceedings in case of minor offences, and their administration system persons apprehended on the spot shall be taken into custody in favour of an accelerated judicial procedure.

According to Section 34, Subsection 1 of the same act the person under procedure is entitled to the right of defence. Section 52, Subsection 1 defines that the person under procedure is also a person, against whom there is a minor offence procedure. Section 53, Subsection 1 stipulates that the person under procedure shall be represented at every stage of the procedure by their legal representative or any major person with written authorisation from either the person under procedure or his/her legal representative. The Act does not explicitly mention lawyers as it considers them to fall into the category of authorised representative.

Section 124, Subsection 3 stipulates the obligation for ex-officio assignment of a public defender only when the person under procedure does not have an authorised legal counsel and only in order to prepare them for the trial.

Taking into consideration that the right to defence belongs to the basic principles of the proceedings, the person under procedure is entitled to it at every stage of the procedure. When a person without legal counsel is taken to custody for a minor offence, they are ex-officio provided with a public defender on the outset of the custody. In order to raise awareness of this regulation, a professional guide on this was compiled by the Directorate General for Law Enforcement of the National Police Headquarters.

In their Report the CPT recommend that ex-officio public defenders 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. In connection with this we need to quote Section 50, Subsection 1 of the Act on Criminal Proceedings stipulating among others that the counsel for the defence shall

- a) establish contact with the defendant without delay,
- b) use all legal means of defence in the interest of the defendant in due time,
- c) inform the defendant of the legal means of defence and his rights,
- d) further the investigation of facts extenuating for the defendant or diminishing the liability thereof.

Taking into account that Section 44 of the Act on Criminal Proceedings unambiguously defines who can fulfil the tasks of a legal counsel, there is no further need to warn them about their responsibilities.

The Police would like to point out that applying the recommendation to have the Bar Association to choose a lawyer would raise difficulties for the authorities when fulfilling their tasks. It would make the prompt interrogation impossible, which can endanger the successful outcome of the case. (It cannot be delivered within the 72 hours' time limit.)

Regarding ensuring the right of access to a doctor of one's own choice, to be formally guaranteed (paragraph 25)

In accordance with Section 18, Subsection 2 of the Police Act from the first moment of the custody the injured, ill detainees or those who require urgent medical aid for any other reason shall be given medical aid.

On recommendation concerning the management of medicines (paragraph 26)

On the basis of the Instruction no. 22/2010 (OT 10.) of the Hungarian National Police issued to implement the recommendations of CPT and the evaluation of the experiences gathered during investigation of complaints in 2012 we can conclude that most of the detainees suffer from addiction to alcohol or drugs and they are provided regular medication during the custody. This involves significant safety and health risks so the Police are examining the possibility of having a healthcare specialist in every police custodial establishment.

In paragraph 27 the CPT invites the Hungarian authorities to take further steps to ensure that an up-to-date information sheet in foreign language is available in all police establishments

Measure was taken in October 2012 to amend the information sheet titled "About the rights and obligations of the detainees and the coercive means that can be applied against them" in accordance with the Act on Criminal Proceedings.

As after updating it the sheet will contain all the norms in force, we believe that the new guide besides the old one with the help of an interpreter will fulfil the requirements of giving information on rights in foreign language.

In the paragraph 28 the CPT 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 Headquarters if the Head disagrees with the Board's opinion and to initiate ex officio inquiries into cases of alleged police misconduct).

According to Section 1 paragraph 92 of the Act on Police the Independent Police Complaints Board deals with single private claims instead of delivering a general supervising role regarding police actions. There are no plans of introducing the ex-officio institution of proceeding by the Independent Police Complaints Board, this competence is provided for the Commissioner for Fundamental Rights at present. Subchapter 11 of the Act on the Commissioner for Fundamental Rights defines the set of the measures available for the Commissioner depending on the results of the examination by the Head of the National Police Headquarters. The amendment suggested by the CPT would provide the same competency for the Independent Police Complaints Board and the Commissioner for Fundamental Rights, which is also provided with a status of independent nature. We do not consider this duplication of competencies reasonable.

The Police are obliged to inform the prosecutor and initiate a procedure ex officio if they learn or detect any crime committed by a police officer.

4. Conditions of detention in police establishments

Comments on points 29 and 30 on page 17 of the Report (delays in access to toilets, modernization of holding facilities, refurbishing of the Central Holding Facility of the Budapest Police Directorate)

As a consequence of making the legal conditions of the pre-trial detention stricter and the amendment of the Act on Criminal Proceedings on 1 January 2005, which defines prisons as the place for pre-trial custody, there has been a great decrease in the number of detainees in the police holding rooms. This decrease has led to the reduction of the number of police establishments by closure or temporary suspension of their operation.

The conditions of accommodation in the holding facilities as well as the state of the furniture have been assessed by the Directorate General for Economic Affairs of the National Police Headquarters on several occasions in the past years. Based on the examination conducted in November 2006 a plan was made on the schedule of eliminating the deficiencies. With the aim of meeting the requirements many alterations of lower cost were made on the holding facilities. In the long term we are planning the entire refurbishment of the holding facilities that have not been carried out yet due to the lack of financial resources.

The sizing of the windows during the building or refurbishment of holding facilities is in accordance with the instructions given in Government Decree no. 253/1997. (XII. 20) on the national requirements of settlement planning and building. Section 88, Subsection 3 stipulates that the ratio of the size of the surface for providing natural light and the useful area of the room is 1:8.

The General Directorate for Law Enforcement of the National Police Headquarters drew it up as a requirement that only transparent, safety glass, bottom hung, mechanically reinforced windows can be installed that are connected to the electrical alarm system. The frosted glass decreases the amount of light only by a minimal extent but can be exclusively balanced by increasing the size of the window. Considering the financial situation the access to a great amount of natural light could be provided only in the case of newly built and refurbished holding rooms.

The Police will take the referring recommendations of the CPT into consideration when amending the regulations on the operation of such facilities.

In the Aradi Street Holding Facility at the National Investigation Bureau there is one toilet available for three persons, while in the Gyorskocsi Street Holding Facility of the Budapest Police Directorate there is one per cell unit outside the cells which can be the cause of waiting, which never exceeds 10 or 15 minutes.

During the use of the rooms and the toilets the rules of separation shall be implemented as well, according to which the common rooms can only be used at the same time by the detainees accommodated in the same cell. Prison staff examines the rooms after use which can further increase the delay.

