



CPT/Inf (2001) 2

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

from 5 to 16 December 1999

The Hungarian Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2001) 3.

Strasbourg, 29 March 2001

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Copy of the letter transmitting the CPT's report

Strasbourg, 28 July 2000

Dear Ambassador,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I have the honour to enclose herewith the report to the Government of Hungary drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) after its visit to Hungary from 5 to 16 December 1999. The report was adopted by the CPT at its 42nd meeting, held from 4 to 7 July 2000.

I would draw your attention in particular to paragraph 198 of the report, in which the CPT requests the Hungarian authorities to provide a report within six months on action taken upon its visit report. The CPT would be grateful if it were possible, in the event of the report forwarded being in Hungarian, for it to be accompanied by an English or French translation. It would also be most helpful if the Hungarian authorities could provide a copy of the report in a computer-readable form.

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

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

Yours faithfully,

Silvia CASALE
President of the European Committee for
the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment

Mr János PERÉNYI
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Permanent Representative of Hungary to the Council of Europe
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I. INTRODUCTION

A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereafter referred as "the Convention"), a delegation of the CPT carried out a visit to Hungary from 5 to 16 December 1999. The visit formed part of the CPT's programme of periodic visits for 1999, and was the second periodic visit to Hungary to be carried out by the Committee¹.

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

- Mr John OLDEN, Second Vice-President of the CPT (Head of Delegation) (Irish)
- Mr Mario BENEDETTINI (San Marinese)
- Ms Silvia CASALE (British)
- Mr Yuri KUDRYAVTSEV (Russian).

They were assisted by:

- Mr James McMANUS, Professor at the Department of Law, Dundee University, United Kingdom (expert);
- Mrs Catherine PAULET, Psychiatrist, Regional Medical and Psychological Service, Marseille, France (expert);
- Mr Jean-Pierre RESTELLINI, Medical Doctor, Specialist in Forensic Medicine and Internal Medicine, Geneva, Switzerland (expert);
- Mr Peter BARTA (interpreter);
- Mrs Katalin DUNOWSKI (interpreter);
- Mrs Eva HALASZ (interpreter);
- Mr Imre KARAKAY (interpreter);
- Mr Gabor KARAKAY (interpreter);

and were accompanied by the following members of the CPT's Secretariat:

- Mr Fabrice KELLENS, Head of Unit;
- Mr Edo KORLJAN.

¹ The first periodic visit to Hungary took place in November 1994. The report on that visit has been published as document CPT/Inf (96) 5, and the interim response of the Hungarian Government as document CPT/Inf (96) 15.

B. Establishments visited

3. The delegation visited the following places of detention:

Establishments under the Ministry of the Interior:

- Police central holding facility, Budapest (*)
- 5th and 8th District Police Stations, Budapest (*)
- Regional Police Detention Facility, Debrecen
- Budai Street Police Station, Debrecen
- Hajdúhadház Police Station (Hajdu-Bihar County)
- Regional Police Detention Facility, Veszprém
- Holding Facility for Aliens (transit area), Budapest International Airport
- Community Shelter for Aliens, Budapest International Airport
- Community Shelter for Aliens, Nyírbátor

Establishments under the Ministry of Justice:

- Budapest Remand Prison (*)
- Veszprém Prison
- Tököl Prisons (Establishment for juveniles (*) and Unit for HIV+ prisoners)

Establishments under the Ministry of Health:

- Balassagyarmat General Hospital (Psychiatric Units I & II)

Establishments under the Ministry of Social and Family Affairs:

- Care Home for psychiatric patients, Ludanyhalaszi

Establishments under the Ministry of Defence

- Military Prison, Budapest.

C. Consultations held by the delegation

4. The delegation held consultations with the national authorities and with representatives of non-governmental organisations active in areas of concern to the CPT. In addition, numerous meetings were held with local officials in charge of the places visited.

A list of the national authorities and non-governmental organisations with which the delegation held talks is set out in Appendix II to this report.

(*) Establishments visited for the first time in 1994.

D. Co-operation encountered during the visit

5. The talks with the national authorities, both at the beginning and at the end of the visit, took place in a spirit of close co-operation. Fruitful discussions were held with Mr János SZABÓ, Minister of Defence, Mr Árpád GÓGL, Minister of Health, Mr László FELKAI, Administrative Secretary of State of Interior, Mr István SOMOGYVÁRI, Administrative Secretary of State of Justice, Mr Gyula PULAY, Administrative Secretary of State of Social and Family Affairs, as well as with numerous other senior officials from the ministries concerned.

Further, the delegation had productive meetings with Mr János FÁBIÁN, Deputy Prosecutor General and Mrs Katalin GÖNCZÖL, Parliamentary Commissioner for Human Rights. It also held constructive consultations at the Budapest Forensic Institute of Medicine and at the Public Health Directorate of the Ministry of Health.

Finally, the CPT wishes to underline the exemplary assistance provided by the Government's liaison officer, Mr György VÓKÓ, and his deputy, Mrs Eva HORVÁTH.

6. The delegation received a very satisfactory reception at - and in particular rapid access to - all establishments visited, including places which had not been notified in advance of the CPT's intention to carry out a visit. It would appear that the management of all of the places of detention visited had been informed of the possibility of a visit by the Committee and were reasonably knowledgeable about its mandate.

However, as indicated in the following paragraph, on one occasion the delegation was not granted ready access to all the information necessary for the carrying out of its task.

7. The delegation addressed a request to a Balassagyarmat Court magistrate, asking to consult the orders for compulsory psychiatric placement issued under the Health Act in 1999, since no such orders were found during the visit to the psychiatric units at Balassagyarmat General Hospital (cf. paragraphs 166 and 167). The magistrate concerned initially refused to accede to the request of the delegation. After having been fully informed of the Hungarian authorities' obligations under the Convention, she agreed to the request but proved unable to produce any such orders. As a result, on this occasion the delegation did not have access to the information necessary for it to carry out its task (cf. Article 8 (2) (d) of the Convention)².

The situation described above illustrates the importance of all relevant authorities, **including the judicial authorities**, being provided with detailed information on the CPT's terms of reference and the related obligations of Parties to the Convention.

² However, the information sought by the delegation was subsequently provided to the CPT by the Hungarian authorities.

E. Immediate observations under Article 8, paragraph 5, of the Convention

8. The CPT's delegation held final talks with the Hungarian authorities, in order to acquaint them with the main facts found during the visit. On this occasion, the delegation made two immediate observations, in pursuance of Article 8, paragraph 5, of the Convention, as follows:

- the medical and psychological services at Nyírbátor Community Shelter should be strengthened immediately;
- all caged beds should be immediately withdrawn from service in psychiatric institutions throughout Hungary; they can no longer be considered as acceptable in modern psychiatric practice.

9. The above-mentioned immediate observations were subsequently confirmed in a letter of 14 January 2000 from the President of the CPT. The CPT requested the Hungarian authorities to submit, within three months, a report on the action taken in response.

10. By letters dated 23 and 30 March 2000, the Hungarian authorities informed the CPT of the measures taken. Those measures will be considered in detail later in this report. However, the CPT wishes to emphasise already at this point the constructive spirit in which the Hungarian authorities took note of and reacted to the delegation's observations.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Establishments under the authority of the Ministry of Interior

1. Preliminary remarks

11. As stated above (cf. paragraph 3), the CPT's delegation visited the Budapest Police Central holding facility, Debrecen and Veszprém Police Headquarters, the 5th and 8th District Police Stations in Budapest, Budai Street Police Station in Debrecen and Hajdúhadház Police Station. The delegation's visits to Budapest Airport and Nyírbátor Community Shelters are dealt with in a separate section of the report.

12. Several forms of deprivation of liberty by the police are provided for in Hungarian legislation.

The Act on the Police (N° XXXIV, 1994) foresees in particular:

- identity checks (section 29) and the summoning of a person presumed with good reason to possess information necessary for the police (section 32), both of which may last for only the time required to attain the above-mentioned objectives;
- apprehension, in order to bring a person before the competent authority (section 33), for a period not exceeding 8 hours (which can be extended once, for 4 hours, by a senior police officer);
- public security custody (section 38), which can be applied in specific circumstances and can last for 24 hours (eg. drunkenness,...) or 72 hours (eg. supervision of persons on parole who are presumed to be hiding from the relevant authority, ...).

The Act on Criminal Procedure (N° I, 1973) stipulates that a criminal suspect may be held in police custody for a maximum of 72 hours and that the person concerned has to be released at the expiry of this period if his/her remand in custody has not been decided (section 91). The decision to remand someone in custody lies in the hands of a court, acting upon the request of a prosecutor (section 93).

13. According to the Hungarian Prison Rules, persons remanded in custody may be held in police establishments until the end of the period of pre-trial investigation. As in 1994, the delegation found that it was common for persons to be held on remand in police establishments, in some cases for several months. On 10 March 1998, the Hungarian Parliament adopted a new Law on Criminal Procedure (N° XIX), which provides that pre-trial detention must be carried out in remand prisons; however, in exceptional cases, and upon the decision of the court, remand prisoners may be held in police establishments for a maximum of 30 days. Further, remand prisoners can be sent back twice to police establishments, each time for a maximum period of 15 days, in exceptional circumstances justified by the investigation. Initially foreseen for 1st January 2000, the date of entry into force of the Law was subsequently fixed at 1st January 2003.

2. Torture and other forms of ill-treatment

14. The delegation heard a number of allegations of physical ill-treatment by the police, in particular as regards police establishments in Budapest, Debrecen and Hajdúhadház. Most of the allegations related to police interrogations; some allegations referred to the time of apprehension and/or transport to a police establishment.

The great majority of the allegations heard were consistent as regards the form of ill-treatment inflicted. Persons alleged that they had been struck with truncheons, punched, kicked or slapped by police officers. In addition, verbal abuse of persons detained by the police was apparently common. Foreign nationals, juveniles and Roma seemed to be particularly at risk of such ill-treatment. In some cases, the delegation gathered medical evidence consistent with allegations of ill-treatment.

15. By way of example, mention might be made of a detainee interviewed by the delegation at Debrecen Police Headquarters. He alleged that he had been beaten by police officers on 8 December 1999, while his hands were handcuffed behind his back. The ill-treatment allegedly took place in the police van which transported him from his house to the police station and afterwards at Budai Police Station (Debrecen). He also alleged that he had received death threats and been the subject of verbal abuse of a racial nature.

The report on the medical examination carried out by a police doctor recorded his allegations of ill-treatment and the following injuries: "three walnut-sized lesions on his cranium; on the left side of his face: painful swelling; left shoulder: excoriations and lesions on the surface of the skin; right leg: haematoma, traces of blood and kick marks".

On examination by a medical member of the delegation on 11 December 1999, the detainee was found to display the following injuries: diffuse redness on the right shoulder; superficial cutaneous lesions which were healing: external face of the knee and pre-tibial region of the right leg (upper half); superficial cutaneous lesions which were healing: pre-tibial region of the left leg (lower third); pain on applied palpation of the cranium in the right occipital region; superficial scabs in the right occipital region; pain in the right flank on deep breathing and coughing; pain on applied palpation of the lower right third of the rib cage.

16. Prior to its 1999 visit, the CPT received an allegation of severe beating by police officers of a 17-year old juvenile, on 11 January 1999, at Hajdúhadház Police Station. In the course of its visit, the CPT's delegation was able to confirm from custody records that the person concerned had been held at that establishment during the period in question. It was informed by the local Chief of Police that the matter was sub judice.

The delegation subsequently met the doctor from the local polyclinic who had examined the above-mentioned juvenile, on 13 January 1999, after he had been released from police custody. The doctor had recorded at the time that the patient exhibited "classic symptoms consistent with a blow to the head" and "neurological tests indicated internal cerebral injury". A subsequent surgical operation had also revealed cerebral haemorrhage.

17. Reference should also be made to recent reports made by the Prosecutor General's Office concerning the treatment of detainees, which clearly indicate that police violence remains a serious problem in Hungary. As an example, in 1998, 2295 complaints against law enforcement officers were lodged: 929 cases of abuse of power, 842 cases of physical injuries during investigation, 381 cases of interrogation under duress and 143 cases of unlawful detention.

18. In its 1994 visit report, the CPT concluded that "persons deprived of their liberty by the police in Budapest run a not inconsiderable risk of ill-treatment". In the light of all the information gathered during the 1999 visit, the Committee must emphasise that it remains concerned about the treatment of persons detained by the police in Hungary, and not only in Budapest.

19. **The CPT wishes to reiterate two recommendations already made in its report on the 1994 visit, namely that:**

- **police officers be reminded that no more force than is reasonably necessary should be used when effecting an arrest and that once arrested persons have been brought under control, there can never be any justification for them being struck;**
- **senior police officers deliver to their subordinates the clear message that the ill-treatment of detained persons is not acceptable and will be the subject of severe sanctions.**

20. Further, it is clear that continued exposure to highly stressful or violent situations can generate psychological reactions and disproportionate behaviour. **The CPT would like to be informed of any preventive measures taken with a view to providing support for police officers exposed to such situations.**

21. Legal and other technical safeguards against ill-treatment by the police will be dealt with in another section of the report. However, as was stressed in the 1994 visit report, the best possible guarantee against ill-treatment is for its use to be unequivocally rejected by police officers. Consequently, the provision of suitable education on human rights questions and adequate professional training is an essential element of any strategy for the prevention of ill-treatment. The CPT has taken note of the information subsequently provided by the Hungarian authorities concerning the enhancement of human rights education to law enforcement officers (pages 40-41, CPT/Inf (96) 15). In this context, the CPT wishes to underline that human rights concepts should be integrated into practical professional training for handling high-risk situations, such as the apprehension and interrogation of criminal suspects; this will prove more effective than separate ("stand-alone") courses on human rights. **The CPT recommends that training programmes for police officers be reviewed in the light of the above remarks.**

22. Health care services in police detention facilities can also make an important contribution to the prevention of ill-treatment by the police, through the systematic recording of injuries observed on detainees and, if appropriate, the provision of information to the relevant authorities.

In Hungary, medical care to persons detained by the police is provided by the police medical service. Each of the 19 Hungarian counties has three or four full time police doctors, who provide medical care for police officers as well. Police doctors examine all newly admitted detainees and a detainee can be examined again, in the course of police custody, on his request.

The police doctor records any visible injuries together with any allegations that the person concerned might make; however, at present the doctor does not draw any conclusion as to whether injuries observed are consistent with the person's allegations (contrary to the explicit provision of Article 17 (2) of the Decree of the Ministry of the Interior on Regulation of Police Jails, N° 19/1995 - XII.13)³. In addition, police doctors do not provide a copy of the medical report to the detainee, but can decide to transmit a copy to the police officer in charge of the department concerned and to the investigating officer.

In this context, the CPT must reiterate the recommendation made in its 1994 visit report that **the results of every examination, as well as any relevant statements by the detainee and the doctor's conclusions, be recorded in writing by the doctor and made available to the detainee and his lawyer**. Further, **the CPT recommends that existing procedures be reviewed in order to ensure that whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a detained person, the record is systematically brought to the attention of the relevant prosecutor.**

23. The CPT also pointed out in its 1994 visit report that it is essential for all medical examinations of persons in police establishments to be conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of police officers. The information gathered during the 1999 visit demonstrated that this requirement was still not being met in all cases. Several police doctors informed the delegation about their difficulties to ensure that police officers comply with their request to leave them alone with a detainee being examined. **The CPT can therefore only reiterate the recommendation made on this subject in paragraph 48 of the 1994 visit report.**

24. More generally, the CPT retains misgivings about the dual allegiance of police doctors and the compatibility of their position with professional medical ethics. Police doctors have the difficult task of combining aspects of the role of a treating doctor with the carrying out of certain duties requested by the police. During the visit, it became rapidly clear to the delegation that police doctors' decisions could be influenced by their hierarchical supervisors. Furthermore, the CPT noted that the National Public Health Service (ANTSZ) was the supervising authority for the entire health system, with the exception of the health services belonging to the armed forces (including police and prison health services).

³ "...The physician must make a written record of any physical injuries seen on the detainee and must give a professional opinion about their possible origin...".

25. The medical members of the CPT's delegation held numerous talks on this subject with police doctors, representatives of the Budapest Forensic Institute of Medicine, with the Chief Doctor of the Prison Medical Service and with representatives of the National Public Health Service (ANTSZ). The vast majority of them stated that it would be more logical to perform their duties under the authority of the Ministry of Health. In this respect, the CPT was also informed that the three Ministries concerned (Interior, Justice and Health) were envisaging changes in this respect. **The Committee would like to be informed of developments in this area.**

26. Naturally, another effective means of preventing ill-treatment by police officers lies in the diligent examination of all complaints of such treatment and, when appropriate, the imposition of a suitable penalty. This will have a very strong dissuasive effect on police officers minded to ill-treat detained persons, who might otherwise have the impression that they could do so with legal impunity.

In this respect, **the CPT would like to receive the following information for 1999:**

- **the number of complaints of ill-treatment by the police lodged and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;**
- **an account of disciplinary/criminal sanctions imposed on the grounds of ill-treatment by the police.**

27. The delegation was informed by a senior police officer that when detained persons manifest their wish to register a complaint against the police, they are formally advised before the complaint is recorded that to defame a police officer is a criminal offence in Hungary. The CPT is concerned that such a practice could easily discourage a person who has been ill-treated from lodging a complaint. **The Committee would like to receive the comments of the Hungarian authorities on this question.**

28. Further, the CPT wishes to stress that the duty of care which is owed by the police authorities to detainees in their charge includes the responsibility to protect them from other detainees who might wish to cause them harm. Medical reports drawn up by the Budapest Forensic Institute of Medicine in 1999, at the request of the competent judicial authorities, as well as reports of the Prosecutor General's Office clearly indicate that inter-detainee violence in police establishments is not uncommon. **The CPT would like to be informed of the measures taken by the Hungarian authorities to combat this phenomenon.**

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

29. In its 1994 visit report, the CPT made a number of recommendations and comments as regards safeguards for persons detained by the police (notification of custody, access to a lawyer, access to a medical doctor, information on rights, etc.). The information gathered in the course of the 1999 visit indicates that there remains room for improvement in this area.

30. As far as notification of custody is concerned, the information gathered revealed that the decision to delay the notification of the fact of a person's custody to a relative or third party still lies entirely in the hands of the police. The CPT can therefore only reiterate the recommendation made in its 1994 visit report **that the possibility to delay the exercise by detained persons of the right to inform a relative or third party of their situation be made subject to appropriate safeguards (eg. any delay to be recorded in writing together with the reasons therefor and to require the approval of a public prosecutor) and strictly limited in time.**

31. In respect of access to a lawyer, in its 1994 visit report (cf. paragraph 45, CPT/Inf (96) 5), the CPT requested clarification as to the precise moment at which the right of access to a lawyer becomes effective. In their response, the authorities indicated that "the person suspected of a criminal offence may choose counsel *from the very beginning of the procedure*" (page 42, CPT/Inf (96) 15). However, the information gathered during the 1999 visit indicated that very few detainees had *de facto* access to a lawyer during the initial 72 hours of police custody. **The CPT recommends that steps be taken to ensure that persons in police custody benefit from an effective right of access to a lawyer, as from the very outset of their deprivation of liberty.**

32. If the right of access to a lawyer is to be fully effective in practice, appropriate provision must be made for those who are not in a position to pay for legal services. In this respect, the CPT is concerned that in many cases, lawyers appointed *ex officio* had no contacts with the detainee until the first court hearing. It would appear that very low fees for such services had a discouraging effect in this respect. **The CPT recommends that the system of legal aid to detainees be reviewed, in order to ensure its effectiveness throughout the procedure, including at the initial stage of police custody.**

33. The CPT recommended in its 1994 report that a form setting out the rights of persons detained by the police should be systematically given to such persons as from the outset of their custody, the form to be made available in an appropriate range of languages. The Committee also recommended that detained persons be asked to sign a statement attesting that they had been informed of their rights (cf. paragraph 49, CPT/Inf (96) 5).

In their response, the Hungarian authorities indicated that "appropriate information of detainees is ensured by the Minister of Interior's decree on holding facilities, in line with the CPT's recommendation. The decree provides that on reception the detained person shall be informed in writing (in justified cases orally), in his mother tongue or in a language he understands of his rights and obligations and ways of exercising them. The decree also states that the detainee should sign a statement attesting that he has been properly informed and he has understood it. His statement is to be filed among his documentation" (pages 47-48, CPT/Inf (96) 15).

However, the delegation which carried out the 1999 visit did not find any forms of the kind that had been recommended by the CPT. Further, many detainees claimed that they had not been informed about their rights (either orally or in writing).

Consequently, **the CPT must recommend once again that that a form setting out in a straightforward manner the rights of persons detained by the police should be systematically given to such persons, at the outset of their custody. This form should be available in an appropriate range of languages.** This measure would be easy to implement, inexpensive and effective.

34. As regards the conduct of interrogations, the Hungarian authorities informed the Committee in 1996, in response to the recommendation on this subject in the report on the 1994 visit, that "a body of rules concerning criminal investigation by the police (including police interrogation) is under preparation and is to be issued in the form of a decree of the Minister of the Interior" (CPT/Inf (96) 15, p. 48). **The CPT would like to be informed of developments in this area.**

35. The Committee has noted with interest the response of the Hungarian authorities concerning the legislation in force in respect of the electronic recording of police interrogations (pages 48-49, CPT/Inf (96) 15). However, the information gathered during the 1999 visit indicated that this means was very rarely used.

The electronic recording of police interrogations represents an important safeguard for detainees, as well as offering advantages for the police. In particular, it can provide a complete and authentic record of the interview process, thereby greatly facilitating the investigation of allegations of ill-treatment and the correct attribution of blame. Consequently, **the CPT recommends that the Hungarian authorities explore the possibility of further developing the use of electronic recording of police interrogations.**

36. As in 1994, the delegation which carried out the 1999 visit found that the practice of transferring persons from remand prisons to police premises for further questioning was common. Although public prosecutors had to authorise such transfers, such authorisation was invariably given.

The CPT is of the opinion that from the standpoint of the prevention of ill-treatment, it would be far preferable for further questioning of persons committed to prison to take place within the establishment concerned rather than on police premises. The return of remand prisoners to police custody for further questioning should only be sought and authorised when it is absolutely unavoidable. **The CPT recommends that appropriate steps be taken to ensure that this is the case.**

37. The CPT welcomes the fact that, following its 1994 visit, the General Public Prosecutor issued a circular (No 2/1995/U.K. 11) obliging all public prosecutors (civil and military) to make regular (at least once a month) visits to police institutions. Such visits can make an important contribution to the prevention of ill-treatment, provided they are carried out in an effective manner and, in particular, are unannounced.

The CPT would also like to underline the importance of the routine external control and supervision activities performed in police detention establishments in Hungary by representatives of non-governmental organisations.

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38. Finally, it should be emphasised that the different safeguards against ill-treatment by the police referred to above and in the report on the 1994 visit (eg. notification of custody, access to a lawyer and doctor, information on rights) should be guaranteed to all persons deprived of their liberty by the police, irrespective of the legal basis for the deprivation of liberty.

The CPT would like to receive confirmation that this is indeed the case.

4. Conditions of detention

a. introduction

39. The requirements concerning conditions of detention in police establishments are set out in detail in the Decree of the Minister of Interior N° 19/1995 (XII.13.), which came into force on 1st January 1996. They meet in general the requirements set forth in the CPT's 1994 visit report (cf. CPT/Inf (96) 5, paragraphs 27 and 28).

In their interim report, the Hungarian authorities informed the Committee that the Ministry of the Interior intended to renovate the police detention facilities over a period of five years, provided that the necessary resources were allocated for this purpose (CPT/Inf (96) 15, page 44). They subsequently informed the CPT that approximately 25 % of the police detention facilities had been taken out of service and that some 50 % of the remaining facilities were in need of refurbishment and transformation (Hungarian follow-up report, Ministry of the Interior, page 4, dated 17 July 1996).

The CPT visit in 1999 revealed that much still needs to be done to meet the criteria set out in the Committee's 1994 report and to implement in practice the requirements of the above mentioned decree of the Minister of Interior.

b. material conditions

40. The CPT is pleased to note the quality of the renovation work at the 8th District Police Station in Budapest (which had been the subject of an immediate observation in 1994). The establishment now comprises 11 ordinary and 3 apprehension cells and has a capacity of 28 places. All the premises, including the sanitary facilities, were of a good standard, properly heated, and cleaned; however, **the ventilation in the cells still left something to be desired.**

On the other hand, the situation had remained unchanged in the two other police establishments in Budapest which were revisited in 1999. At the 5th District Police Station, access to natural light was still limited, artificial lighting mediocre, and the cells were poorly ventilated, malodorous and very cold. At the Police Central Holding Facility, the eight small cubicles located in the reception area in the basement had been taken out of service, as recommended by the CPT in its 1994 visit report. However, other deficiencies were still present (poor access to natural light, weak artificial lighting and ventilation). Further, the toilet facilities on each floor were so damp and dilapidated that the adjacent cells had been taken out of service.

The CPT trusts that the Hungarian authorities will take measures without further delay to implement the recommendation already set out in paragraph 34 of its 1994 visit report, concerning the improvement of material conditions at the 5th District Police Station and the Police Central Holding Facility in Budapest.

41. Debrecen Regional Police Detention Facility comprised 14 cells for three persons (measuring 15 m² each) and 9 cells for six persons (measuring 30m²); such occupancy rates are acceptable. With an official capacity of 96 places, at the time of the visit, the detention facility was accommodating 56 detainees (45 in pre-trial detention and 11 in police custody). All cells were equipped with beds, mattresses (albeit old and stained), pillows, sheets and blankets. In addition, they had handbasins and toilets, and had access to natural light and were adequately lit. However, no chairs or cupboards were provided. Further, the heating/ventilation was a matter of concern to the delegation; indeed, at the time of the visit, the in-cell temperature reached 28°C and the windows could not be opened to ventilate the cells properly. Consequently, most of the detainees wore only underwear in their cells. Further, detainees complained about the lack of toiletries.

Better conditions prevailed at Veszprém Regional Police Detention Facility. It had 17 double occupancy cells (measuring 12m²) and one bigger cell (with four beds). At the time of the visit, 27 detainees were held there. The cells were well equipped and had good access to natural light, artificial lighting and ventilation.

Budai Street Police Station in Debrecen was equipped with two holding cells, measuring respectively 4.4 m² and 5.2 m². Neither of the cells had access to natural light and artificial lighting was poor; further, equipment in the cells and ventilation were rather limited. However, the delegation was informed that the police station would be entirely renovated in May 2000.

Hajdúhadház Police Station had only one holding room, measuring 3.2 m², which was divided into two smaller cells by floor-to-ceiling metal bars, with an inset barred security gate. One of the cells, measuring a mere 1.3 m², was devoid of any equipment and very poorly lit; it was used if a suspected person was considered to be a danger to him/herself. The second cell, equipped only with a chair, was also dimly lit. Neither of the cells had access to natural light and their ventilation left much to be desired. The staff informed the delegation that persons could be held in the holding room for a maximum of 12 hours (including, if necessary, at night) and that no food was provided to such persons. The delegation made clear at the end of the visit that conditions in the two cells were not satisfactory and requested in particular that the metal bars be removed. The Hungarian authorities subsequently informed the CPT by fax dated 13 January 2000 that this had been done.

The CPT recommends that steps be taken to improve the material conditions of detention at Debrecen and Hajdúhadház police establishments, in the light of the above mentioned remarks and the general criteria set out in its 1994 visit report. It would also like to receive confirmation that the holding cells at Budai Street Police Station in Debrecen have been renovated.

Finally, the CPT recommends that appropriate steps be taken to ensure that material conditions of detention in all police establishments in Hungary meet the criteria set out by the CPT in paragraph 27 of its 1994 visit report, as well as those set out in the Decree of the Minister of Interior.

c. regime

42. In most countries visited by the CPT, persons are held for only a relatively short time on police premises; therefore, the question of activities for them has little relevance. However, as recalled above (cf. paragraph 13), in Hungary it is commonplace for persons to be held in certain police establishments for extended periods of time on remand. In consequence, the question of the regime to which they are subject must also be addressed.

43. As in 1994, none of the police establishments visited offered a suitable regime for persons on remand. Such prisoners spent almost the entire day locked up and idle in their cells. There were no jobs available (not even domestic or kitchen work), no sports activities were offered and little reading material was available. Even outdoor exercise arrangements remained unsatisfactory, despite the recommendation on this subject made in paragraph 39 of the report on the 1994 visit. Where outdoor exercise was offered, it never lasted one hour; moreover, at Budapest 5th District Police Station, outdoor exercise had to be taken very early in the morning. At Debrecen Regional Police Detention Facility, there was no outdoor exercise at all, due to the absence of a yard; as a concession to the need for physical exercise, two empty rooms had been set aside for detainees to walk for about ten minutes per day. Such a state of affairs is totally unacceptable.

44. The CPT welcomes the adoption of Law N° XIX (cf. paragraph 13), which stipulates in section 135 that pre-trial detention must be carried out in remand prisons. However, it is highly regrettable that the entry into force of that law has been delayed until January 2003. In the meantime, steps must be taken to improve the situation of remand prisoners held in police establishments.

The CPT calls upon the Hungarian authorities:

- **to implement the recommendation made by the Committee some 5 years ago, that immediate steps be taken to ensure that all remand prisoners held in police establishments are offered at least one hour of outdoor exercise every day;**
- **to make genuine efforts to offer some form of activities to remand prisoners held in police establishments.**

Further, the CPT recommends:

- **that the Hungarian authorities explore the possibility of accelerating the entry into force of section 135 of Law N° XIX;**
- **that appropriate measures be taken to ensure that the possibility offered by paragraph 2 of that section, to have remand prisoners kept on police premises for a certain period, is only resorted to in exceptional cases.**

d. medical care

45. Reference has already been made to the system of medical care in police detention facilities (cf. paragraphs 22 to 25 above). In general, the surgeries in police detention facilities were adequately equipped. However, the CPT was concerned to note that at the 8th District Police Station in Budapest and at Debrecen and Veszprém Police Headquarters, not only the distribution but also the preparation of medicines was carried out by non-medical police officers. In addition, police officers at Veszprém Police Headquarters and the 5th District Police Station in Budapest had access to medical files.

Non-medical staff should never be entrusted with the preparation of medication. In addition, the principle of medical confidentiality should be observed vis-à-vis detained persons in the same way as in the community at large. **The CPT recommends that steps be taken in order to ensure that these precepts are fully respected in practice.**

5. Border Guard Community Shelters

a. introduction

46. Community shelters were introduced by Act LXXXVI of 1993 on the Entry, Stay, and Immigration of Foreign Nationals in Hungary, which entered into force on 1 May 1994. There are eight community shelters, all located on the premises of Border Guard Directorates; they serve as "designated places of residence" for both migrants awaiting deportation and asylum-seekers. The maximum official capacity of such shelters has been significantly increased in 1998, following the rise in the number of illegal aliens transiting through Hungary.

47. Residents in community shelters were at first allowed to leave them during the daytime. However, since 1st September 1998, Joint Internal Order No. 46/1998 of the National Chief of Police and the Head of the Aliens Police Department of the Border Guards curtails this right if the person concerned does not possess a valid identification document. In such a case, the resident may only leave the shelter for medical or consular reasons. Non-governmental organisations expressed the view that the above-mentioned Joint Order could be contrary to Hungarian law and international legal instruments. Furthermore, the CPT was informed that some Hungarian courts have re-affirmed the right of immigration detainees to leave such shelters, as their placement in community shelters was not to be considered as a form of detention.

The CPT has also been informed that since September 1999, the stay in community shelters has been limited to a maximum of 18 months (no such limit existed in the past). However, at Nyírbátor Community Shelter, the delegation met a resident who had been successively held for 25 months in various community shelters throughout Hungary. From various sources, the delegation heard that the Office of Refugee and Migration Affairs (ORMA) experienced considerable delays in processing asylum requests and that there was a significant reluctance to assume the responsibility for a release after the 18-month time limit was reached.

The CPT would like to receive the comments of the Hungarian authorities on these subjects.

48. The situation in community shelters in Hungary has been addressed on several occasions in the past by the CPT. In particular, in its 1994 visit report, the CPT concluded that the living conditions at Kerepestarcsa Community Hostel were inhuman and degrading. The Hungarian authorities decided in response to close down the Community Hostel and informed the CPT that measures had been taken to find other appropriate accommodation for illegal aliens (cf. CPT/Inf (96) 5, page 83).