In 2002 as part of the Phare programme kitchenettes were established on every floor and the shower rooms were renewed. Keeping in mind that the building itself is obsolete and cannot be refurbished, only maintenance jobs are carried out.

With reference to the above mentioned facts due to changes in the regulation and the decreasing number of detainees' floors 4, 5, and previously floor number 6 of the Gyorskocsi Street Holding Facility were taken over by the General Directorate of the Hungarian Prison Service. At present there is a reconstruction in progress.

In case of the holding rooms we are planning renovations depending on the financial resources. The Budapest Police Directorate are not planning significant renewal work in the facilities under their control.

Comments on point 31 on page 17 of the Report (outdoor exercise)

At the holding facilities of the Szeged Police Directorate and at the Aradi Street Holding Facility at the National Investigation Bureau in Budapest there are roofs to cover 1/3 of the top of the facility so detainees staying outside are protected from inclement weather.

As the regulations on separation shall be implemented, these places were established to be able to provide outdoor stay to 4-5 persons for a maximum one hour. With regard to the above, the area of the places available for outdoor stay is not sufficient for having a rest or installing sports furniture but provide room for exercising outside.

Comments on point 32 on page 18 of the Report (regime of activities to remand prisoners)

Section 10 of the Decree of the Minister of Interior entitles the detainees to hold particular objects that they can use to spend their free time. These may involve small, light objects used for practising a religion, pocket radio with batteries, headset, portable TV set (with batteries), wristwatch, eyeglasses, contact lenses, spare batteries outside the cell, playing cards, chess,

and other games that do not threaten the safety of custody. In case detainees use any of these objects to commit or attempt any act that is to be considered as extraordinary, the specific object shall be handled as deposit and could only be used under supervision.

Regarding custody ordered in immigration procedures, we would like to inform the CPT on the use of EU funds (over 150 million HUF) in order to ensure the availability of spare time activities, thanks to which internet rooms, gymnasiums, praying rooms, libraries, and outside exercise gardens were established in the guarded shelters under the control of the Police for third country nationals, who illegally entered or stay in Hungary. Furthermore, at present there are projects worth of 130 million HUF on the way to finance refurbishing rooms to enable them to accommodate vulnerable groups, reconstructions, trainings, and modernization. Since the beginning of 2012 the social workers of "Shelter – Association for the Support of Immigrants" have been present at the guarded shelters providing continuous psychological consultation. Free legal help is also available.

Comments on point 34 on page 18 of the Report (waiting rooms for apprehended persons)

The waiting rooms for apprehended persons can be found inside police premises with heating where the apprehended persons may wear their own clothing. If a person is accommodated in such a room, in the sense of Section 18 of the Police Act the Police shall take care of the provisions necessary for preventing the deterioration of their health during custody.

During the deprivation of personal freedom it is important that the term of being accommodated in a waiting room shall not last until the maximum interval. If prolongation of deprivation of personal freedom is needed, it should be carried out in a police holding facility.

Besides meeting the requirements of providing the safety of custody the furniture of these rooms was established to ensure the apprehended persons' right guaranteed by the law. In these rooms there is usually no need for mattresses or blankets but if such a case appears, they are provided.

B. Prison Service establishments

1. Preliminary remarks

The CPT 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)

Of course we accept the statement of the CPT that the 71st Regulation of the R/2006/2 Recommendation of January 11th 2006 on the European Prison Rules to member states refers to the fact that "prisons shall be the responsibility of public authorities separate from military, police or criminal investigation services".

In our opinion operation under the supervision of the same ministry does not in any way mean mixing tasks. However, we would like to note that the current organizational system has brought along positive results in several points, for example it promoted the development of a unified training system in the area of law enforcement, enabled interoperability and led to cost-effectiveness in the unification of suit, technology and equipment.

According to the paragraph 40 of the Report 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. It suggests 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.

The CPT delegation's position is that since their last visit in 2009, prison overcrowding has doubled – they made this observation based on the fact that the overpopulation rate (the rate exceeding the 100%) has grown double (from 122 % to 144% in a national average). Such a presentation of accommodation can be misleading because - though mathematically correct – in superficial interpretation it could suggest that the overcrowding (that is, the number of the prisoners) has doubled. To avoid this, but still properly emphasizing the magnitude and the gravity of the accommodation problem it is recommended to specify that in the course of the last 4 years the overcrowding of the prisons has increased by a further 22%, to 144% .

The Report also notes that during the visits the CPT received adequate information about the causes of overcrowding, and about the method of handling it. It should be emphasized that the Prison Service is under the general obligation of providing accommodation, and it cannot significantly affect either the number or the temporal and geographical distribution of the admissions. The Government has worked out a new standpoint about subsequent adjustments with a view to long-term planning; by starting a new, comprehensive, multi-year programme for capacity expansion, and by placing the execution of the tasks of the Prison Service on new footing.

The aim of the programme is the uniform distribution of the additional responsibilities among the institutions. While agreeing with the fact that the programme is neither the sole nor the long-term solution, it should be emphasized that the work invested in it is not in vain, because it prevents much more serious – with the wording of the Report – problems than those caused.

The overcrowding “balancing” programme gives high priority to the principles of regionalism and individuality, the transfer of each prisoner is dealt with individually with the aim of not to weaken contacts with relatives, but the number of transfers should not increase significantly because of ensuring possibility to maintain contacts.

The CPT's proposal, in which it recommends to increase the minimum size of the inmates' living space, is currently controlled by suitable legal standards, which include regulations with specific figures concerning the airspace and sufficient room to be provided. Following the 2010 amendment to the Act, the Government clearly stated that they intend to take decisive actions to eliminate overcrowding, because accommodation cannot be provided according to the previous regulations with the present number of inmates.

At this moment the standards for minimum size of the inmates' living space are regulated in paragraph 137 of the Decree of the Ministry of Justice no. 6/1996 (VII. 12.) on the execution of imprisonment and pre-trial detention as it follows:

Number of convicted persons in a cell or living space should be determined in a way that ensures at least 6 m³ airspace and if it is possible in case of men 3 m³ and in case of juvenile or women 3, 5 m² space per person.

In case of determination of place for movement floor space occupied by objects that reducing fitting area should be ignored

In case of single placement; floor of the cell (living space) should be at least 6 m².

The concrete extent of the minimum size of movement area and also the minimum size of airspace should be determined in decree level in the future as well. However, the basic rules for placement is included in the CEP as follows:

Prisoners can be placed together but if it is possible, the prisoner shall be placed alone.

The prisoners should be provided with sheets in a single bed and, this can be otherwise only in exceptional cases in the absence of other options.

In paragraph 41 the CPT encourages the Hungarian authorities to use the opportunity of drafting a Prison Concept to engage in a broad consultation process involving civil society, it also requests for information on progress in the drafting of a Prison Concept.

Please note that we took into consideration the observations made by CPT on its previous visit when we prepared the CEP. The draft of the code was released for administrative and social consultation and it was adopted by the Parliament at the end of 2013.

We wish to note that Mr Mykola Gnatovskyj, the Vice-President of CPT was present on the international conference organized in the subject and contributed with several good ideas.

2. Ill-treatment

According to paragraph 46 of the Report the Hungarian authorities have 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;

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.**

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; the system for investigating allegations of ill-treatment of prisoners to be fundamentally reviewed in order to make it more effective.

With regard to the CPT's recommendations set forth above, the Head of the Hungarian Prison Service instructed all law enforcement institutions to curb ill-treatment perpetrated during official proceedings more effectively, to maintain good communication with the prisoners, to refrain from using any abusive or discriminatory expressions, and to keep up the attention to these issues continuously.

Having regard to the contents of the European Code of Ethics for Prison Staff and the Code of Ethics of Prison Service we apply all available tools to ensure that the staff perform their duties taking into account the professional integrity and ethical principles at all times, and revealed and proven disobedience will come to impeachment in each case.

The management of the prisons will in every case take the necessary actions with regard to providing information, documents and other evidence to prosecution.

On the instruction of the Minister of the Interior verification tasks have been defined in the two prisons mentioned in the recommendation.

The investigation found that in the audited period the commander of Sopronkőhida Prison pressed charges in 20 cases at the regionally relevant department of the Central Investigating Chief Prosecutor's Office (10 cases in 2011, 8 in 2012 and 2 in the first quarter of 2013). With the exception of three cases, which are pending, the decision of the prosecutor's office was to terminate the proceedings, still in the investigative stage.

The high number of cases could be considered informative, but no negative phenomena or correlations could be found behind the data.

In accordance with the established procedures the commander of the prison fulfilled his obligation and pressed charges due to the prisoners' complaints, notifications about abuse, regardless of how much of them were true.

Investigating the cases individually and in context the audit committee found no data suggesting a link to a group of specific persons in the staff who would constantly do their service in an unlawful manner. During the investigation conducted regularly at the prison in relation to the treatment of the prisoners, the staff of the Prosecutor's Office of Győr-Moson-Sopron County, which performs legal supervising in the subject, did not observe any circumstances that would necessitate any measures by the prosecutor.

In Somogy County Prison, criminal cases of assaults perpetrated by staff (none in 2011 and 2013, in 2012 criminal proceedings were started in 2 cases) were closed with the decision to terminate proceedings in the investigative stage.

It can be concluded that a significant decline is found in the number of cases in the prison compared to previous years which is the outcome of the management's high expectations and control, the training of the executive staff and work done by the rules.

On the whole it can be stated that the staff's attention is constantly drawn – among others via trainings – to the fact that they are obliged to meet the requirements of the lawful treatment of the prisoners, with special regard to prohibition of abuse or discriminatory attitudes.

It can be concluded that the audit has not brought deficiencies to light; the management and staff are adequately prepared for the lawful and proper performance of their tasks in both prisons.

In the opinion of the CPT (paragraph 47-50) steps are 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 shall be protected from retaliatory action by staff; prison staff working at Somogy County and Sopronkőhida Prisons are 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; at Somogy County and Sopronkőhida Prisons steps should be taken to further rationalise 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; 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; 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).

The leadership of the Hungarian Prison Service agrees with the statement that the service provider staff members should always be identifiable whilst on duty. To this end, they instructed the prisons in a circular mail that the regular members of staff should wear the identification numbers whilst on duty, and also that the trainee staff should be provided with an identification number by the end of the 14-week training.

We wish to note that the identification numbers are fully capable of identifying the staff members, so the use of an additional nameplate is not considered reasonable.

The CPT's recommendation above was also examined and analysed. We have to acknowledge that the number of the violent acts perpetrated among the prisoners did not decrease sufficiently, and we must make serious efforts to prevent such acts in the future.

A part of the proceedings initiated because of coercion can be associated with overcrowding (in Sopronkőhida 150%, and in Kaposvár 157%). The prisoners – and in the case of violence also the victim(s) – are provided with the opportunity by the regulations to submit a complaint during the officer's, commander's, prosecutor's hearing, or they may turn to any authority in writing in order to have their problems solved.

It is important to note that we have put great emphasis on curbing inter-prisoner violence, and taking preventive measures. Regular trainings are held in regard to inter-prisoner violence. Trainings are carried out along a training plan and are carefully documented. During the training we focus on teaching the staff to recognize the circumstances and behaviours that help prevent or recognize the possibility of victimization in time. During the trainings, experiences of already occurred breaches of obedience are discussed and trainers provide information on stress-management and the autogenous training method.

The CEP contains a precise regulation of CCTV operating in the prisons.

3. Staff-inmate relations

In paragraph 56 of the Report CPT suggests 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
- if it is deemed necessary for prison staff to carry batons and handcuffs in detention areas, they should be hidden from view

- **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**
- **to continue to build on staff-inmate interaction in Szeged Prison's BSR and HSR Units.**

Security (iron) bars installed inside the cells of the HSR and BSR units serve to protect the lives and physical integrity of the persons entering the cell; the internal iron bars are in each case installed after the careful assessment of individual security risks.

Most of the inmates placed in both the HSR and BSR units spend actual life imprisonment or life imprisonment for qualified multiple homicide.

The prisoners in question pose increased safety risk, due to the circumstances of the crimes committed, the prisoners' personal characters and other risk factors affecting law enforcement.

During the psychological or health care of the prisoners the psychologist, the priest or the doctor need to talk to the person in question in private. In doing so they may become aware of confidential information which is covered by the obligation of professional secrecy, so to minimize the security risk arising from the lack of supervision the installation of such means of security is necessary. The measure aims to provide the physical protection of the persons working in their professional capacity, while ensuring confidentiality and relaxing atmosphere among the prisoners and the professionals.