On 25 February 1999, the President of CPT addressed a letter to the Hungarian authorities, concerning critical reports on the conditions of stay of foreign nationals held in Border Guard Community Shelters. In this letter, he also referred to the Parliamentary Commissioner for Civil Rights' report of December 1998, which was very critical concerning the Balassagyarmat and Nyírbátor Community Shelters. The Hungarian authorities subsequently informed the CPT that one section of Balassagyarmat Community Shelter had been closed down.

In the course of the 1999 visit, the CPT's delegation carried out visits to community shelters at Nyírbátor and Budapest Airport.

b. Nyírbátor Community Shelter

i. *preliminary remarks*

49. Nyírbátor Community Shelter is located in former military barracks, some 50km north-east of Debrecen, close to the Romanian, Ukrainian and Slovak borders. It is the largest regional community shelter for foreign nationals in Hungary, with an official capacity of 400 persons. This capacity has been exceeded on several occasions (eg. on 13 May 1999, the establishment accommodated 413 inmates). On the day of the CPT's visit, the shelter was accommodating 182 persons (men, women, and approximately 30 children and babies, of 32 different nationalities). However, an examination of the register revealed that two days before the CPT delegation's visit, the persons accommodated numbered 380.

Most of the residents were asylum seekers awaiting a decision on their applications or illegal aliens awaiting deportation. Some residents had served a prison sentence and were subject to a removal order.

50. The shelter consists of three, three-storey buildings. As a general rule, men were accommodated in buildings 1 and 2 and families with children in building 3. However, the CPT's delegation observed that, at the time of the visit, men and women who were not family-related were accommodated in the same room. Furthermore, some unaccompanied minors were accommodated together with adults.

The CPT recommends that male and female residents be, as a rule, accommodated separately, unless the residents concerned expressed the wish to be placed together with persons with whom they share an emotional or cultural affinity. In addition, minors should be separated from adults with whom they are not family-related.

51. Nyírbátor Community Shelter was staffed by Border Guard officers. Out of the 106 posts, 80 were filled at the time of the visit (cf. also paragraphs 61 and 62).

ii. *ill-treatment*

52. The CPT's delegation heard two allegations of physical ill-treatment of residents at Nyírbátor Community Shelter by Border Guard staff. Further, many allegations of verbal abuse were received and the delegation observed by itself that staff-resident relations were strained.

The first allegation concerned an incident which had allegedly taken place on 5 November 1999. Two African residents claimed that they had been beaten by staff while waiting at the entrance of the refectory for lunch. One of the residents affirmed that a guard had hit him on the head with a rubber baton and that, when he had tried to hold the baton, a second guard had hit him on his right arm with a baton. The second resident had intervened in the incident. As a result, both residents had apparently been thrown to the ground, where they were beaten by six guards. The residents concerned were subsequently taken to hospital for examination; their medical certificates read as follows: - *first resident*: left cheek sensitive to palpation, right upper arm sensitive to palpation and slightly swollen, left parietal bone slightly swollen and sensitive; - *second resident*: complaining of headache; visible injury on the head; shaken and nervous, unstable psychological state; slight temperature; slightly reddish skin on his left lower arm.

The second allegation concerned a resident of Indian nationality who had jumped from a window on the first floor of building 2 on 7 November 1999, while trying to escape from the establishment (with a group of 14 residents). He alleged that he had been beaten by two guards with batons while lying on the ground. He also indicated that he had raised his left arm in order to protect himself, and subsequently suffered a fracture to that part of his body and lost a front left tooth. The guards allegedly carried him to an office (he could not walk), where he was beaten again. The resident was then taken to an outside hospital, where he underwent an operation and remained hospitalised for 12 days. An examination of the resident by a medical member of the delegation revealed a broken front left tooth and a surgical scar of some ten centimetres on the latero-dorsal side of the left elbow.

There are possible alternative explanations for at least certain of the injuries sustained by the residents concerned; further, the register of incidents at the Shelter gave different versions of the above incidents. Nevertheless, **the CPT recommends that Border Guard staff at Nyírbátor Community Shelter be reminded that once a resident who resists authority or attempts to escape has been brought under control, there can be no justification for his being struck. They should also receive the clear message that all forms of ill-treatment, including verbal abuse, are not acceptable and will be the subject of severe sanctions.**

53. It must also be pointed out that Nyírbátor Community Shelter displayed a number of negative factors - poor material conditions, in particular in buildings 2 and 3; absence of activities; lack of regular outdoor exercise; inadequate medical/psychiatric care; linguistic barriers and lack of information for foreigners regarding their situation - which for many of the foreigners concerned clearly rendered their stay in the shelter intolerable. Not surprisingly, cases of self-mutilation, hunger strikes and suicide attempts, vandalism and violence were a common occurrence.

iii. conditions of detention

(material conditions)

54. As already indicated, some 200 residents had been transferred away from the establishment shortly before the delegation's visit. Consequently, the delegation observed the shelter under particularly favourable conditions. However, it is clear from the information gathered by the delegation that many of the shelters' dormitories, in particular in buildings 2 and 3, had recently been severely overcrowded (for example, 40 persons in a dormitory measuring 56 m²). Further, even at the time of the visit, the empty beds which cluttered the rooms severely limited the available living space for the residents who remained. Even in the purpose-built building 1, the envisaged dormitory capacities were too high (e.g. 14 beds in a 32 m² room).

The CPT recommends that the official capacity of the shelter be reduced. The standard of 4 m² per resident might usefully be adopted for this purpose.

55. All rooms enjoyed good access to natural light, artificial lighting and ventilation. However, they were austere and drab, with very little furniture apart from beds. Only a few of the rooms had wardrobes and there were hardly any means for sitting apart from the beds. The bedclothes were torn and soiled and no products for cleaning the dormitories were provided to residents.

As regards, in particular, buildings 2 and 3, they were not sufficiently heated, a situation which was a matter of particular concern for the delegation, having in mind the young children accommodated in the shelter. More generally, they were in an advanced state of dilapidation and very dirty. The fabric of the buildings had been neglected to an extent that significant renovation work would be necessary to restore them to an acceptable condition.

56. The state of the toilet and washing facilities in the shelter is of major concern to the CPT. The general standard of hygiene was appalling. In building 3, the separate shower room was particularly dirty, with faeces on the floor and an almost unbearable stench which could not be concealed despite the large quantities of bleach scattered. As for the showers on the second floor of building 2, they were out of order. In addition, the inadequate hot water supply limited access to the shower facilities and the delegation received complaints to the effect that the provision of soap was irregular.

57. The CPT recommends that the Hungarian authorities take immediate measures to improve material conditions in Nyírbátor Community Shelter and, in particular, in buildings 2 and 3. Particular attention should be accorded to the maintenance of an acceptable level of collective and individual hygiene, as well as to the repair of the heating system.

(food)

58. Residents interviewed by the delegation indicated that the midday meal was acceptable; however, the other meals of the day were apparently meagre. Complaints were heard that residents were occasionally given food past its expiry date. In addition, Muslim residents alleged that their religious and nutritional habits were not taken into account and that, more particularly, pork was occasionally on the menu. **The CPT would like to receive the comments of the Hungarian authorities in this respect.**

As already indicated (cf. paragraph 49 above), many young children and babies were accommodated in the shelter. Despite this, no special baby food was offered, apart from baby milk. **The CPT recommends that the Hungarian authorities take steps in order to remedy this shortcoming.**

(regime)

59. No work of any kind was offered to the residents - except the cleaning of their rooms - and there was nothing remotely resembling a programme of activities provided for them. It is of particular concern that minors were not offered sport activities or activities of educational value. Recreation facilities were restricted to one television on each floor. Further, the delegation received numerous complaints about the lack of outdoor exercise at the shelter. Apparently, the exercise period was frequently withdrawn without any explanation.

To sum up, residents spent much of their time in overcrowded dormitories in an enforced state of idleness. This situation is all the more of concern bearing in mind the possible length of stay in the establishment - up to 18 months.

60. The CPT recommends that immediate steps be taken in order to ensure that all residents at Nyírbátor Community Shelter (and in other community shelters throughout Hungary) are guaranteed at least one hour of outdoor exercise per day.

Further, **the CPT recommends that residents in Nyírbátor Community Shelter (as well as in other such shelters throughout Hungary) be offered a wider range of activities. Ensuring access to a wide variety of reading materials, in an appropriate range of languages, and diversifying the means of recreation are examples of the steps required. Specific measures should be taken in order to ensure that minors are offered activities suitable to their age, in particular, sports and education. The recruitment of educators or social workers should also be considered. The longer the period for which persons are detained, the more developed should be the activities which are offered to them.**

iv. staff

61. Border Guard staff assigned to the establishment did not receive any specific training before taking up their duties in the shelter. However, the CPT was informed that they had to undergo a psychological test to assess their possible xenophobic, racist or otherwise intolerant tendencies toward detainees, before being appointed (see, however, paragraph 52).

Only very few staff members at Nyírbátor possessed a reliable command of a foreign language, which created insurmountable communication difficulties. The staff shouted their orders in an effort to be understood, which only exacerbated the level of tension and mutual frustration. Ad hoc interpreters from local schools and Debrecen University had been engaged; however, the total budget available was too limited for the scope of the problem encountered.

It is also noteworthy that despite the presence of many women and young children, no female Border Guard staff were assigned to working with residents within the units.

62. Staff at centres for foreign nationals have a particularly onerous task. Firstly, there will inevitably be communication difficulties caused by language barriers. Secondly, many detained persons will find the fact that they have been deprived of their liberty when they are not suspected of any criminal offence difficult to accept. Thirdly, there is a risk of tension between detainees of different nationalities or ethnic groups. Consequently, the CPT places a premium upon the supervisory staff in such centres being carefully selected and receiving appropriate training. As well as possessing well-developed qualities in the field of interpersonal communication, the staff concerned should be familiarised with the different cultures of the detainees and at least some of them should have relevant language skills. Further, they should be taught to recognise possible symptoms of stress reaction displayed by detained persons (whether post-traumatic or induced by socio-cultural changes) and to take appropriate action.

The CPT recommends that the Hungarian authorities review the selection and training of Border Guard staff assigned to Nyírbátor Community Shelter, in the light of the above remarks. Further, efforts should be made to employ a certain number of female Border Guard staff members, to work in direct contact with the residents at the shelter.

v. *information to residents and contact with the outside world*

63. Upon arrival, each resident was given a copy of the House Rules and asked to sign that he/she had received them. Unfortunately, the rules were available only in Hungarian and Albanian. **The CPT recommends that they be provided in a wider range of frequently spoken languages.**

64. The delegation heard widespread complaints from detained foreigners about the absence of information on their situation (including their right of access to a lawyer, the stage of procedure concerning them, the reason for their detention and its likely length). The immigration detainees often found the legal proceedings to which they were subject extremely difficult to understand.

The CPT recommends that the Hungarian authorities take steps in order to ensure that all residents are duly informed about their rights and obligations, as well as of the nature and state of the proceedings in their case.

65. As far as contact with the outside world is concerned, each building had a pay-phone. Further, residents were allowed to see one visitor at a time for a maximum of 30 minutes, for a total of 90 minutes per month. **The CPT recommends that the time allowed for visits be increased to one hour a week.**

The CPT would also point out that many complaints were heard to the effect that postage stamps were not available in the shelter's shop.

vi. *medical care*

66. Nyírbátor Community Shelter relied on the services of a military doctor from the adjacent Border Guard Directorate. The doctor provided care to 1400 military staff and some 100 civilians working and/or living at the Directorate and, on request, gave consultations at the shelter. With such a workload, it is clear that the doctor was not in a position to devote sufficient time to the shelter. An establishment of the size of Nyírbátor Community Shelter (currently 200 places) should benefit from the presence of a medical doctor equivalent to at least a half-time post.

On a more positive note, the establishment had five fully qualified nurses, who ensured a 24-hour presence and carried out medical screening on admission. Nurses would inform the doctor of new arrivals and of any medical problems they might have.

67. Complaints about health care at the shelter were numerous; they mainly related to the lack of access to a doctor, the lack of medicines and the unavailability of appropriate treatment. Consultation of the medical files confirmed that a significant number of residents suffered from skin and pulmonary diseases (including two cases of tuberculosis), in addition to diseases affecting particularly the children. However, at the time of the visit only four residents benefited from a medical treatment with prescribed medication.

Particular mention should be made of the case of the Indian resident referred to in paragraph 52 above, who was not receiving satisfactory health care treatment at the shelter. His condition required dental care, post-operative dressings carried out in antiseptic conditions, crutches, physiotherapy, appropriate analgesic treatment, and psychological assistance, from which he was not benefiting. It was only due to the delegation's comments that he had one of his bandages changed.

68. The absence of psychological and psychiatric support at the shelter should also be noted. The delegation medical members became aware of many residents suffering from severe psychological problems (anxiety, depression, sleeping problems etc.) and, in some cases, showing psychiatric symptoms. At the time of the visit, a psychologist working at the nearby Border Guard Directorate was occasionally consulted, but the language barriers usually prevented any meaningful consultation.

The CPT is also concerned that women and children/babies did not benefit from the regular availability of the services of a gynaecologist or paediatrician.

69. To sum up, the provision of medical and psychological/psychiatric services at the shelter was far from satisfactory. As already indicated (cf. paragraph 8 above), at the end of its visit, the CPT's delegation made an immediate observation under Article 8 (5) of the Convention, requesting the immediate strengthening of medical and psychological services at Nyírbátor Community Shelter. In their letter of 23 March 2000, the Hungarian authorities commented that following the reduction of admissions to a maximum of 200 residents, the health care situation had somewhat improved. However, the need to increase the number of persons working in the shelter's health care service was recognised and it was indicated that the attention of the Commander of the Border Guards had been drawn to this matter.

The CPT would like to be informed of the steps subsequently taken to enhance the level of health care provided at the shelter. In this respect, the CPT recommends that:

- **the shelter be provided with its own medical doctor, working on at least a half-time basis;**
- **regular availability of the services of a gynaecologist, a paediatrician, a psychiatrist and a psychologist be offered at the shelter.**

70. Finally, a dentist working at the nearby Directorate provided dental care, four hours per day. He performed extractions and fillings, more specialised treatments taking place in a local hospital. However, the CPT was informed that residents were expected to pay for their dental treatment. **The CPT considers that all residents at the shelter should have access to preservative dental treatment, including those without the means to pay for such treatment themselves.**

c. Budapest Airport Community Shelter

71. Budapest Airport Community Shelter is located at approximately 1km from the airport terminals. It accommodates foreign nationals refused entry to Hungary who cannot be removed from the territory within 24 hours of their arrival.

The establishment has an overall capacity of 18 places and ten persons were detained at the shelter at the time of the visit.

72. No allegations of ill-treatment of residents by staff at the shelter were heard. More generally, the CPT is pleased to note that a relaxed staff/resident relationship prevailed within the establishment; this was no doubt in part because some staff had a reasonable command of English, Russian and Romanian.

73. The living conditions at the shelter were considerably better than at Nyírbátor. The shelter comprised 3 dormitories: two of them, equipped with four beds each, for the accommodation of women, and a male dormitory, with five bunk beds. All rooms were provided with separate locked wardrobes. Men and women could associate during the day in a common room, which had a radio and TV set.

Blankets, sheets and mattresses were reasonably clean and the residents were offered the same food as the airport staff and Border Guards officers. Hygienic kits were regularly provided and additional clothing was provided by the local Red Cross. The establishment also had stocks of baby food, disposable nappies and some toys.

74. Residents were offered at least two hours of outside exercise daily in a courtyard and, weather permitting, could spend most of the day outside. The establishment also had a pay phone, which could also take incoming calls, and visits were possible outside meal times.

75. Medical care was provided by the doctor of the adjacent Border Guards Directorate, who examined all newly arrived persons. Further, residents received the weekly visit of a psychologist. Information about the medical and psychological services was displayed in seven different languages on a notice board. In addition, the shelter had been subject of at least one public health inspection, carried out by the Airport Office of the ANTSZ and the health supervision Offices of the Ministry of Interior and the Border Guards.