When a staff member enters a cell, an inmate accommodated there – and appointed for the task with his/her own consent – gives a report based on the pattern specified by the institution. The purpose of this routine is that the staff get the right information about the number of inmates, the reason for absences and other events in the cell. We believe that the contents of the reports and the circumstances are not degrading to the prisoners.

We agree with your finding fault with the practice that the prisoners face the wall. If we find such practice in the institutions, we always instruct the management of the institution to terminate it.

We agree with the proposal in the Report that in the future we should make every effort to increase the number of female staff and female psychologists.

However, in our opinion the currently available human resources – taking into account the special tasks – are properly distributed among the prisons.

The Somogy County Prison has already taken action to increase the number of staff and especially the number of female staff – in order to tackle the problem raised during the visit -, and as a result, one female worker has been employed. In the case of further vacancy statuses these aspects are going to be taken into account. We intend to give an emphasis to the appropriate mix of personnel on organizational level when recruiting staff in the future.

In the year 2013 – after the visit of CPT – when the security rules of prison service were modified it was determined that even the act of readying any means of coercion for use (e.g. holding a baton in hand) is only legitimate in justified cases, when the conditions for application are present. The requirements and recommendations were taken into account during the modification, when we set the rules for wearing and using the equipment(s).

In our position the placement and treatment of the prisoners is done in a differentiated manner, but when the maintenance of order and discipline, the prevention of serious incidents require, we still find the availability of these means justified, given the fact that the use of the means of coercion is not only right, but also an obligation required by law.

In addition to the above, it can be stated that the use of physical force and handcuffs – as means of coercion – sometimes occurs. Baton was used only three times in the last three years, in each of these cases its use became necessary to avert the rampaging inmates' attacks against the guard. The use of tear gas did not occur in the past few years, so in consideration of the technical aspects – and taking into account the recommendations of the CPT –, the range of the means of coercion, and their provision as accoutrements is going to be reviewed.

In the HSR and BSR units of Szeged Prison the use of the means of coercion is determined on the basis of individualised risk assessment, in the form of an individualized treatment manual, which is approved by the deputy commander based on the proposal of the Professional Committee.

The sworn staff members of the prisons are qualified to use restraint equipment during the lawful performance of their duties in order to prevent acts which violate or endanger the safety of detention, but only when the lawful conditions of using handcuffs as means of coercion do not apply. The use of the means of restraint within the institution or outside of it is always determined individually. Having regard to the above, the management of the prison was instructed to review the use of restraint equipment within the institution.

4. Prisoners subjected to special regimes

In paragraphs 58, 59 and 72 the CPT states that the procedures for the placement, and its revision, in the BSR Unit to be further improved. BSR prisoners should always be 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).

According to the current regulation, the placement of the convicts in special security cells can be ordered by the prison for a maximum period of 6 months, this term can be prolonged once for 3 more months. The penal institution shall make a formal decision with proper reasoning in such cases. Decision on the further prolongation of the placement of inmates in special security cells for a maximum of 6 months at each occasion, and on the placement of convicts in Special Security Unit for a maximum term of 6 months, or on the prolongation of the latter one for a maximum of 6 more months at each occasion, belongs to the competency of the Head of the National Prison Service, who shall provide an appropriate reasoning in the decision. The convict may appeal against the decision of the penal institute or the Head of the National Prison Service to the court within 3 days after the receipt of the decision. The appeal does not suspend the implementation of the decision.

In our opinion the process that needs to be completed prior to and the level of the decision making are proportionate with the above mentioned means of the deprivation of personal liberty. According to the CEP, the Admission and Employment Committee (BFB) shall make a formal decision on the first inclusion of convicts under the specific regime category required by the individualisation, as well as on the graduation to a stricter security group or to no. IV

security group, following the hearing of the inmate. The inmate has the right to appeal against the decision of the BFB.

According to the CEP, the implementation of HSR could be ordered or terminated on the decision of the BFB. This decision is due to review after each 3 months, or shall be immediately terminated in case its conditions do not prevail any more. Before deciding on the implementation of HSR as well as on the revision of placement, the convict needs to be heard, and the decision should be communicated in written form.

The CEP provides the right to decide on placing the convict in security cell (BR) for a maximum period of 6 months to the commander of the penal institution. This term can be prolonged once for 3 more months. The penal institution shall make a formal decision with proper reasoning. Decision on the further prolongation of the placement of inmates in security cell for a maximum of 6 months at each occasion, and on the placement of convicts in Security Unit for a maximum term of 6 months, or on the prolongation of the latter one for a maximum of 6 more months at each occasion, belongs to the competency of the Head of the National Prison Service, who shall provide an appropriate reasoning in the decision. Prior to the making of the above decisions, the convict has to be heard. As an exception, the hearing may be omitted for security and crime prevention interests. The appeal of the convict against the above decisions of the penal institute or the Head of the National Prison Service shall be arbitrated by the judge within 5 days after the receipt of the appeal. Based on the opinion of the Directorate General Human Rights and Rule of Law on the HU draft law on Execution of Punishments we will introduce the requirement for the necessary documents to be given promptly to the law enforcement judge.

The practice in Szeged Prison predominantly complies with the CPT's proposal: reviews are held on a regular basis, with a frequency of every six month in accordance with Article 47/A of Decree no. 6/1996 of the Minister of Justice on the Rules of the Implementation of Imprisonment and Pre-trial Detention. It can also be established that in Szeged Prison the justification of placement for inmates placed in the HSR and BSR units is reviewed every three months, during which the inmate concerned is personally interviewed.

The meeting with the prisoners includes a preliminary hearing by the psychologist and the educator, and also the personal appearance which is required when the formal decision is made in the issue of the placement.

We agree with the observation that the decision about the placement is to be issued in a written format, and we have taken action to amend the current national commanders' standards. With regard to complaints in connection with the limited nature of appeals against the decisions on extended placement, Article 6 of the Decree provides the general right to complain.

The report also states that "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". The proposal recommends that "alternative placement should be sought for prisoners segregated for their own protection".

In Szeged Prison the legal rights of the inmates – who are placed in the BSR unit for their own protection – are not affected with placement in the BSR unit, as treatment rules are established individually with regard to the inmates concerned. For prisoners placed in the BSR unit the rules set by the legislation for penitentiary grade prevail; so in accordance with the penitentiary grade and because of the closed cell doors the inmates in the BSR unit cannot

come into contact with the other high security risk detainees, and their moving is done with close attention.

In view of the facts stated above it is our position that the current measures are sufficient, and we do not consider it reasonable to form a separate unit for the placement of the protected detainees, taking into account the overcrowdedness of the institution and other obligatory aspects of differentiation specified in the legislation.

In paragraph 60 the CPT requested information on the establishment of the new HSR Unit in the Budapest Strict and Medium Range Prison.

The establishment of the third HSR unit to be opened in the Budapest Strict and Medium Range Prison is in progress now. Therefore, in its right wing called “Csillag” I of object A, which has been empty for 11 years and thus it is in need of renovation, 55 additional places will be created. From security point of view, this part of the building is planned to be of the highest degree. Additional places will be established at four levels – ground floor and three upper floors –, on a total area of 1240 m². As to the design, we will attempt to create one-man or two-man cells, and the service functions (service and office rooms, visitors’ rooms, healthcare and community rooms, store rooms etc.) will be established separately in the given part of the building. We would like to point out that the establishment of the new HSR block is a positive step forward for the reduction of overcrowding, for better differentiation and better contacts, too. The efficiency and the improved standard of health-care have special importance in this area. Another development concept is the establishment of a Health Centre affecting the prison service. Several locations have been visited for this purpose. The preparations are going on for the final selection and the related decision.

Regarding recommendations in paragraphs 61, 63 and 66:

- **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 lack of proper partitioning of in-cell toilets is far from satisfactory when the cells in the HSR Unit are used for double occupancy; in-cell toilets should be fully partitioned in the BSR Unit;**
- **in-cell toilets should not be within the scope of CCTV cameras in observation cells;**
- **the imposition of visits through a glass partition (as well as any other restrictions) always be based on an individual evidence-based risk assessment.**

With consideration to our findings which are founded on professional grounds and the recommendation of the CPT the number of the cells separated with bars internally was reduced in the BSR unit. Currently there are only two cells separated internally with bars which accommodate more than one prisoner. The placement of two prisoners is justified by the fact that the inmates involved carry the risk of suicide – if left alone – according to the risk assessment. The inmates asked several times during the individual sessions not to serve their sentence in solitary placement, so the supportive presence of the other inmate is necessary – this placement also serves as a method of prevention. Furthermore, the staff members give priority to the suicide prevention tasks during supervision and individual or group therapy. Inmates without the risk of committing suicide get single-occupancy cell.

In 2007 the prison concerned started to separate the toilets in order to improve the conditions. In object no. I nearly 40% of the work have been finished. The prison intends to go on with

the remaining work; continuation is subject to budgetary resources. In Szeged Prison in-cell cameras are only used when there are specific reasons to assume the risk of suicide. In the camera-equipped cells a wall has been installed in the visual field between the toilet and the camera in a size that covers the inmate to the necessary extent.

In our view, the use of the camera in order to protect human life is a priority, so this makes the temporary restriction of the private sphere to such extent acceptable.

Taking into account the CPT's recommendation the Szeged Prison applies individual risk assessment for visitation restrictions.

According to paragraph 65 the CPT recommends 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.

In order to restrict the movement of inmates, strictly without causing bodily injury, with or without body belt handcuffs or any other tools providing immobilisation of limbs may be used until its conditions prevail, but not longer than a continuous term of 12 hours, if allowed by the health conditions of the inmate. This time limit shall not apply for cases when convicts are escorted or held in custody outside the penal institute.

According to Decree no. 6/1996 of the Minister of Justice on the Rules of the Implementation of Imprisonment and Pre-trial Detention:

“Application of tools restricting the movement of inmates

48. § (1) In case the legal conditions of the use of handcuffs as a coercive measure do not prevail, but the restriction of the movement of the convict is necessary for the prevention of any act that may violate or risk the safety of custody, handcuffs or other tool that may be placed on the limbs without causing bodily injury could be used as restrictive tool as far as allowed by the health conditions of the convict.

(2) The restricting tool may be used during the time of escorting or keeping the convict in custody outside the penal institute, in other cases during the time until the reasons of its use prevail, but not longer than a continuous term of 12 hours.

(3) Restriction of movement may be implemented through handcuffing the convicts hands in front of or behind the body, fastening two or more persons to each other, using both handcuffs and body belt, using handcuff with string, or any other tool capable of immobilising limbs.

(4) The right to order and terminate the use of a tool restricting movement, as well as handcuffs with string in cases of apprehension is entitled to the commander of the penal institute or any member of staff authorised by the commander.

(5) By apprehension in criminal proceedings the acting prosecutor or the court may order the removal of the tool restricting the movement. The guard implementing the apprehension is obliged to fulfil this order. This shall not apply for handcuffs with string.

(6) When keeping the convict at a specific location is otherwise not viable – except for the transport of the convict by a vehicle – the limb of the convict may be fastened to an object as a temporary measure.”

Comparing the current regulation with the referred terms of the European Prison Rules, we find our regulation appropriate, but at the same time we can accept that greater emphasis should be put on more accurate risk assessment in the individual cases.

CPT states that 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.

Review of the regulations about the equipment’s in the Special Security Unit (KBK) belongs to the field of competence of the Prison Service Headquarters, and we have taken actions to remedy the shortcomings. We find it important to emphasize that there is a separate fitness room available in the KBK for the inmates, and the toilet room was placed in the cell so as to be invisible through the eye-hole.

According to recommendations in paragraph 77:

- **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).**

As for the recommendation of CPT concerning security grading and its review it can be stated that the prisoners are always heard by the Admission and Employment Committee of the prison, and they also receive written information about the possibilities to appeal.

These tasks are mandatory and set out in normative regulations. However, there is no obligation required by legislation to give reasons for security grading, because of the security conditions.

However, we agree with the statement that "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."

With respect to the observation we intend to give more emphasis on the prevention of "getting this state permanent" with introducing and expanding further risk assessment alternatives.

We attach special importance to the extension of personalized inmate programs, training, education and employment, with special regard to prisoners whose accommodation and movement are subject to stricter rules, or who belong to special groups because of their personality, age or health condition. We accept the CPT recommendation regarding the employment of detained persons and the useful spending of spare time, with reference to the above points, too. We place special emphasis on the extension of jobs and the best utilization of tender possibilities. Recently, as a result of that, there has been a significant increase in the employment of detained persons; therefore the time spent outside of the cells has also increased significantly. In the future, we wish to create more jobs for prisoners and extend the involvement of civil organizations in the training and education of prisoners for the useful spending of their spare time.

5. Inmates held in mainstream prisoner accommodation

In paragraph 80 the Committee encourages 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.