76. The CPT was informed that a new community shelter was to be opened at the airport shortly after the visit, to replace the existing one. **The Committee would like to receive further details concerning this new facility (e.g. capacity, material conditions, regime activities, etc.).**

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77. The CPT also visited two Border Guard detention rooms at Budapest Airport Terminal, which had been used to accommodate for brief periods - less than 24 hours - persons required to stay at the airport pending their departure from the country. Conditions in these rooms were very good.

However, the delegation was informed that the detention rooms had not been used since July 1999, and that foreign nationals refused entry and due to be returned shortly were confined in the transit lounge, if necessary, overnight.

The CPT invites the Hungarian authorities to explore the possibility of bringing the above-mentioned detention rooms back into service.

d. other issues

78. Immigration detainees (whether asylum seekers or not) should - in the same way as other categories of persons deprived of their liberty - be entitled, as from the outset of their detention, to inform a person of their choice of their situation and to have access to a lawyer and a medical doctor. Further, they should be expressly informed, without delay and in a language they understand, of all their rights and of the procedure applicable to them.

79. The CPT has already made some recommendations concerning the information to be given to residents held in community shelters, their contact with the outside world and their access to medical care (cf. paragraphs 64, 65 and 69).

During its visit to Nyírbátor Community Shelter, the delegation was informed that the shelter was visited at least one day per week by a lawyer contracted by the Hungarian Helsinki Committee (HHC), in order to provide free legal assistance to residents. However, the lawyer concerned stated that he had had to increase the frequency of his visits to several times a week, in order to meet the numerous requests for legal assistance addressed to him by the residents.

Further, another lawyer under contract with the HHC represented residents at the initial Office for Refugee and Migration Affairs (ORMA) hearing.

80. The CPT was informed that the ORMA's decision must be reasoned and notified to the applicant in writing; in addition, negative decisions can be challenged through the Hungarian court system, such appeals having a suspensive effect. However, the delegation was also informed that requests for asylum made at an airport were subject to an accelerated procedure, under which an appeal against the initial decision taken by the ORMA does not have a suspensive effect.

In view of the potential gravity of the interests at stake, the CPT considers that every decision involving the removal of a person from a State's territory should be appealable before another body of an independent nature prior to its implementation. **The Committee would like to receive the views of the Hungarian authorities on this subject.**

It would also like to receive details of the training of ORMA officials and of the sources of information used by them when assessing the human rights situation in other countries.

81. Finally, the delegation received reports during its visit to Budapest Airport about the means of coercion employed in the course of expelling immigration detainees and, more particularly, about the administration of tranquillizers against the will of the persons concerned. A medical doctor providing medical care at Budapest Airport informed the delegation that, in exceptional circumstances and at the request of the police, she could administer neuroleptics to persons resisting expulsion.

The CPT wishes to stress that any provision of medication to persons subject to an expulsion order must only be done on the basis of a medical decision and in accordance with medical ethics. **It recommends that steps be taken to ensure that these conditions are met.**

More generally, **the CPT would like to know if specific guidelines have been drafted concerning the means of coercion that can be used in the context of expulsion procedures.**

B. Establishments under the authority of the Ministry of Justice

1. Preliminary remarks

82. The CPT's second periodic visit to Hungary included follow-up visits to Budapest Remand Prison and Tököl Prison and Remand Centre for Adolescents, as well as a first visit to Veszprém Prison.

83. **Budapest Remand Prison** is located in two different buildings. Unit 1 is housed in city centre premises close to the main courts and Unit 2 is situated some distance away, in a block which adjoins the Police Central Holding facility. As in 1994, the prison accommodates both male and female prisoners, the vast majority of whom are on remand.

The prison has an official capacity of 379 places (compared to 506 places during the first CPT visit); however, in 1999, it was accommodating 896 prisoners (i.e. some 126 prisoners more than in 1994).

In 1994, the assessment of the situation in the establishment highlighted the overcrowding and the extremely impoverished regime offered to the remand prisoners. Five years later, the situation was even worse; overcrowding was on the increase and the regime offered, still highly unsatisfactory.

84. **Tököl Prison and Remand Centre for Adolescents** is situated near a small village some 25 km from Budapest. It is the only prison for young male offenders (14 to 18 years old) in Hungary. Some sentenced juveniles could remain in the establishment until they reached the age of 21. A number of adult prisoners were also present to undertake maintenance duties in the prison; they were accommodated in a separate building.

The prison has the same capacity as in 1994 (e.g. 651 places); at the time of the visit, it accommodated 501 prisoners (313 juveniles and 188 adults), a situation which represents a small decrease compared to 1994 (570 inmates).

85. **Veszprém Prison** is the oldest prison in Hungary (dating from the XVIth century). It is located in the historic part of the city centre. At the time of the visit, it was seriously overcrowded; despite an official capacity of 55 places, it accommodated 201 prisoners.

86. The need to tackle the problem of overcrowding at Budapest Remand Prison (as well as in other parts of the Hungarian prison system) has already been identified by the CPT in the report following the November 1994 visit. At that time, the number of detained persons in the Hungarian prison system exceeded by 20 % its maximum official capacity.

In their interim report, the Hungarian authorities indicated that "in Hungary a significant portion of penal institutions is overcrowded, moving space for detainees is insufficient, premises suitable for out-of-cell stay and community activities are scarce. The arrangement and design of premises within a number of institutions lack functionality. Therefore the Government ordered the Minister of Justice to have a long-term development plan for penal institutions drawn up by April 1996. Hopefully problems of this kind will cease to exist with the accomplishment of this plan" (CPT/Inf (96) 15, page 12). In their follow-up report, the authorities informed the CPT that, in the context of a long-term plan (8 to 10 years), their prime objective was to improve the conditions in remand prisons. They announced an increase of the capacity of the remand prisons of approximately 1,100 places (600 places in Budapest and 500 in regional remand prisons).

87. During the 1999 visit, the CPT was informed that the number of recorded offences has doubled in Hungary in the last 5 years and that a more severe sentencing policy had been applied, particularly in cases involving organised crime activities. As a consequence, the Hungarian prison system was accommodating 15,202 prisoners at the time of the CPT visit, while it had at its disposal 10,068 places.

88. Prison overcrowding is an issue of direct relevance to the CPT's mandate. An overcrowded prison entails cramped and unhygienic accommodation; a constant lack of privacy (even when performing such basic tasks as using a sanitary facility); reduced out-of-cell activities, due to excessive workload for the staff and inadequacy of facilities available; overburdened health-care services; conditions conducive to the spreading of transmittable diseases; increased tension and hence more violence between prisoners and between prisoners and staff. This list is far from exhaustive. It is a fundamental requirement that those committed to prison by the courts be held in safe and decent conditions. For so long as overcrowding persists, the risk of prisoners being held in inhuman and degrading conditions of detention will remain.

89. While noting the efforts made by the Hungarian authorities in the context of the above-mentioned long-term plan, the CPT considers it unlikely that providing additional accommodation will, in itself, provide a lasting solution to the problem of overcrowding. Indeed, a number of European States have embarked on extensive programmes of prison building, only to find their prison populations rising in tandem with the increased capacity acquired by their prison estates. By contrast, in those countries which enjoy relatively uncrowded prison systems, the existence of policies to limit and/or modulate the number of persons being sent to prison has tended to be an important element in maintaining the prison population at a manageable level.

Reference should be made in this context to Recommendation N° R (80) 11 of the Committee of Ministers of the Council of Europe, concerning custody pending trial. The general principles set out in that recommendation deserve to be quoted:

"1. Being presumed innocent until proved guilty, no person charged with an offence shall be placed in custody pending trial unless the circumstances make it strictly necessary. Custody pending trial shall therefore be regarded as an exceptional measure and it shall never be compulsory nor be used for punitive reasons."

If the relevant authorities in Hungary were to be guided by the general and specific principles set out in Recommendation N° R (80) 11, this would significantly reduce the current pressure on pre-trial establishments.

Reference should also be made to Recommendation R (92) 17 of the Committee of Ministers' concerning consistency in sentencing, and more particularly to recommendation B 5(i), according to which "custodial sentences should be regarded as a sentence of last resort, and should therefore be imposed in cases where, taking due account of other relevant circumstances, the seriousness of the crime would make any other sentence clearly inadequate".

More recently, the Committee of Ministers in Recommendation N° R (99) 22 has developed a whole series of principles designed to combat the problems of prison overcrowding and prison population inflation.

90. The facts found during the 1999 visit underscore the need to continue to attack the problem of overcrowding at its roots - and not only as regards pre-trial establishments, where admittedly it has reached the most severe proportions. Failing this, attempts to improve conditions of detention will inevitably founder. **The CPT recommends that the Hungarian authorities pursue vigorously the implementation of the whole range of measures designed to combat prison overcrowding, taking into account the considerations set out in paragraph 89 and the recommendations referred to therein.**

2. Torture and other forms of physical ill-treatment

91. The CPT's delegation heard no allegations of torture or other forms of physical ill-treatment by staff in any of the prison establishments visited or in other prisons in Hungary; nor was any other evidence of such treatment found during the visit. A few allegations of verbal abuse by staff were heard at Tököl Prison and Remand Centre for Adolescents; however, on the whole, the relations between staff and prisoners in all the establishments visited were found to be positive.

92. Notwithstanding the above findings, **the CPT would like to receive the following information for 1999 and 2000:**

- **the number of complaints of ill-treatment lodged against prison officers in Hungary;**
- **an account of disciplinary and/or criminal sanctions imposed following such complaints.**

93. It should also be emphasised in this section that the CPT has serious concerns about certain aspects of the conditions in which prisoners placed under a special security regime on account of their perceived dangerousness were being held.

3. Grade 4 prisoners

94. In every country there will be a number of so-called "dangerous" prisoners (a notion which covers a variety of types of person) in respect of whom special conditions of custody are required. This group of prisoners will (or at least should, if the classification system is operating satisfactorily) represent a very small proportion of the overall prison population. However, it is a group that is of particular concern to the CPT, in view of the fact that the need to take exceptional measures concerning such prisoners brings with it a greater risk of inhuman treatment than is the case with the average prisoner.

95. The dangers involved in this area are well described in the following extract from the Explanatory Memorandum to the Recommendation (No. R (82)17) on the custody and treatment of dangerous prisoners adopted by the Committee of Ministers of the Council of Europe on 24 September 1982: "43. Human dignity is to be respected notwithstanding criminality or dangerousness and if human persons have to be imprisoned in circumstances of greater severity than the conventional, every effort should be made, subject to the requirements of safe custody, good order and security and the requirements of community well-being, to ensure that living environment and conditions offset the deleterious effects - decreased mental efficiency, depression, anxiety, aggressiveness, neurosis, negative values, altered biorhythms - of the severer custodial situation. In the most serious instances prisoners regress to a merely vegetative life. Generally the impairment may be reversible but if imprisonment, especially in maximum security, is prolonged, perception of time and space and self can be permanently and seriously impaired - 'annihilation of personality'."

96. Under the prisoner grading system operated in Hungary, remand or sentenced prisoners who are considered as dangerous are placed in Grade 4 (Decree N° 6/1996 (VII.12) of the Minister of Justice). Allocation is made either by the prosecutor, the court or the reception committee of the establishment. The CPT was informed that courts and prosecutors tend to attribute this grade to prisoners accused or convicted of serious crimes (especially persons involved in organised crime activities) and the prison reception committees, to persons with a previous record of ill discipline (including those prone to escape or those who have attempted suicide) or with a military background.

The status of Grade 4 prisoners is reviewed every six months. However, it would appear that the reasons underlying the decision for placement/prolongation of a Grade 4 measure are not disclosed to the prisoner concerned.

97. It is axiomatic that a prisoner should not be held in a special security regime any longer than the risk which he presents makes necessary. This calls for regular reviews of the placement decision. Further, prisoners should as far as possible be kept fully informed of the reasons for their placement and, if necessary, its renewal; this will *inter alia* enable them to make effective use of avenues for challenging that measure.

98. Consequently, **the CPT recommends that:**

- **a prisoner who is placed in a Grade 4 regime by the judicial or prison authorities or whose placement in such a regime is renewed be informed in writing of the reasons for that measure (it being understood that the reasons given could exclude information which security requirements reasonably justify withholding from the prisoner);**
- **a prisoner in respect of whom such a measure is envisaged be given an opportunity to express his views on the matter;**
- **the placement of a prisoner in such a regime should be as short as possible and reviewed at least every three months.**

99. At the time of the visit, 37 prisoners were placed in a Grade 4 regime at Budapest Remand Prison; Veszprém Prison and Tököl Prison and Remand Centre for Adolescents accommodated for their part respectively 13 and 10 such prisoners.

The CPT observed that the conditions of Grade 4 prisoners varied from establishment to establishment, and even within the same establishment. Some prisoners were accommodated alone, while others shared cells with fellow prisoners (some of the latter not in Grade 4). Their material conditions and regime were similar to those of other prisoners in the establishment. However, two characteristics of their regime are of particular concern to the CPT.

100. Firstly, the delegation observed at Budapest Remand Prison that means of restraint (such as handcuffs and/or anklecuffs) were routinely applied to Grade 4 prisoners. Every such prisoner was handcuffed when he left his cell and, in addition, some of them were also anklecuffed. These means of restraint were also applied during the outdoor exercise, despite the fact that it took place in a completely sealed off exercise yard, surrounded by bars, including roof bars. Further, this measure was applied during visits, which took place in a separate visiting facility, where they communicated with their visitors only by telephone. Similar measures were taken in respect of Grade 4 prisoners in the two other prisons visited.

The practice of routinely handcuffing and/or anklecuffing prisoners when outside their cell is highly questionable, all the more so when it is applied over a prolonged period of time in a secure environment. The CPT considers that other means can and should be found to counter the risk of escapes. Further, to be handcuffed/anklecuffed when receiving a visit could certainly be considered as degrading for both the prisoner concerned and his visitor.

To sum up, the current practice concerning the use of means of restraint vis-à-vis Grade 4 prisoners can only be seen as disproportionate and punitive. **The CPT recommends that the Hungarian authorities take immediate steps to review that practice, in the light of the above remarks.**

101. Secondly, some Grade 4 prisoners were kept for some considerable time in isolation and had particular difficulties to receive visits and have access to a telephone, allegedly for security reasons.

The CPT recommends that the Hungarian authorities review the regime applied to Grade 4 prisoners, in particular as concerns isolation, visits and access to telephone. Above all, it must be ensured that such prisoners are guaranteed appropriate human contact.

4. Conditions of detention

a. Budapest Remand Prison

102. The material conditions offered to prisoners at Budapest Remand Prison had worsened since the 1994 visit, mainly because of the increased overcrowding affecting the establishment. The Director of the prison fully recognised the extent of the problem and informed the delegation that it would be solved in the very near future, through the entry into service (in June 2000) of a new remand prison with a capacity of 600 places.

The CPT would like to receive confirmation that this new remand establishment is now operational as well as information on the number of prisoners accommodated in both Budapest remand establishments.

103. The CPT welcomes certain improvements which had been introduced in Budapest Remand Prison since the 1994 visit. A new modern kitchen had been installed in Unit I and provided food for the whole establishment. Both Units of the establishment now benefit from new bathrooms and a small fitness room, as well as cable TV. Board games and pay phones were also at the prisoners' disposal on each floor of the establishment, even if access to the phones was rather limited (cf. paragraph 126).

104. As was the case in 1994, the CPT is not impressed by the regime offered to prisoners at Budapest Remand Prison. Only a few prisoners (most of them sentenced) were offered work and no professional training of vocational value was available to male prisoners; occasionally, a few women prisoners could attend secretarial courses. Further, no premises were available for sports or educational activities. In addition, the delegation heard numerous complaints to the effect that prisoners were not always offered outdoor exercise.

105. The CPT highlighted in the report on the 1994 visit the crucial importance of a satisfactory programme of activities for prisoners. The entry into service of the new remand prison and the consequent reduction in the level of overcrowding will render it possible to make progress in this area. **The CPT recommends that the Hungarian authorities make vigorous efforts to develop such a programme of activities for prisoners in both Budapest remand establishments.**

Further, the Committee must reiterate the recommendation made in the 1994 visit report that all prisoners be offered at least one hour of outdoor exercise every day.

b. Tököl Prison and Remand Centre for Adolescents

106. Material conditions of detention for prisoners at Tököl Prison and Remand Centre for Adolescents remained quite acceptable, **even if the detention units were still somewhat austere** (cf. CPT/Inf (96) 5, paragraph 98). Further, the establishment's kitchen - which was in an unacceptable condition in 1994 - had subsequently been totally renovated. However, the CPT remains concerned about conditions in two areas of the establishment, the reception and segregation/disciplinary units.