The measures taken by the Government and the Minister of the Interior against general overcrowding facilitate the establishment of 23 new places in the Baranya County Remand Prison, and 35 places in the Bács-Kiskun County Remand Prison in 2013, and probably additional 379 places will be established in 2014. We will continuously examine the possibilities of extending the number of places in the future, too, and will make developments depending on our financial situation.

In the view of the above points made about general overcrowding, the local management in the Somogy County Remand Prison and in the Sopronkőhida Strict and Medium Range Prison – as in any other prison - attempts to reduce overcrowding, and continuous reconciliations are going on with the party that exercises the right of disposition, and, if necessary, transfers will be proposed to the Hungarian Prison Service.

The points made on pages 58-59 of the report say that „it has to be made sure that the originally planned number of inmates lives in the cells in the Prisons of Somogy County and Sopronkőhida...”.

In our opinion, these requirements could be satisfied only by placing an additional and disproportionate load on the prisons nearby. It is worth mentioning here that the report identifies the overcrowding of prisons as a problem that does not entirely belong to the prison organization. The excessive use of transient cells (transfer cells) was also raised, and in order to reduce that, the use of these cells is reduced to the minimum in the Sopronkőhida Strict and Medium Range Prison, and they introduced the system of transporting the prisoners from the cells.

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);

Based on the report’s statement on the prohibition of eye-holes and the observation of the washing units, it can be stated that they were established because of the already mentioned suicide prevention.

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);

This issue is regulated at this moment by the Decree of the Ministry of Justice (6/1996 (VII. 12.) on the enforcement of imprisonment and pre-trial detention as it follows: hot water bathing (showering) should be provided for the inmates at least once a week – for employees working in a contamination area on a daily basis after work. Compared to the possibilities of the institution daily bathing of all convicted workers and to women should be extended. For the period between regular baths - within the institution capabilities – hot water can be ensured as set out in the agenda of the institution concerned. The convicted women shall be provided with hot water in the period between regular baths as well. The adoption of the CPT's proposal would represent a significant expense for prisons. In the cells during a significant part of the day hot water is provided, and all the inmates have their own washing facilities. We will examine the possibility of increasing the access to showers in the prison establishments, and a central measure will be issued about that.

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).

The quantity and the quality of the food are defined in detail by the current normative controls. In addition to the enforcement of the available guarantees, the quality of the food is checked by both the economic unit and the medical staff, and they separate the necessary food samples, too. In several prisons, the same food is distributed to the prisoners and to the staff.

As far as the indicated prisons are concerned, the number of complaints lodged by inmates can be considered as negligible. The inmates’ complaints were always examined by the head

of the affected unit and the prosecutor providing legal supervision over prisons, and were rejected as unfounded complaints. The prisoners always receive the food corresponding to their nutrition standard in proper quantity and quality.

6. Health care

In paragraph 87 of the report the Committee request for information on the merging of the IMEI and the Central Hospital of the Prison Service in Tököl and the roadmap for this procedure. Whether the Hungarian authorities are planning to put the new structure under the supervision of the Ministry of Human Resources?

Many advantages of the future merging can be identified such as cost-effectiveness, labour cost-saving, modern operation, alternative use of the in-patient care institutions in other prisons, capacity building – optimization of material costs and human resources, streamlining the delivery task. Special attention should be paid to the efficiency and increase of quality of health care

In order to reach the above mentioned goals, a Government Decision on programmed development for prisons has been issued and significant steps were made during 2011 and 2012.

The general director of the Hospital in Borsod-Abaúj-Zemplén County submitted his proposal to the Ministry of Interior in 2013 in which he also supported the establishment of the new institute at the territory of this hospital.

The issue of supervising this new institution has not been at the agenda yet; however taking into account that the designated place is within the territory of a normal county level hospital at least the shared supervision between the two Ministries is likely to take place.

The Hungarian authorities are invited 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; patients placed in the admissions ward of the Central Hospital to be given food at appropriate times (paragraph 93).

In line with the recommendation of CPT, the Hospital has purchased breakfast tables and cell cabinets. These objects are already properly used by the inmates in the hospital wards. Considering the general poor condition of the Disease Identification Wards (BMO) and the requirement for a living space of 6 m², the Hospital worked out a renovation proposal, and this is currently being analyzed from professional and budget points of view. In this respect, the Hospital purchased a vandal-resistant toilet pan for ward 2 of the Internal Medicine Division. The periodical interruptions in hot water supply are known to the Hungarian Prison Service, the renovation will be considered in the planning of the budget of 2014. In the Disease Identification (BMO) block of the Hospital, the ill prisoners are given daily cold food supply, therefore their food supply is ensured even in the case of a longer waiting period.

CPT invites in paragraph 94 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.

In the subject of the prisoners' spare time activity, the Hospital has taken steps to provide TV service for the inmates, the contract has been signed and the system will be established by 31 October 2013. In this respect, another step forward is that the Hospital has purchased TV sets from tender funds, and these sets will be installed in wards set up for prisoners. Also with the prisoners' spare time activity in view, the Hospital signed an agreement with the Library of Pest County, and the education possibilities of prisoners have been extended by depositing books in the hospital for a long term.

The only obstacles in the way of exercises for ill prisoners can be the medical contraindications (e.g. status after operation). The Hospital has the necessary material conditions, the possibility is provided every day for a period of 1 hour. Clothes according to the season are provided for the outdoor exercise, and the prisoners are informed of that every day by the staff.

According to paragraph 96 steps to be taken to ensure that prisoners are not involved in the performance of health-care tasks.

A recommendation has been made to make sure that prisoners do not participate in the performance of medical tasks. The inmates in the Hospital do not participate in medical tasks; their scope of activity covers the cleaning of the institute only. For each prisoner in the Hospital, the tasks are controlled by the job description.

In the paragraph 98 of the report the CPT suggests 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.

According to the Decree of the Ministry of Justice (6/1996. (VII. 12.) on the enforcement of imprisonment and pre-trial detention; if the physical staying in one place of the convicted person can not be ensured in other way – except during transfers on vehicles – as temporary measure his limbs can be fixed/connected to objects as well. But in the CEP is one of the innovations that it will make it possible the use of electronic monitoring devices for prisoners on outside employment or placed in civil health care institution.

When prisoners are accommodated outside of the Hospital, in civilian health institutions, the rules of guarding are stipulated by the valid Security Regulations and by related local measures. On the basis of the regulatory documents, we would like to note in connection with the points made in the recommendation that in basic cases, the prisoners are not attached to their beds or a piece of furniture.

This may happen only in extremely justified cases, or when the security supervisor leaves the prisoner's direct surroundings, e.g. for his personal needs. In these cases, for the protection of the patients and the staff of the civilian hospital, and in order to prevent possible attempts to escape, physical attachment may be necessary.

The establishment of custody units in the affected hospitals does not fall within the competence of the prison service, as the budget for that is to be provided by the external civilian hospital, and the prison service has no control over that.

It should be noted that in the lack of proper utilization, the civilian health service does not think that custody units should be established in the present system, as prisoners are not always present in the given external hospitals, and civil patients may obviously not be placed into these units. Their maintenance and utilization is not rational under the present conditions.

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).

We agree with the establishment of shelters protecting from the weather in the areas assigned for being in the open air, as identified in the opinion of the CPT, and we support the relevant development efforts of prison institutions.

As to the specific location mentioned in the report, we wish to point out that for protection against the weather, a lean-to roof will be built until 30 November 2013 in the Juvenile Prison at Tököl.

In paragraph 100 the CPT points out again that there is no medical reason for the mandatory separation of HIV positive prisoners from the general prisoner population. The separation of the HIV positive prisoners should be based on free and informed approval.

According to the Decree of the Ministry of Justice (6/1996 (VII. 12.) on the enforcement of imprisonment and pre-trial detention; during the placement inpatient convicted form healthy people infectious people from non-infectious people, HIV positive people from other people should be separated, while the CEP does not follows this distinction it says only that infectious people from non-infectious people should be separated.

Paragraph 33 (1) of law-decree 11 of 1979 on the execution of punishments and measures regulates the obligations of prisoners, and point b) stipulates that „the prisoner shall tolerate segregation – especially – from prisoners of other sex and grade, and the classification into

In addition to the provisions of section 43 of order No. 5/1998 (III. 6.) of the Ministry of Justice on medical care of detained persons, section 39 (1) e) also stipulates that „ill people confined to bed shall be segregated from healthy prisoners, and within the ill persons, infectious people from non-infectious people, HIV positive people from other people”.

The prison service observes the provisions of the above mentioned legal regulations, when it arranges for the proper and segregated accommodation of known or detected HIV positive prisoners, and provides optimum conditions for that. This was identified by the present examination of the CPT, too.

Medical services are fully available to these prisoners, too, not only by the local medical unit, but by the HIV specialist of the Szent László Hospital of Budapest, too. This way the most professional care is ensured and the most up-to-date therapeutic products are available to them.

Prisoners accommodated in the K block that has been operating for a long time have lodged no complaints or objections against their location. Before their transport, the prisoners coming from various prisons of the country received proper information from the prison doctor, they

understood the need for this measure, and raised no objections, but accepted the decision. None of them has initiated his removal from this block.

In accordance with paragraph 101 the Hungarian authorities have to review the practice of prison doctors treating both prisoners and prison staff; 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; end the practice at Somogy Prison of nurses carrying out custodial tasks

The doctor's professional activity is based on universal professional principles, and it is unbiased. The medical services offered to the staff and the prisoners are separated in space and/or time, and both activities are performed with the official permit issued by the health administrative body.

We also think that the increased number of inmates in the Somogy County Remand Prison and the worsening general health condition of new entrants call for the revision of the consulting hours of doctors, but their employment in full or part time is not an essential condition of proper basic medical care.

As to the recommendation affecting the Sopronkőhida Strict and Medium Range Prison, this is to inform you that in full time jobs, two general practitioners have consulting hours on 4 days a week, the duration is adjusted to the requirements, and the patients are examined in each case.

In our opinion, there is no reason to release health workers within the professional staff from other official duties (short-term arrests etc.), as health workers are obliged to perform security tasks - in addition to their basic tasks - only if the detained person needs continuous medical control during his custody, because of his condition.

As far as paragraph 102 of the report concerned actions are 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**

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.

The emergency medical care – covering injuries suffered for various reasons, too – is provided immediately. We accept the comments on the documentation of medical treatment and on the data contents of the documentation, and we have taken steps to check them more thoroughly during the controls carried out by specialized agencies.

In the case of violent acts, the legal regulations regarding the recording of the medical findings are valid for the medical examination proposed by the CPT, too, as the regulations stipulate that immediate steps are to be taken to record the medical findings if marks of injury are detected on the prisoner on his arrival, or if he reports that he suffered injuries, if there is a suspicion of external attack or violence in connection with the injury, and if the medical findings are requested by an authority (court, prosecutor's office, police, prison organization etc.).

Considering the points made in the recommendation, the „prisoner, and, at his request, his lawyer shall be informed of the accessibility of the examination results”. This case is also governed by the legal provisions on health-care and the protection of health and medical data, which say that health data may be accessed by the affected person or by the persons appointed by him in a written authorization.

The paragraph 103 of the report invites again 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.

We would like to point out that the presence of the security staff during an examination by medical or professional staff may be justified because of the danger of escaping or for the safety of the medical staff attending to the patient, and the application of this practice is allowed for the prison service by the provisions of Act XLVII of 1997 on the management of health and related personal data, obviously with the maintenance of the intimacy of the doctor-patient relation as much as possible, without violating security interests. In such cases, the professional secrecy is mandatory for the security staff, too.

On the basis of the comments of CPT, we instructed the heads of prison organizations to make sure that staff members performing protection tasks are present in the examination room only in really justified cases.

Care should be taken to ensure that health-care staff shares information with non-medical staff strictly on a need-to-know basis (paragraph 104).

We agree with the CPT's recommendation regarding „the avoidance of unnecessary sharing of health data”, and the commander of the Sopronkőhida Strict and Medium Range Prison has been instructed to observe this to a greater extent.

We will check the management of prisoners' personal data in the whole country.

In the opinion of the Committee 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 and the attendance hours of a dentist at Sopronkőhida Prison is to be increased (paragraph 105, 106)

As to your recommendation on the psychiatrist's visits to the Sopronkőhida Strict and Medium Range Prison, please be informed that the prisons are obliged to ensure basic medical care to the inmates; out-patient care may be provided by the institutions according to their facilities and local demands.

We requested the prisons organizations to examine the possibility of employing a psychiatrist doctor in a part-time job or under a contract, and to do their best to find an efficient solution to this problem.