107. The reception unit, shared with the adjacent prison hospital, comprised five holding cells. At the time of the visit, one of the cells accommodated some twenty convicted prisoners (who came from different prison and police establishments throughout the country), and a second cell was accommodating one juvenile. The cells were equipped only with a bench and a washbasin and the adjacent toilets were in a deplorable state. Prisoners were obliged to spend hours in these cells, some of them standing.

The delegation was informed that the construction of a new reception unit was planned. **The CPT would like to receive further details on this subject. In the meantime, the CPT recommends that efforts be made to ensure a better use of the number of cells available and regular cleaning of the premises, in particular of the sanitary annexes.**

108. In its 1994 visit report, the CPT recommended that the segregation/disciplinary cells in Tököl be equipped with a call system and that access to natural light and artificial lighting be improved. In their interim report (cf. CPT/Inf (96) 15, page 28), the Hungarian authorities indicated that electrical equipment in the cells had been replaced and a call system installed. However, access to natural light had not been improved, as it required reconstruction work.

At the time of the visit, the segregation/disciplinary cells were still gloomy, oppressive and poorly ventilated; in addition, the toilets were in a very poor state of repair.

The CPT recommends that measures be taken to improve access to natural light, artificial lighting and ventilation in the segregation/disciplinary cells at Tököl Prison and Remand Centre for Adolescents. In addition, the toilets should be repaired.

109. During its 1994 visit, the CPT gained a positive impression of the multidisciplinary approach adopted at Tököl. In 1999, some 120 juveniles were attending elementary school classes, conducted by outside teachers. In addition, 10 juveniles were following a vocational training course (for the trade of painter) and another group of some 50 juveniles was working in a variety of workshops (bicycle, car tyre and motorbike repairs, masonry). Some 110 juveniles and 140 adults had a job within the institution.

110. However, as in 1994, the CPT heard numerous complaints to the effect that prisoners were not offered one hour of outdoor exercise per day. **The CPT must reiterate the recommendation made on this subject in its 1994 visit report (cf. CPT/Inf (96) 5, paragraph 101), that steps be taken to ensure that this basic requirement is met.**

c. Veszprém Prison

111. As already indicated (cf. paragraph 85 above), Veszprém Prison was seriously overcrowded and in an advanced state of dilapidation.

112. The establishment comprised a total of 44 cells of varying sizes: standard cells measuring 8 to 10 m² accommodated 4 prisoners and larger cells measuring 32 m², 11 prisoners (they had accommodated in the recent past up to 16 prisoners). Such occupancy rates are unacceptable.

The cells were equipped with bunk beds (with mattresses, blankets and sheets), a washbasin, a toilet and a little cupboard. There was no room available for a table or chairs. Access to natural light and artificial lighting was satisfactory; however, ventilation in the cells was mediocre, which apparently posed particular problems in the summer. Prisoners also complained about the poor access to (hot) showers, which was allowed only once a fortnight.

The CPT recommends that the Hungarian authorities:

- **take steps to reduce the cell occupancy rates to an acceptable level. A standard of 4 m² per prisoner might usefully be adopted for this purpose;**
- **ensure that prisoners are offered the opportunity to take at least one hot shower per week;**
- **explore means of improving ventilation in the cells.**

113. The delegation also found two cells measuring 3m² each, used for temporary accommodation of new arrivals and for punishment purposes. They had no windows, were dimly lit, damp and infested by insects. **The CPT recommends that these two cells be immediately withdrawn from service.**

114. Nothing remotely resembling a regime of activities was offered to prisoners at Veszprém Prison; only some twenty prisoners had work (kitchen, cleaning duties, laundry, maintenance and repair) and no educational/recreational activities were offered. In addition, **prisoners were not allowed to have a radio/TV in their cells**, contrary to the situation in the other prison establishments visited.

The delegation also heard unanimous complaints about the regular absence of outdoor exercise or the fact that, when organised, it never lasted one hour.

The CPT recommends that steps be taken in order to ensure that:

- **all prisoners spend a reasonable part of the day (i.e. 8 hours or more) outside their cells, engaged in purposeful activities of a varied nature (work, preferably with vocational value, education, recreation/association);**
- **all prisoners are offered at least one hour of outdoor exercise every day.**

115. The CPT's delegation was informed that the Parliamentary Commissioner for Human Rights had recommended that Veszprém Prison be closed down. The Director of the establishment indicated that a new prison with a capacity of 216 single occupancy cells would enter into service by 2002. **The CPT would like to receive further details on this new establishment.**

5. Health care services

116. The health care services (staffing levels, premises and equipment) at Budapest Remand Prison and Tököl Prison and Remand Centre for Adolescents were described as adequate in 1994 (cf. paragraph 106, CPT/Inf (96) 5).

117. At the time of the 1999 visit, Budapest Remand Prison had three full time doctors, one doctor working on a half-time basis and 12 full time nurses; however, the two posts of psychologists were vacant. **The CPT recommends that these posts be filled without further delay.**

Dental care at Budapest Remand Prison was provided by a dentist and a dental assistant, working full time. In this context, the CPT noted that the Hungarian authorities had improved the dental treatment provided to prisoners (as proposed by the CPT in 1994), by creating a special fund for prisoners who could not pay for their dental prosthesis.

118. At Tököl Remand Prison and Centre for Adolescents, the health care staff comprised 6 nurses and 3 psychologists. The CPT is particularly concerned to note that the two doctors' posts had been vacant since May 1999. In their absence, a doctor from the nearby prison hospital was giving consultations 2 hours a day (during weekdays), a presence which is clearly insufficient for an establishment holding 500 prisoners. **The CPT recommends that the Hungarian authorities take immediate steps to ensure that at least one of the doctors' posts is filled without delay.**

A dentist and a dental assistant, both working full time, were providing dental treatment to the prisoners.

119. Health care at Veszprém Prison was provided by a police doctor, who visited the prison three days a week (for two to three hours at a time), and by two nurses (working from 7a.m. to 7p.m. on weekdays). This level of cover by a doctor is clearly insufficient, taking into account the conditions prevailing at Veszprém Prison (cf. paragraphs 111 to 114 above).

In this context, the CPT would recall that the task of prison health care services should not be limited to treating sick patients. They should also be entrusted with responsibility for social and preventive medicine. In particular, it lies with prison health care services - as appropriate acting in conjunction with other authorities - to supervise catering arrangements (quantity, quality, preparation and distribution of food) and conditions of hygiene (cleanliness of clothing and bedding; access to running water; sanitary installations) as well as the heating, lighting and ventilation of cells. Work and outdoor exercise arrangements should also be taken into consideration. Insalubrity, overcrowding and inactivity - all factors present at Veszprém Prison - may necessitate either medical assistance for an individual prisoner or general medical action vis-à-vis the responsible authority.

The CPT recommends that Veszprém Prison be provided with its own doctor, working on at least a half-time basis.

Further, the CPT would recall that a person competent to provide first aid should always be present on prison premises, preferably someone with a recognised nursing qualification.

120. Other aspects of health care at Veszprém Prison were generally adequate. All newly arrived prisoners were seen by the doctor shortly after admission and received a booklet informing them of the existence and operation of the health care service. During detention, prisoners could approach the health care service on a confidential basis, as a nurse made a daily tour within the detention facilities.

Access to specialised care was available through the direct support of the nearby public hospital or Tököl Prison Hospital, and dental treatment was provided by a police dentist at Veszprém Police Headquarters.

The health care facilities at the prison consisted of a well-equipped 10 m² medical room and an infirmary (3 cells). It is also noteworthy that prisoner's medical files were stored in a locked cupboard and were well kept.

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121. The CPT noted in 1994 that all prisoners in Hungary underwent an obligatory HIV test (cf. CPT/Inf (96) 5, paragraph 114). In their interim report, the Hungarian authorities informed the Committee that HIV screening is carried out with the consent of the detainee (CPT/Inf (96) 15, page 19). However, during the 1999 visit, the delegation was informed that prisoners who did not agree to such screening would immediately be placed in segregation in their respective establishments (as well as those found to be HIV positive). Such prisoners would subsequently be transferred to Tököl Prison, and more particularly to Unit K, established since April 1999.

Material conditions at Unit K were of a very high standard. It had 16 single occupancy cells and accommodated 8 prisoners at the time of the visit. All cells were well equipped (including a shower) and had good access to natural light, artificial lighting and ventilation. Prisoners had access to an exercise yard measuring some 150 m².

However, the CPT is concerned to note that prisoners held at Unit K were completely isolated from the rest of the prison population. Furthermore, the staff employed at the unit were very afraid of the prisoners' medical condition and were paid a special premium ("hazard allowance"). The prevailing climate prevented the prisoners from having access to the prison shop and the library, and access to telephone was rendered difficult.

122. The situation described above reflects an obsessive fear about HIV based on arguments that are scientifically unfounded. It also contrasts with the information supplied by the Hungarian authorities that "during all applied procedures, special care is taken to avoid any discrimination against detainees on grounds of HIV infection or HIV screening" (CPT/Inf (96) 15, page 19). In this context, the CPT must stress that there is no medical justification for the segregation of a prisoner solely on the grounds that he is HIV+. There is a clear need for health education both at management and staff levels. **The CPT recommends that the Hungarian authorities bring their HIV policy into line with the relevant international standards, in particular those established by the World Health Organisation and the Council of Europe.**

Further, **staff working in prison establishments should be provided with ongoing training in the preventive measures to be taken and the attitudes to be adopted regarding HIV-positivity and given appropriate instructions concerning non-discrimination and confidentiality.**

123. In its 1994 report, the CPT recommended that a suicide prevention policy be implemented at Budapest Remand Prison and that two special cells used for prisoners considered to represent a suicide risk be taken out of service (CPT/Inf (96) 5, paragraph 120). In their interim report, the Hungarian authorities indicated that "the Prison Administration is currently drawing up a suicide prevention strategy" and that "the experts are considering the application of special cells to accommodated inmates who pose a danger to themselves or others..."(CPT/Inf (96) 5, page 22).

Nevertheless, during the 1999 visit, the CPT was informed that the above-mentioned cells were still in use, though only for very short periods. More importantly, the delegation was informed that suicide attempts were sanctioned as disciplinary offences and that inmates had formally to renounce suicide. In the CPT's opinion, a disciplinary measure is not an appropriate response to psychological distress. **The Committee would like to receive the comments of the Hungarian authorities on this subject.**

124. Finally, it is important that the prison authorities make efforts to provide an environment in which prisoners without drug problems do not develop them and those who have such problems are helped to overcome them. In this respect, the information gathered during the 1999 visit indicated that the use of drugs is on the increase throughout the Hungarian prison system. In Tököl Prison and Remand Centre for Adolescents, the authorities envisaged creating separate drug free units and implementing stringent security measures in respect of visitors.

The CPT is concerned about the absence of a national policy as regards drug dependent prisoners and, more particularly, about the absence of directives for prisoners suffering from withdrawal symptoms on admission to the prison system. **The CPT would like to be informed of the measures envisaged by the authorities to address these issues.**

6. Other issues related to the CPT's mandate

a. contact with the outside world

125. In its 1994 visit report, the CPT highlighted the unsatisfactory situation prevailing at Budapest Remand Prison as concerns visits (visit entitlement and conditions). No improvement was observed in this respect in 1999: the visit entitlement was still only one hour per month and the visiting room was very dirty. **The CPT must reiterate its earlier recommendations on these subjects (cf. CPT/Inf (96) 5, paragraph 128).**

The vast majority of the prisoners at Veszprém Prison were separated from their visitors by a glass screen and communicated with them by means of a telephone. The CPT recognises that it may sometimes be necessary, in the interests of security, to place restrictions on visits to certain prisoners. However, these restrictions should be limited to the requirements of the case and should apply for the shortest possible period. **The CPT recommends that the visiting arrangements at Veszprém Prison be reviewed in order to ensure, as far as possible, that prisoners are able to receive visits under reasonably open conditions.**

126. Access to telephones was under close surveillance in the three prisons visited. All calls (with the exception of those to a lawyer) had to be made by a member of staff, who remained at the prisoner's side during the call. Consequently, availability of staff to supervise the calls severely limited the prisoners' access to telephone; in the establishments visited, prisoners were able to make phone calls during weekends, for a maximum of three minutes.

In the CPT's opinion, such a blanket procedure is not only onerous in terms of staff resources but also inefficient in terms of security, given that prisoners have free access to their family/friends during visits. **The CPT recommends that steps be taken to review the procedure applied to making telephone calls, in the light of the above comments. The objective should be to increase significantly access to the telephone for prisoners; close surveillance of telephone calls should be the exception rather than the rule.**

b. discipline and segregation

127. The disciplinary procedure applicable to prisoners in Hungary has already been described (cf. CPT/Inf (96) 5, paragraph 131). Prisoners have the right to be heard on the subject of the offence of which they are suspected and can appeal against the disciplinary sanction of solitary confinement to a supervisory judge, who must issue a decision on the appeal within 5 days. Such an appeal has a suspensive effect.

During the 1999 visit, the delegation was informed that prisoners were usually shown the form detailing the disciplinary charge; however, a copy of that form was not given to them. Prisoners are entitled to be represented by a lawyer at the disciplinary hearing, but they do not have the right to cross-examine witnesses.

128. **The CPT recommends that prisoners facing disciplinary charges be formally accorded the following rights:**

- **to be informed in writing of the charges against them and to be provided with sufficient time to prepare their defence;**
- **to call witnesses on their behalf and to cross-examine witnesses giving evidence against them.**

c. complaints procedures

129. The CPT is pleased to note that the Hungarian authorities have implemented its recommendation that confidential access in writing to the Director be granted at Budapest Remand Prison (CPT/Inf (96) 5, paragraph 140). For this purpose, boxes have been installed next to the outdoor exercise area. **The CPT would like to know if a similar practice is followed in other prison establishments in Hungary.**

C. Psychiatric establishments

1. Preliminary remarks

130. During its second periodic visit to Hungary, the CPT's delegation examined in some depth the situation at the two psychiatric units of Balassagyarmat General Hospital, as well as at the Care Home for psychiatric patients at Ludanyhalaszi. The first establishment is under the authority of the Ministry of Health, the second of the Ministry of Social and Family Affairs.

131. **Balassagyarmat General Hospital** is situated in an urban environment some 100km north of Budapest, near the Slovak border. It is a general hospital, providing care in all disciplines and serving the population of two districts. The building housing the psychiatric units is situated on the extensive hospital compound; recently renovated, it does not give the impression of a place of confinement. The two psychiatric units (1 & 2) are located in adjacent four storey blocks, linked on the ground floor by a corridor containing offices and consulting rooms. Workshops, a gymnasium and other offices are located in the basement. Both units comprise distinct wards for chronic patients and patients with acute conditions (the latter wards allowing constant nurse supervision). Men and women patients are accommodated in different rooms within the wards; however, in the acute wards, the rule of separation by gender is on occasion ignored for observation purposes. The top floor of each unit houses patients suffering from neurosis.

The respective official capacities of the two units are 102 and 104 beds; on the first day of the visit, they accommodated 83 and 84 patients. The annual number of patients admitted in the psychiatric units varied from some 1600 in Unit 1 to 1900 in Unit 2; the average length of stay was two to three weeks. It is also noteworthy that the units could admit, if necessary, juvenile patients as from the age of fourteen.

132. The **Care Home for psychiatric patients at Ludanyhalaszi** is situated in a village some 60km northeast of Budapest, near the Slovak border. It has served as a social care and corrective rehabilitation home since 1937. The Home comprises several buildings of varying age (residential units, administration, kitchen, laundry, etc.) distributed on a large compound. The residents were accommodated in six wards, in accordance with the nature of their mental illness/handicap and their degree of autonomy.

The official capacity of the Home is 390 places (based on the legal norm of 6m² per resident, according to the Social Care Act). At the time of the visit, it was accommodating 406 residents, both men and women from Nograd County, with ages ranging from 18 to 98 years old; about 60% of them had been transferred from Balassagyarmat General Hospital. Nearly all residents spend the rest of their lives at the Home.

133. The delegation heard no allegations of torture or other forms of ill-treatment - and gathered no other evidence of such treatment - of patients by staff at the two establishments visited (or in other psychiatric institutions in Hungary). The atmosphere in the two establishments visited was relaxed. The approach of the medical and nursing staff appeared professional and caring towards their patients/residents and the staff spoke with sensitivity about their work. In particular, the leadership, efforts for change and caring ethos of the new Director at the Social Care Home of Ludanyhalaszi should be highlighted.

2. Patients' living conditions

a. Balassagyarmat General Hospital

134. Patients' living conditions in the two psychiatric units were good. They were accommodated in rooms with two to six beds, the space allocated for each patient being adequate. The rooms were clean, well lit and equipped either with hospital beds or, as in the case of the patients on the neurosis wards, with ordinary beds, depending upon their condition. The rooms were rather sparsely furnished; however, there were some bedside cupboards and the delegation noted that patients were provided with lockable space (in the form of wardrobes placed in the corridor to which the staff had master keys) in which to keep their personal belongings.

135. Patients accommodated on the top floor - suffering from neurosis - appeared to be wearing their own clothes as a matter of routine, but the vast majority of the other patients, particularly those on the chronic wards, wore pyjamas during the day as well as at night.

The practice of keeping patients dressed in pyjamas/night-gowns at all times is not conducive to strengthening personal identity and self-esteem; individualisation of clothing should form part of the therapeutic process. **The CPT therefore recommends that all non bed-ridden patients be allowed to wear their own clothes during the day or be provided with appropriate non-uniform garments.**

136. Separate showers and toilets for men and women were at the patients' disposal on each ward. They were generally in a good state of maintenance and hygiene. However, **some of the shower facilities for men were not well ventilated.**

Some of the men's toilet facilities were being used as a temporary storage place for the ward's rubbish - in open bins. Such a situation represents a health/hygiene risk to patients. **The CPT recommends that appropriate measures be taken in order to put an end to this practice.**

137. Each ward had a large communal area which was pleasantly decorated and furnished with easy chairs, coffee tables and bookshelves, creating an attractive informal environment where patients could gather to watch television, read or sit before and after meals. They usually opened onto an adjacent dining room, where ambulatory patients took their meals. The design of the communal areas was appropriate, combining a measure of simple comfort and individualisation with provision for observation from the staff reception counter.

In addition, there was a walled garden with trees and benches; staff indicated that in good weather, this area was used for exercise and recreation by some patients.

b. Ludanyhalaszi Care Home for psychiatric patients

138. The Home's most modern building was accommodating 188 schizophrenic residents in three distinct units. This purpose-built building was well designed, with a central atrium from which corridors radiated. The residents' rooms (4 to 6 beds) were of a good size (24 m²) and adequately furnished. Rooms were well lit and decorated (with examples of the residents' work and photographs on the walls, giving a personal touch to the surroundings). A very large communal room on the top floor of the building, furnished with plants, chairs and small tables was used for social activities and occupational projects.

139. 142 mentally handicapped residents were accommodated in an older building, housing Units 1 and 2. Material conditions were also generally satisfactory in this facility; however, **certain of the resident's rooms were somewhat overcrowded**. In addition, **the number and the size of the communal rooms in the building were rather limited**.

140. The oldest building housed Unit 6, which accommodated 72 residents with dependence problems - mostly alcoholics - and severely mentally deficient residents. Living conditions in this building were of a distinctly lower quality than in the rest of the Home and conditions in the Unit's closed ward, which accommodated some of the severely mentally deficient residents, left a great deal to be desired. The closed ward's rooms were overcrowded and devoid of any furniture (apart from beds) or decoration giving visual stimulation.

The Director of the establishment recognised that the living conditions for patients in Unit 6 were not satisfactory. He informed the delegation that the prolongation of the Home's operating license by the competent authorities - due to expire at the end of 1999 - was, among other conditions, contingent upon the total reconstruction of the unit. The CPT fully supports this position; **it recommends that the Hungarian authorities give a high priority to the implementation of plans for the reconstruction of Unit 6. It would like to receive in due course details of the situation in the refurbished premises (residents' living conditions, distribution of the residents, programme of therapeutic activities, staffing levels, etc.).**

141. The residents in the closed ward of Unit 6 remained confined together in close proximity with one carer on duty, night and day. At the time of the visit, the residents included two women, one of whom was sharing a bed with a male resident, both of them naked. Staff explained that these two residents became extremely agitated if separated.

The CPT considers that it is not appropriate for male and female residents of this category to be kept together in communal rooms; some of them might well be unaware in the event their dignity not being respected by other - more mentally able - residents. At the end of the visit, the CPT's delegation asked for the men and women patients in the closed ward to be kept separated during the day, as was already the case during the night. The Director of the Home immediately agreed to this request. **The CPT would like to receive confirmation that this separation by gender is now effective in the closed ward of Unit 6.**

The Committee would add that it is not contesting in any way the open door and mixed gender policy practised elsewhere in the establishment vis-à-vis other categories of residents.

142. The grounds of the Care Home were extensive, with grass areas, trees and paths, where some residents were seen walking. Most of the ambulatory residents, other than those placed on the closed ward, could go out for exercise in the fresh air. Coats were provided for those who were indigent.

Residents of the closed ward in Unit 6 were allowed to use a closed yard of a reasonable size, adjacent to their building.

143. The Home's kitchen was antiquated and in urgent need of renovation and refurbishment. Maintenance of a high standard of hygiene under the prevailing conditions was a difficult task. Reconstruction of the kitchen was another condition imposed by the competent authorities for the prolongation of the Home's operating license. The CPT again fully supports this position and **trusts that reconstruction of the kitchen will be accorded a high priority.**

The kitchen staff was creative in its attempts to eke out the limited food allowance. The stores of frozen food and preserved fruit and vegetables at the Home were impressive. However, the delegation was somewhat surprised to learn that use of produce grown locally at the Home would result in a reduction in the food allowance paid to the Home. One might have thought that such a sensible initiative would be the subject of incentives rather than disincentives.

144. Stocks of clean linen and blankets were available and these items were washed in an efficient albeit dilapidated laundry. Resident's personal clothing was also cleaned there and redistributed. Complete renovation of the laundry was a third condition for the prolongation of the Home's operating license. Such a renovation was clearly necessary.

3. Staff and treatment

a. Balassagyarmat General Hospital

145. The General Hospital's psychiatric units had a total of more than a hundred health care staff, supplemented by some 20 administrative staff, all employed full time. In particular, there were, for each unit, 5 doctors (of whom 2 to 4 psychiatrists) and 30 to 32 qualified nurses. Other qualified staff included one psychologist, one physiotherapist, one health education expert with two assistants and two social workers. Further types of medical care could be provided by other departments of the General Hospital.

The level of medical and nursing staff seemed satisfactory, judging by the patients' files, the knowledge of principles of community psychiatric care, pharmacotherapy and diagnostic principles, and the general level of satisfaction expressed by patients' interviewed. The delegation itself observed that medical and nursing staff were motivated and conscientious.

More generally, the CPT was favourably impressed by the organisation of mental health care and, in particular, by the close linkage prevailing between out-patient and in-patient care, which ensured the continuity of care.

146. The treatment of psychiatric patients at the Hospital was mainly based on pharmacotherapy, and modern psychotropic drugs were available. In this context, it should be noted that very few cases of heavy medication or uncontrolled side effects were observed. The selection of appropriate medication was based on thorough individual clinical observation and patients were seen individually by the psychiatrist once or twice a week, and daily by a doctor of the Unit. Most of the patients had a reasonable idea of their diagnosis and of the nature of their treatment.

However, apart from pharmacotherapy, only a few patients had access to other forms of treatment such as occupational therapy. Two occupational therapy rooms - serving both units - were accessible, each room taking a maximum of ten patients per day. One room was used as a sewing workshop, and the second to make pottery, dried flower/leaf arrangements, etc. Patients had also access to a well-equipped gymnasium and there was separate provision for remedial exercise and physiotherapy.

The CPT recommends that efforts be made to increase the number of psychiatric patients taking part in therapeutic and rehabilitative activities and to offer a wider range of such activities.

147. Electroconvulsive therapy (ECT) was still practised regularly at the Hospital (mostly in psychiatric Unit 2), although the extent of its use had decreased in recent years. It was always administered in modified form (i.e. with anaesthetic and muscle relaxants). The psychiatrist in charge informed the CPT's delegation that he always tried to consult the patients' family or his/her guardian concerning the use of this treatment and that a special consent form had to be filled in. However, the delegation was informed that no written policy existed in the establishment concerning the use of ECT.

ECT was performed in a designated room situated on the 2nd floor of Unit 2 and a psychiatrist and an anaesthesiologist were always present when the treatment was administered. However, no resuscitation equipment was available in the room, and only a limited amount of information was recorded in the ECT room's register.

148. Electroconvulsive therapy is a recognised form of treatment for psychiatric patients suffering from some particular disorders. However, care should be taken that ECT fits into the patient's treatment plan and its administration must be accompanied by appropriate safeguards. ECT must be administered out of the view of other patients (preferably in a room which has been set aside and equipped for this purpose), by staff who have been specifically trained to provide this treatment. Further, recourse to ECT should be recorded in detail in a specific register. It is only in this way that any undesirable practices can be clearly identified by hospital management and discussed with staff.

These requirements were on the whole being met at the Hospital. However, **the CPT recommends that steps be taken to update and complete the equipment in the ECT room or, alternatively, to have ECT administered in the hospital's intensive care unit. Further, recourse to ECT should be recorded in detail.**

b. Ludanyhalaszi Care Home for psychiatric patients

149. Psychiatric treatment was provided by two visiting psychiatrists (1/2 a day a week each) and somatic treatment by a general practitioner (visiting the establishment on a daily basis, 2 hours a day, 5 days a week). This medical team was supported by 87 nursing staff (32 specialised nurses with qualifications in neurology or psychiatry and 55 nurses) and 14 occupational workers.

Such a level of presence of psychiatrists in an establishment of this capacity accommodating mostly long-term chronic psychiatric patients is not satisfactory. The same can be said for the presence of the general practitioner, who could in practice only deal with urgent matters. Moreover, the number of qualified nurses specialised in neurology or psychiatry is too limited.

Further, there was no visiting psychologist or physiotherapist, something that was a matter of particular concern for the Home's staff.

The CPT recommends that the presence of psychiatrists and general practitioners at the Care Home be substantially increased. That presence should be at least the equivalent of one full time position of psychiatrist and one full time position of a general practitioner. The number of nurses with relevant specialist qualifications should also be increased.

The CPT also recommends that the Hungarian authorities take steps to attach psychologist and physiotherapist services to the Care Home.

150. The Care Home received, on a weekly basis, visits from a gynaecologist and a dentist. As concerns the latter, the delegation was informed that the costs of dental prostheses were not reimbursed and that, as a consequence, indigent residents were frequently deprived of such an aid (it was already the case for 50 of them).

The CPT recommends that the Hungarian authorities take steps to provide appropriate dental care to all residents; this treatment should be free of charge for those residents not in a position to pay for it.

151. A small number of residents (about 10%) at the Care Home had work. They were mainly engaged in filling boxes of staples and paperclips or in putting filled boxes into large cardboard packets. Other jobs consisted in making bobbins for a brush factory or packaging goods for a paper factory. The work was supervised by occupational workers and the residents received a modest wage.

Some residents of limited capability were also working in the laundry. They were engaged in small tasks, such as folding clothes. There appeared to be a tolerance by staff of residents being present during the work, even when they were able to make only a nominal contribution. Staff expressed an awareness of the importance of giving residents a sense of being part of the work and of involving the less able as well as those who were competent to perform a job.

The more active and competent residents had opportunities to engage in a variety of hobbies and occupations, for which space was provided in the communal rooms.

The CPT invites the Hungarian authorities further to develop rehabilitative and therapeutic activities at the Care Home, including better access to occupational therapy, group therapy, individual psychotherapy, art, drama, music and sports.

152. A half way house, situated in the village some five minutes walk from the Care Home, offered accommodation for eight men and women, in three rooms. The residents could work at the Home during the day and were assisted by a nurse while at the half way house. The CPT's delegation was informed that the main obstacle to placement in such halfway houses was not the lack of room, but the absence of outside assistance in the form of medical services and food benefits. The Director explained that the existing half way house was important to staff and residents as a symbol of hope and a source of motivation.

The CPT invites the Hungarian authorities to explore ways of facilitating the placement of the Care Home's residents in half way houses.

4. Means of restraint

153. At **Balassagyarmat General Hospital**, patients brought to the hospital in an agitated and/or violent state could be medicated by injection if necessary. Staff reported that in such cases the patient might be restrained by temporarily holding the arms and head.

Staff on the acute wards reported that leather straps were used as a means of restraint for patients "in danger of falling out of bed or of hurting themselves." If necessary, patients were attached to the bed "for a few hours". The incidence of this measure was reported to be about once every two weeks. This measure required a doctor's order (or subsequent approval) and was recorded in the patient's file. However, there was no special register for the use of means of restraint.

The Director informed the delegation that the Hungarian medical profession was divided on the issue of whether or not there should be legislation concerning the use of means of restraint and that there existed no written policy on the subject at the Hospital.

154. At **Ludanyhalaszi Care Home**, instruments of physical restraint were very rarely used (see, however, paragraph 156). In case of emergency, staff applied manual control and an injection of a neuroleptic was given. As at Balassagyarmat, no written policy or special register existed on this subject. The delegation also noted the presence of a seclusion room in unit 6, used for medical reasons.

155. In any psychiatric establishment, the restraint of agitated and/or violent patients may on occasion be necessary. However, this is an area of particular concern to the CPT, given the potential for abuse and ill-treatment.

It is essential that the restraint of patients be the subject of a clearly-defined policy. That policy should make clear that initial attempts to restrain agitated or violent patients should, as far as possible, be non-physical (e.g. verbal instruction) and that where physical restraint is necessary, it should in principle be limited to manual control. Staff in psychiatric establishments should receive training in both non-physical and manual control techniques vis-à-vis agitated or violent patients. The possession of such skills will enable staff to choose the most appropriate response when confronted by difficult situations, thereby significantly reducing the risk of injuries to patients and staff.

Resort to instruments of physical restraint (straps, strait-jackets, etc.) shall only very rarely be justified and must always be either expressly ordered by a doctor or immediately brought to the attention of a doctor with a view to seeking his approval. If, exceptionally, recourse is had to instruments of physical restraint, they should be removed at the earliest opportunity; they should never be applied, or their application prolonged, as a punishment.

Further, every instance of the physical restraint of a patient (manual control, use of instruments of physical restraint, seclusion) should be recorded in a specific register established for this purpose (as well as in the patient's file). The entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by patients or staff. This will greatly facilitate both the management of such incidents and the oversight of the extent of their occurrence.

The CPT recommends that the Hungarian authorities establish a clear written policy at Balassagyarmat General Hospital and Ludanyhalaszi Care Home (and, as appropriate, at other psychiatric establishments in Hungary) as regards the use of means of restraint, taking into account the above remarks.

156. Particular mention should be made of the situation of a resident at Ludanyhalaszi Care Home who was living in a net-bed ("halos agy"), save when he was taken to the toilet. The bed measured 2.08 m x 0.93 m, and was covered with a strong net, fixed on a tubular metal structure 1.26 m in height, an articulated opening with a padlock having been made on the left-side. Staff at Unit 6 indicated that the resident concerned became agitated when he saw the light, and tried to break the window in order to harm himself if allowed out of the net-bed. They added that the option of a room equipped with plexy-glass windows had been considered, but that the funding was not available; however, the new building might incorporate such a facility. The Director informed the delegation that on taking up his post he had taken out of use some 20 net-beds in Unit 6, and that he was committed to finding an adequate solution in the case of the above-mentioned resident in the immediate future.

The CPT would like to be informed of the solution subsequently found.

157. More generally, the CPT wishes to stress that placement in facilities such as net-beds cannot be considered, in modern psychiatric practice, as a valid method of intensive care for residents in a state of agitation. Further, such an approach could lead to abuses. At the end of the visit, the delegation invoked Article 8, paragraph 5, of the Convention and requested the Hungarian authorities to ensure the immediate withdrawal from service of all such net-beds throughout the country. It asked to receive a report on the action taken in response to this request within three months.