As to the length of the dentist's consulting hours, in the course of the checking carried out by professional agencies in the Sopronkőhida Strict and Medium Range Prison, the problems mentioned in the report were not experienced, but the dentist's consulting hours will be reviewed in the future.

7. Other issues

According to the recommendations included in point 107-108 the relevant legal provisions concerning the sanction of disciplinary confinement to be reviewed, action has to be taken to remedy the shortcomings observed as regards material conditions in the disciplinary and segregation cells in Somogy County Prison and the range of permitted reading material for prisoners undergoing disciplinary confinement to be broadened at Somogy County Prison. 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.

The present legal standards draw clear lines between the performance of disciplinary segregation and solitary confinement, and define the conditions of performance and the way of application. The disciplinary segregation means a change in accommodation only, and the purpose is to make sure that the behaviour of the prisoner could not influence the investigation of the disciplinary case. In the course of this kind of accommodation, the prisoner's rights are not violated; the cell is furnished in the normal way.

However, we would like to note that in the assessment of disciplinary offences, we always observe the principle of gradualness, and the maximum punishment terms identified in the report are applied in serious cases only, based on individual judgements.

We think that the "possibility" of application in individual cases is important for the sake of prevention, too.

On the basis of the recommendation made in connection with the Somogy County Remand Prison, please be informed that the maintenance works in the sectors of detained people are carried out continuously, and I can actually confirm that disciplinary cell No. 8 in block I of the institution is the only cell that presently lacks natural light.

Until the establishment of a proper window, I instructed the head of the institution not to use the cell for the accommodation of prisoners.

The order of carrying out the solitary confinement is regulated in the Rules of the House of the institution. According to the relevant provisions, the prisoner subject to solitary confinement may keep 1 piece of book, his letters, family photos, religious objects not dangerous to security, washing equipment (except for a razor), and documents and notes related to the punishment procedure with him.

We partially agree with the statement made in connection with the visit to the Somogy County Remand Prison that „disciplinary confinement may not include the total prohibition of family contacts for the term of the performance of this measure”.

Regarding the limitation, the provisions in the Rule of the House of the institution are to be observed. The prisoner may not receive a visitor, except for a priest, his future employer for the preparation of his release, his probation supervisor and the representative of the charity organization.

He is not allowed to talk to his contacts over the phone (exceptions: lawyer, legal representative, future employer to prepare for release, probation supervisor and representative of charity organization).

We would like to note that the institution does not limit the correspondence of the prisoner in solitary confinement with his relatives, and after the execution of this confinement, it is possible to make up for possibly missed rights.

The CEP otherwise contains less stringent regulations on the content of solitary confinement respect, in case of Strict range the maximum duration will be reduced from 30 to 25 days moreover for working prisoners at strict range to 20 in medium range for 15 in week range 5 days. The current legislation on these points does not make a distinction between working and non-working prisoners.

According to paragraph 110 measures have 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) and 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.

In connection with point 110 of the report, we would like to note that certain guarantees need to be enforced in addition to the confidential doctor-patient relation. Therefore the doctor’s certificate – in order to protect the prisoner’s life and health – is essential as a precondition of applying segregation or solitary confinement.

The CPT invites again 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

According to the rules in force the prisoner is entitled to receive visitors on monthly bases at least for 30 minutes by occasion. According to the CEP they will be able to receive visitors (in line with special rules on different regimes) at least once in a month maximum 4 people for at least 60 minutes but maximum 90 minutes.

We accept your recommendation on the increase in visit times, and let you know that recently we have made considerable efforts to increase these times. Some institutions – considering local overcrowding and the architectural conditions – allowed for the extension of visits in addition to the stipulations of legal regulations, and the reception of visitors has become a

regularly applied reward for active participation in the community life. We have established the conditions for carrying out religious services for families, and in the case of families in crisis, it is possible to involve a psychologist in the meeting of family members.

Please be informed that we instructed the heads of the prison service to review the possibility of further extending the visits, and to use every tool to further strengthen family relations.

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).

According to the basic rules in force; visiting should be carried out at the appointed place sitting next to a table. Visiting with physical separation takes place only in exceptional cases if it is based on well-founded security interests of the concern prison but in case of prisoners placed in HRS or BSR units it is automatically ordered. In the latter case visitors can talk to the prisoner via secure phone devices or with using other secure devices. Application of these rules can be omitted in accordance with the permission of the head of the prison staff. Considering the architectural conditions of the Somogy County Remand Prison, it is presently not possible to assign another room for receiving visitors, but the door will be built from tender funds.

The CPT trusts that the shortcoming as regards patients' access to a telephone referred to in paragraph 113 will be remedied (paragraph 113).

We agree with your statement that „when transported to the Hospital, the prisoners have no chance to make phone calls for an irrationally long time”, and we have taken steps with the commanders of the prisons to make sure that financial and other deposits of prisoners in transit are managed immediately in the future.

The so-called deposit money can be transferred at the written request of the prisoner, and in extraordinary cases, the prisoner may initiate a phone call at the expense of the institution, only to his allowed contact persons.

In paragraph 114 CPT recommends to review the rules on coercive measures in order to ensure that staff is well educated and motivated to use alternative methods for supervising prisoners.

Regulations within Act CVII of 1995 on the Organization of The Hungarian Prison Service on coercive measures is not expected to change, but one of the innovations of the CEP that it will make possible the use of electronic monitoring devices for prisoners on outside employment or placed in civil health care institution.

The CPT invites 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 Hungarian Prison Service agrees with the points made in the CPT recommendation, drawing attention to the mitigation of limitations and the termination of the routine use of guard dogs. Based on that, I instructed the heads of the prison institutions in a circular letter

to review the frequency of carrying out security tasks with guard dogs. We also instructed the management of prisons to use the service dog within the blocks of inmates only in extremely justified cases for security tasks, based on individual decisions, with the permit of the commander. This kind of usage should be documented in the service log, too.

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).

The security segregation room called “rubber room” is a special cell for the segregation of prisoners who are dangerous to themselves and to others, and, based on an authorization in the legal regulations; it can be used for a period of maximum 6 hours, in order to protect the life and the physical integrity of the prisoner. Based on the data of the past 5 years, this room had to be used altogether on two occasions in the Somogy County Remand Prison, and the last time it was used in the Sopronkőhida Strict and Medium Range Prison was in 2005. However, we would like to point out that we find it necessary to keep this facility as a possible option for the protection of the life and the physical integrity of detained persons.