By letter dated 30 March 2000, the Hungarian authorities informed the CPT that a methodological note ("Guiding principles for nursing and caring activities in homes for patients with obsessive or psychiatric disorders"), drafted by the Hungarian Psychiatric Society, had already prohibited the use of such net-beds in care homes for psychiatric patients. However, a recent survey on restrictive measures, methods and instruments conducted by the competent authorities showed that net-beds were still in use in 30 % of such care homes. As a consequence, the local authorities and the directors of the institutions concerned had once again been instructed immediately to discontinue the use of net-beds. In addition, a special rapporteur had been designated to supervise their effective removal. The CPT welcomes these measures and **would like to receive in due course the findings of the special rapporteur.**

5. Safeguards in the context of involuntary placement

158. On account of their vulnerability, the mentally ill and mentally handicapped warrant particular attention in order to prevent any form of conduct - or avoid any omission - contrary to their well-being. It follows that involuntary placement in a psychiatric establishment should always be surrounded by appropriate safeguards.

a. safeguards during placement

159. In this context, the CPT attaches much importance to involuntary patients receiving appropriate information about their situation and being in a position to maintain contact with the outside world. Further, effective complaint and inspection procedures are fundamental safeguards which should be in place.

160. Staff indicated in the two establishments visited that no written information was provided to patients/residents and/or family members, whether on admission or later. Information was said to be provided orally by staff, either individually or in collective sessions. **The CPT recommends that a booklet setting out the establishments' routine and patient's rights and duties be issued to every patient on admission, as well as to their families. This booklet should also identify a clearly-designated body to which patients can address complaints in a confidential manner (cf. also paragraph 162 below).**

161. As concerns contact with the outside world, the situation in both establishments was generally satisfactory. Patients at Balassagyarmat General Hospital could receive visits (80 % of them were regularly visited). At Ludanyhalaszi Care Home, there was an open day each week, but visitors could come on other days, if they wished. In addition, a room for prolonged family visits was at the disposal of residents who were married or had an established partner. Moreover, the local village community seemed to be closely involved with the situation of the residents.

Further, patients/residents in both establishments had access to the telephone and could send and receive correspondence.

162. As regards complaints, the delegation was informed at Balassagyarmat General Hospital that a weekly meeting was organised between staff and patients within the units. Furthermore, a special procedure was followed when a patient was discharged from the Hospital. The patient could fill in a confidential questionnaire, touching upon a range of issues, that was sent directly to a special Board, made up of a lawyer and lay members of the community. The psychiatric units were subsequently informed orally by the Board of any shortcomings recorded.

Another approach was followed at Ludanyhalaszi Care Home. Every week, all staff - including administrative and support staff - and residents had group meetings in the Units. The proceedings were recorded and the problems raised were discussed in a follow-up meeting. Further, a Board consisting of a representative of the local authority, a member of the County Social Committee, the Director, the Chief Nurse of the home and two residents met to review residents' complaints. The Board had met three times in the past two years to consider minor disputes.

The CPT recommends that the above-mentioned procedures be supplemented by a formal complaints procedure; specific arrangements should exist enabling patients to lodge formal complaints with a clearly-designated body and to communicate on a confidential basis with an appropriate authority outside the establishment.

163. In the same context, and having regard to information gathered at Balassagyarmat General Hospital, **the CPT recommends that steps be taken to ensure that all written communications addressed to the European Court of Human Rights and the CPT are transmitted to those bodies in confidence and without delay.**

164. As regards external supervision, the local court (a magistrate and a lawyer) held a session every Friday at Balassagyarmat General Hospital, in order to interview recently admitted involuntary patients or to take a decision on the prolongation of the placement of other patients; however, its role was far from amounting to the inspection of patients' care. At Ludanyhalaszi Care Home for psychiatric patients, a review had recently been conducted in order to assess the conditions before delivering an extension of the operating licence. The on-site inspection - which is made every three years - took approximately two weeks and a report was produced after six weeks. No other form of independent monitoring was noted.

The CPT recommends that steps be taken to ensure that all psychiatric establishments in Hungary - including care homes for psychiatric patients - are visited, on a regular basis, by an independent outside body responsible for the inspection of patients' care. This body should be authorised, in particular, to talk privately with patients/residents, receive directly any complaints which they might have and make any necessary recommendations.

b. initial placement and discharge procedures

165. At Balassagyarmat General Hospital, involuntary admissions are regulated by the new Health Act (July 1998), which provides for two distinct procedures:

- a *normal* procedure, whereby a patient can be hospitalised against his/her will, for reason of dangerousness, after a court decision has been taken on the initiative of a psychiatrist;
- an *emergency procedure*, whereby a patient can be hospitalised at a doctors' request, for reason of severe dangerousness, with a court having to examine whether the doctor's decision was justified within 72 hours of admission.

In the course of such procedures, the relevant court holds hearings with the patient, as well as with an independent forensic medical expert and the doctor who initiated the placement. Further, the patient has a right to free legal representation. Such involuntary placement in psychiatric hospitals is reviewed by the court every 30 days.

166. The safeguards applicable to involuntary placement in a psychiatric hospital in Hungary seem therefore to be satisfactory, at least in theory. However, during its visit to Balassagyarmat General Hospital, the CPT discovered a practice which gives grounds for concern. The Director of Unit 1 - and Chief Doctor at County level - informed the delegation that it was difficult for him to say which of his 83 patients were there on a voluntarily basis and which were not. He described a process by which patients usually came to the psychiatric units of their own volition, normally with a referral from their family doctor. Those who came against their will (mainly in an emergency) were the subject of notification from the psychiatric unit concerned to the local court; however, "usually, within a few days, they agreed to be voluntary patients".

Further discussion with other medical staff members revealed that the placement of patients in the psychiatric units might involve "different degrees of voluntariness" and that there appeared, in practice, to be no involuntary patients in the Units. At one end of the spectrum were the "fully voluntary" patients suffering from neurosis; at the other end, even legally incompetent patients were apparently considered to be voluntary patients. Perusal of the Unit 1 admissions' register revealed that since 1st January 1999, only four cases had been initially logged as non voluntary patients (out of a total of 2139 admissions) and that of these, only one was recorded as refusing placement at the expiration of the 72 hours period following admission.

Nevertheless, patients surrendered their identity cards on admission and a private security guard placed at the entrance to the psychiatric units controlled, on the doctor's instructions, the exit of patients from the building.

167. In order to assess the precise legal situation of the patients of Units 1 & 2, the delegation decided to meet the magistrate and the patients' lawyer concerned at the local courthouse. The delegation requested to consult the orders for compulsory placement issued by the court in 1999 under the Health Act (cf. paragraph 7). The magistrate initially refused to accede to the delegations' request and subsequently proved unable to produce any example of an involuntary placement order, even when the details of the case referred to in paragraph 166 (second sub-paragraph) were communicated by the delegation. A request to see an uncompleted pro-forma of an involuntary placement order also proved unsuccessful.

It emerged that, in practice, the main function of the regular hearings conducted by the court at the hospital was to gain patients' agreement to placement when this agreement was not forthcoming on admission. The magistrate described the role of the court as "to explain the benefit of treatment. We promise them that we will review it each week." The magistrate however acknowledged that review was not automatic for patients who agreed to placement and that in such a case, the patient had to request a review by the court.

168. After careful examination, including discussions with medical staff at Balassagyarmat General Hospital and with the magistrate and the patients' lawyer at the local court, it became clear to the delegation that, by a process of "concerted persuasion" on the part of the medical staff at the hospital, the magistrate in charge of such cases, and the lawyer entrusted with the defence of such patients, virtually all patients admitted to the psychiatric units were, during the requisite period of 72 hours from admission, brought to acceptance of placement as a voluntary patient. Once this agreement was achieved, the voluntary status of the patient obviated the requirement for regular legal oversight, unless a patient specifically requested a review.

The practice observed could well be considered as *de facto* circumventing safeguards for involuntary psychiatric patients. **The CPT would like to receive the comments of the Hungarian authorities on this subject.**

169. The placement of patients at Ludanyhalaszi Care Home is regulated by the Social Care Act of 1993. The usual process of placement at the Care Home (80 % of the residents) involved a recommendation for total/partial guardianship from the Chief Psychiatrist at Balassagyarmat General Hospital (most of the residents had been placed at the Care Home following long periods at the hospital's psychiatric units) and a placement letter from Nograd County Authority; for the remaining 20 % residents, placement followed a specific request addressed to the county authorities by the patients' relatives.

The court hearing to decide whether the person concerned was competent or incompetent and whether guardianship should be limited or total was held in the presence of the patient; it also included an independent psychiatric opinion. As the judicial decision-making process about guardianship took some time (six months at least), a system of temporary guardianship was often used; it could last for up to one year, while the court decision was pending.

The delegation was informed that the Social Care Act had been amended in 1999 and that a special committee had been set up in September 1999 to set out more detailed recommendations about the legal protection of residents placed in social care homes. **The CPT would like to receive, in due course, a copy of the above-mentioned recommendations.**

170. Residents were occasionally granted probationary adaptation leave, if their relatives agreed. Such a case was in progress at the time of the visit: if the probationary period went well, the person would be granted permanent leave and adopted. However, as already indicated, discharge from the Care Home was a very rare occurrence (cf. paragraph 132), mainly because of the lack of adequate care/accommodation in the outside community. For persons to remain deprived of their liberty as a result of the absence of appropriate external facilities is a highly questionable state of affairs. **The CPT would like to receive the views of the Hungarian authorities on this subject.**

D. Budapest Military Prison

171. Since 1993, Budapest Military Prison is the only military prison in Hungary, following its fusion with Budapest Military Prison and the former Disciplinary Department of the Hungarian Army. The establishment is used for the incarceration of all military personnel (including police, border guards, civil defence and prison personnel) remanded in custody or sentenced to prison sentences of two months to one year. Sentences longer than one year are served in civilian prisons.

The rules governing the prison were elaborated jointly by the Ministry of Defence and the Ministry of Justice. Guards are not armed and overall security relies heavily on 14 surveillance cameras.

The establishment has a capacity of 250 and was accommodating 26 prisoners at the time of the visit.

172. No allegations of torture or other forms of ill-treatment were heard - and the delegation gathered no other evidence of such treatment - of prisoners by staff in the establishment. Further, the atmosphere in the establishment was relaxed.

173. The overall material conditions at Budapest Military Prison were much better than those observed in civilian prisons. Prisoners were accommodated in spacious dormitories, each equipped with seven beds, located on the second floor of the building. The dormitories had cupboards, chairs and a table. All doors were unlocked throughout the day (with the notable exception of dormitories accommodating remand prisoners).

As regards the activities offered to prisoners, they attended 3 hours of military theory daily and worked 3 hours per day (including work in the kitchen, domestic duties, etc.). According to the prisoners interviewed, the regime was comparable to any other military establishment throughout the country. The prison had a library (14.000 titles), music and video rooms, a recreation and fitness rooms and, a theatre group (10 to 12 detainees).

As far as visits are concerned, they were possible every fortnight and a prisoner could be visited by three persons at a time. Telephone calls were possible daily, for a maximum duration of 10 minutes.

174. Medical care was provided by a general practitioner, four days a week, and a nurse was present 24 hours per day. All newly arrived prisoners were subject to a medical check-up on admission. If need be, surgical interventions were carried out at Tököl Military Hospital.

The system of inspection was similar to the one for civilian prisons: a military prosecutor visited the establishment at least once per month and reported to the Military Prosecutor General.

III. RECAPITULATION AND CONCLUSIONS

A. Police establishments

175. The CPT's delegation heard a number of allegations of physical ill-treatment by the police, in particular as regards police establishments in Budapest, Debrecen and Hajdúhadház. Most of the allegations related to police interrogations; some allegations referred to the time of apprehension and/or transport to a police establishment.

The great majority of the allegations heard were consistent as regards the form of ill-treatment inflicted. Persons alleged that they had been struck with truncheons, punched, kicked, or slapped by police officers. In addition, verbal abuse of persons detained by the police was apparently common. Foreign nationals, juveniles and Roma seemed to be particularly at risk of such ill-treatment. In some cases, the delegation gathered medical evidence consistent with allegations of ill-treatment.

In the light of all the information gathered during the 1999 visit, the CPT has emphasised that it remains concerned about the treatment of persons detained by the police in Hungary.

176. The CPT has reiterated several recommendations already made in its 1994 visit report concerning, in particular, the use of force by police officers and the medical examination of persons in police custody. Moreover, the CPT has recommended that training programmes for police officers be reviewed in order to integrate human rights concepts into practical professional training for handling high-risk situations, such as the apprehension and interrogation of criminal suspects.

The CPT has indicated that it retains misgivings about the dual allegiance of police doctors and the compatibility of their position with professional medical ethics. Further, it has expressed concern about the practice followed by police officers of formally advising detained persons who have manifested their wish to register a complaint that to defame a police officer is a criminal offence; such a practice could easily discourage a person who has been ill-treated by the police from lodging a complaint.

177. The information gathered in the course of the 1999 visit also indicates that there remains room for improvement concerning formal safeguards against ill-treatment of persons detained by the police. The CPT has in particular recommended that steps be taken to ensure that persons in police custody enjoy an effective right of access to a lawyer, as from the very outset of their deprivation of liberty (including persons who are not in a position to pay for legal services).

178. As regards conditions of detention in police establishments, the CPT's visit in 1999 revealed that much still needs to be done to meet the criteria set out by the Committee in its 1994 visit report and to implement in practice the requirements laid down in the 1995 Decree of the Minister of Interior on this subject. The CPT has recommended that appropriate steps be taken to ensure that material conditions of detention in all police establishments in Hungary meet the above-mentioned criteria.

179. The CPT has welcomed the adoption of the new Law on Criminal Procedure, which stipulates in section 135 that pre-trial detention must be carried out in remand prisons. However, it is highly regrettable that the entry into force of that Law has been delayed until January 2003. In the meantime, steps must be taken to improve the situation of remand prisoners held in police establishments.

The CPT has called upon the Hungarian authorities to ensure that all remand prisoners held in police establishments are offered at least one hour of outdoor exercise every day, and to make genuine efforts to offer some sort of activities to such prisoners. Further, the Committee has recommended that the possibility be explored of accelerating the entry into force of section 135 of the new Law.

B. Border Guard Community Shelters

180. The CPT's delegation heard two allegations of physical ill-treatment of residents by Border Guard staff at the Nyírbátor Community Shelter. Further, many allegations of verbal abuse were received and the delegation observed itself that staff-resident relations were strained. The Committee has recommended that the Border Guard staff assigned to Nyírbátor receive the clear message that all forms of ill-treatment, including verbal abuse, are not acceptable and will be the subject of severe sanctions.

The situation was much more favourable at the Budapest Airport Community Shelter. No allegations of ill-treatment were received and staff-resident relations were clearly relaxed.

181. As regards living conditions, the Nyírbátor Community Shelter displayed a number of negative factors - poor material conditions, in particular in buildings 2 and 3; absence of activities; lack of regular outdoor exercise; inadequate medical/psychiatric care; linguistic barriers and lack of information for foreigners regarding their situation - which for many of the foreigners concerned clearly rendered their stay in the shelter intolerable. Not surprisingly, cases of self-mutilation, hunger strikes and suicide attempts, vandalism and violence were a common occurrence. The CPT has made a number of recommendations designed to remedy these deficiencies.

The CPT has recommended that immediate measures be taken to improve material conditions in the shelter and, in particular, in buildings 2 and 3. Particular attention should be accorded to the maintenance of an acceptable level of collective and individual hygiene, as well as to the repair of the heating system.

As for the regime in the shelter, the CPT has recommended that immediate steps be taken in order to ensure that all residents are guaranteed at least one hour of outdoor exercise per day. Further, residents should be offered a wider range of activities and specific measures are required in order to ensure that minors are offered activities suitable to their age. The longer the period for which persons are detained, the more developed should be the activities offered to them.

The CPT's delegation made an immediate observation under Article 8 (5) of the Convention, requesting the immediate increase of medical and psychological services at Nyírbátor Community Shelter. The need for such an increase was recognised by the Hungarian authorities. In this context, the CPT has recommended that the shelter be provided with its own medical doctor, working on at least a half-time basis, and that residents at the shelter be offered on a regular basis the services of a gynaecologist, a paediatrician, a psychiatrist and a psychologist.

182. Living conditions at Budapest Airport Community Shelter were in all respects considerably better than at Nyírbátor, and call for no particular comment from the CPT.

183. The staff at centres for foreign nationals have a particularly onerous task and, consequently, should be carefully selected and receive appropriate training. In this connection, the CPT has recommended that the selection and training of Border Guard staff assigned to Nyírbátor Community Shelter be reviewed, in the light of various criteria identified by the Committee. Further, bearing in mind the presence of many women and young children at the shelter, efforts should be made to employ a certain number of female staff members, to work in direct contact with residents.

C. Prisons

184. The CPT's delegation heard no allegations of torture or other forms of physical ill-treatment by staff in any of the prison establishments visited or in other prisons in Hungary; nor was any other evidence of such treatment found during the visit. A few allegations of verbal abuse by staff were heard at Tököl Prison and Remand Centre for Adolescents; however, on the whole, the relations between staff and prisoners in all the establishments visited were found to be positive.

185. The facts found during the 1999 visit revealed that the Hungarian prison system continued to be blighted by the phenomenon of overcrowding. Whilst acknowledging the efforts made to address this problem, the CPT has stressed that providing additional accommodation is unlikely on its own to offer a lasting solution. The Committee has recommended that the Hungarian authorities pursue vigorously the implementation of a whole range of measures designed to combat prison overcrowding, taking into account principles already set out in Recommendations of the Committee of Ministers of the Council of Europe.

186. The CPT has serious misgivings about certain aspects of the conditions in which Grade 4 prisoners (i.e. prisoners considered as dangerous) were being held. Means of restraint (such as handcuffs and/or anklecuffs) were routinely applied to such prisoners when outside their cells; further, some of them were kept for some considerable time in isolation and had particular difficulties to receive visits and have access to a telephone. The Committee has recommended that immediate steps be taken to review current practice concerning the use of means of restraint vis-à-vis Grade 4 prisoners and, more generally, to review the regime applied to such prisoners, with a view to ensuring that they are guaranteed appropriate human contact. The Committee has also set out specific procedural safeguards that should be offered to Grade 4 prisoners.

187. The conditions of detention of prisoners at Budapest Remand Prison had worsened since the 1994 visit, mainly because of the overcrowding. However, the CPT has been informed that this problem would be solved in the very near future, with the entry into service of a new remand prison in Budapest in June 2000. In this context, the CPT has recommended that vigorous efforts be made to develop a satisfactory programme of activities for prisoners in both Budapest remand establishments. The Committee has also reiterated the recommendation made in the 1994 visit report, that all prisoners be offered at least one hour of outdoor exercise every day.

188. Conditions of detention at Tököl Prison and Remand Centre for Adolescents remained quite acceptable. However, the CPT is still concerned about conditions in the reception and segregation/disciplinary units. The Committee has recommended that measures be taken to improve access to natural light, artificial lighting and ventilation in the segregation/disciplinary cells, and requested information about plans to construct a new reception unit. As regards the regime, the CPT once again gained a positive impression of the multidisciplinary approach adopted at Tököl Prison and Remand Centre for Adolescents. However, it has reiterated the recommendation made after the 1994 visit that steps be taken to ensure that all prisoners are offered one hour of outdoor exercise every day.

189. Veszprém Prison was seriously overcrowded and in an advanced state of dilapidation; further, nothing remotely resembling a regime of activities was offered to prisoners. The CPT has, in particular, recommended that steps be taken to reduce the cell occupancy rates to an acceptable level (a standard of 4 m² per prisoner might usefully be adopted for this purpose), and that means of improving ventilation in the cells be explored. In addition, all prisoners should be able to spend a reasonable part of the day outside their cells, engaged in purposeful activities of a varied nature.

190. The CPT also addresses a number of health care issues concerning prisons. In particular, the Committee has recommended that certain vacant medical posts be filled without delay at the Budapest and Tököl Prisons, and that Veszprém Prison be provided with its own doctor, working on at least a half-time basis.

The CPT has also recommended that the Hungarian authorities bring their HIV policy into line with the relevant international standards, in particular those established by the World Health Organisation and the Council of Europe, and that staff working in prison establishments be provided with ongoing training in the preventive measures to be taken and the attitudes to be adopted regarding HIV-positivity and given appropriate instructions concerning non-discrimination and confidentiality. In this connection, the Committee has stressed that there is no medical justification for the segregation of a prisoner solely on the grounds that he is HIV positive.

D. Psychiatric establishments

191. The delegation heard no allegations - and gathered no other evidence - of the ill-treatment of patients by staff at Balassagyarrmat General Hospital and Ludanyhalaszi Care Home for psychiatric patients. The atmosphere in the two establishments was relaxed and the approach of the medical and nursing staff appeared professional and caring towards their patients/residents.

192. Patients' living conditions in the two psychiatric units of Balassagyarrmat General Hospital were good, and the level of medical and nursing staff at the Hospital seemed satisfactory. However, the CPT has recommended that all non bed-ridden patients be allowed to wear their own clothes during the day or be provided with appropriate non-uniform garments.

As regards treatment, the Committee has recommended that efforts be made to increase the number of psychiatric patients taking part in therapeutic and rehabilitative activities and to offer a wider range of such activities. Further, steps should be taken to update and complete the equipment in the electroconvulsive therapy (ECT) room or, alternatively, to have ECT administered in the hospital's intensive care unit. In addition, recourse to ECT should be recorded in detail.

193. Patients' living conditions at Ludanyhalaszi Care Home varied from good in the most recent building to unsatisfactory in Unit 6. The CPT has recommended that a high priority be given to existing plans for the reconstruction of the latter Unit. The Committee has also welcomed planned improvements to the Home's kitchen and laundry.

On staff matters, the Committee has recommended that the presence of psychiatrists and general practitioners at the Care Home be substantially increased, to reach at least the equivalent of one full time position of psychiatrist and one full time position of a general practitioner. The number of nurses with relevant specialist qualifications should also be increased, and psychologist and physiotherapist services should be attached to the Home.

The CPT has also invited the Hungarian authorities further to develop rehabilitative and therapeutic activities at the Care Home, including better access to occupational therapy, group therapy, individual psychotherapy, art, drama, music and sports.

194. As regards means of restraint, the CPT has in particular highlighted the situation of a resident at Ludanyhalaszi Care Home who was living in a net-bed ("halos agy"). The placement of patients in such facilities cannot be considered, in modern psychiatric practice, as a valid method of intensive care for patients in a stage of agitation. Consequently, at the end of the visit, the Committee's delegation requested that all net-beds be immediately withdrawn from service throughout the country. The CPT has welcomed the measures taken by the Hungarian authorities to comply with that request.

More generally, the CPT has recommended that a clear written policy on the use of means of restraint be established at Balassagyarrmat General Hospital and Ludanyhalaszi Care Home (and, as appropriate, at other psychiatric establishments in Hungary), taking into account criteria identified by the Committee.

195. The CPT has made a number of recommendation concerning safeguards in the context of involuntary placement (information to be provided to patients, complaints procedures, external supervision). Further, the Committee has expressed concern as regards the practice observed at Balassagyarmat of persuading patients to accept placement in the General Hospital on a voluntary basis; that practice could well be considered as de facto circumventing safeguards for involuntary psychiatric patients.

E. Budapest Military Prison

196. No allegations were heard - and no other evidence gathered - of ill-treatment of prisoners at the Budapest Military Prison. Further, both the material conditions of detention and the activities offered to prisoners were satisfactory, as were the arrangements for medical care.

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

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

198. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the Hungarian authorities to provide within six months a report providing a full account of action taken to implement the recommendations.

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

APPENDIX I

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

A. Establishments under the authority of the Ministry of Interior

1. Torture and other forms of ill-treatment

recommendations

- police officers to be reminded that no more force than is reasonably necessary should be used when effecting an arrest and that once arrested persons have been brought under control, there can never be any justification for them being struck (paragraph 19);
- senior police officers to deliver to their subordinates the clear message that the ill-treatment of detained persons is not acceptable and will be the subject of severe sanctions (paragraph 19);
- training programmes for police officers to be reviewed in the light of the remarks made in paragraph 21 (paragraph 21);
- the results of every medical examination, as well as any relevant statements by the detainee and the doctor's conclusions, to be recorded in writing by the doctor and made available to the detainee and his lawyer (paragraph 22);
- existing procedures to be reviewed in order to ensure that whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a detained person, the record is systematically brought to the attention of the relevant prosecutor (paragraph 22);
- all medical examinations to be conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of police officers (paragraph 23).

requests for information

- any preventive measures taken with a view to providing support for police officers exposed to highly stressful or violent situations (paragraph 20);
- developments concerning the hierarchical allegiance of police doctors (paragraph 25);
- for 1999:
 - the number of complaints of ill-treatment by the police lodged and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;
 - an account of disciplinary/criminal sanctions imposed on the grounds of ill-treatment by the police (paragraph 26);

- the comments of the Hungarian authorities on the practice of formally advising detained persons manifesting their wish to register a complaint against the police, that to defame a police officer is a criminal offence in Hungary (paragraph 27);
- the measures taken by the Hungarian authorities to combat the phenomenon of inter-detainee violence in police establishments (paragraph 28).

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

recommendations

- the possibility to delay the exercise by detained persons of the right to inform a relative or third party of their situation to be made subject to appropriate safeguards (eg. any delay to be recorded in writing together with the reasons therefor and to require the approval of a public prosecutor) and strictly limited in time (paragraph 30);
- steps to be taken to ensure that persons in police custody benefit from an effective right of access to a lawyer, as from the very outset of their deprivation of liberty (paragraph 31);
- the system of legal aid to detainees to be reviewed, in order to ensure its effectiveness throughout the procedure, including at the initial stage of police custody (paragraph 32);
- a form setting out in a straightforward manner the rights of persons detained by the police to be systematically given to such persons, at the outset of their custody. This form should be available in an appropriate range of languages (paragraph 33);
- the possibility of further developing the use of electronic recording of police interrogations to be explored (paragraph 35);
- appropriate steps to be taken to ensure that the return of remand prisoners to police custody for further questioning is only sought and authorised when it is absolutely unavoidable (paragraph 36).

requests for information

- developments concerning the preparation of a body of rules concerning criminal investigation by the police (including police interrogation) (paragraph 34);
- confirmation that the different safeguards against ill-treatment by the police (e.g. notification of custody, access to a lawyer and doctor, information on rights) are guaranteed to all persons deprived of their liberty by the police, irrespective of the legal basis for the deprivation of liberty (paragraph 38).

3. Conditions of detention

recommendations

- measures to be taken without further delay to implement the recommendation already set out in paragraph 34 of its 1994 visit report, concerning the improvement of material conditions at the 5th District Police Station and the Police Central Holding Facility in Budapest (paragraph 40);
- steps to be taken to improve the material conditions of detention at Debrecen and Hajdúhadház police establishments, in the light of the remarks in paragraph 41 and the general criteria set out in paragraph 27 of the 1994 visit report (paragraph 41);
- appropriate steps to be taken to ensure that material conditions of detention in all police establishments in Hungary meet the general criteria set out by the CPT in paragraph 27 of its 1994 visit report, as well as those set out in the 1995 Decree of the Minister of Interior (paragraph 41);
- the recommendation made by the Committee some 5 years ago, that immediate steps be taken to ensure that all remand prisoners held in police establishments are offered at least one hour of outdoor exercise every day, to be implemented (paragraph 44);
- genuine efforts to be made to offer some form of activities to remand prisoners held in police establishments (paragraph 44);
- the possibility of accelerating the entry into force of section 135 of Law N° XIX to be explored (paragraph 44);
- appropriate measures to be taken to ensure that the possibility offered by paragraph 2 of section 135 of Law N° XIX, to have remand prisoners kept on police premises for a certain period, is only resorted to in exceptional cases (paragraph 44);
- steps to be taken in order to ensure that the precepts referred to in paragraph 45 concerning the preparation of medication and medical confidentiality are fully respected in practice (paragraph 45).

comments

- the ventilation in the cells at the 8th District Police Station in Budapest left something to be desired (paragraph 40).

requests for information

- confirmation that the holding cells at Budai Street Police Station in Debrecen have been renovated (paragraph 41).

4. Border Guard Community Shelters

a. introduction

requests for information

- the comments of the Hungarian authorities on the subjects raised in paragraph 47 (paragraph 47).

b. Nyírbátor Community Shelter

recommendations

- male and female residents to be, as a rule, accommodated separately, unless the residents concerned expressed the wish to be placed together with persons with whom they share an emotional or cultural affinity. In addition, minors should be separated from adults with whom they are not family-related (paragraph 50);
- Border Guard staff at the shelter to be reminded that once a resident who resists authority or attempts to escape has been brought under control, there can be no justification for him being struck. They should also receive the clear message that all forms of ill-treatment, including verbal abuse, are not acceptable and will be the subject of severe sanctions (paragraph 52);
- the official capacity of the shelter to be reduced. The standard of 4 m² per resident might usefully be adopted for this purpose (paragraph 54);
- immediate measures to be taken to improve material conditions in the shelter and, in particular, in buildings 2 and 3. Particular attention should be accorded to the maintenance of an acceptable level of collective and individual hygiene, as well as to the repair of the heating system (paragraph 57);
- steps to be taken in order to remedy the shortcoming observed concerning food for young children and babies (paragraph 58);
- immediate steps to be taken in order to ensure that all residents at the shelter (and in other community shelters throughout Hungary) are guaranteed at least one hour of outdoor exercise per day (paragraph 60);

- residents in the shelter (as well as in other such shelters throughout Hungary) to be offered a wider range of activities. Ensuring access to a wide variety of reading materials, in an appropriate range of languages, and diversifying the means of recreation are examples of the steps required. Specific measures should be taken in order to ensure that minors are offered activities suitable to their age, in particular, sports and education. The recruitment of educators or social workers should also be considered. The longer the period for which persons are detained, the more developed should be the activities which are offered to them (paragraph 60);
- the selection and training of Border Guard staff assigned to the shelter to be reviewed, in the light of the remarks made in paragraph 62. Further, efforts should be made to employ a certain number of female Border Guard staff members, to work in direct contact with the residents at the shelter (paragraph 62) ;
- the House Rules to be provided in a wider range of frequently spoken languages (paragraph 63);
- steps to be taken in order to ensure that all residents are duly informed about their rights and obligations, as well as of the nature and state of the proceedings in their case (paragraph 64);
- the time allowed for visits to be increased to one hour a week (paragraph 65);
- the shelter to be provided with its own medical doctor, working on at least a half-time basis (paragraph 69);
- regular availability of the services of a gynaecologist, a paediatrician, a psychiatrist and a psychologist to be offered at the shelter (paragraph 69).

comments

- many complaints were heard to the effect that postage stamps were not available in the shelter's shop (paragraph 65);
- all residents at the shelter should have access to preservative dental treatment, including those without the means to pay for such treatment themselves (paragraph 70).

requests for information

- the comments of the Hungarian authorities on the issues concerning food raised in paragraph 58 (paragraph 58);
- the steps taken to enhance the level of health care provided at the shelter (paragraph 69).

c. Budapest Airport

comments

- the Hungarian authorities are invited to explore the possibility of bringing back into service the two Border Guard detention rooms at Budapest Airport Terminal (paragraph 77).

requests for information

- further details concerning the new community shelter to be opened at the airport (e.g. capacity, material conditions, regime activities, etc.) (paragraph 76).

d. other issues

recommendations

- steps to be taken to ensure that any provision of medication to persons subject to an expulsion order is only done on the basis of a medical decision and in accordance with medical ethics (paragraph 81).

requests for information

- the views of the Hungarian authorities on the consideration that every decision involving the removal of a person from a State's territory should be appealable before another body of an independent nature prior to its implementation (paragraph 80);
- details of the training of ORMA officials and of the sources of information used by them when assessing the human rights situation in other countries (paragraph 80);
- whether specific guidelines have been drafted concerning the means of coercion that can be used in the context of expulsion procedures (paragraph 81).

B. Establishments under the authority of the Ministry of Justice

1. Preliminary remarks

recommendations

- the implementation of the whole range of measures designed to combat prison overcrowding to be vigorously pursued, taking into account the considerations set out in paragraph 89 and the recommendations referred to therein (paragraph 90).

2. Torture and other forms of physical ill-treatment

requests for information

- for 1999 and 2000:
 - the number of complaints of ill-treatment lodged against prison officers in Hungary;
 - an account of disciplinary and/or criminal sanctions imposed following such complaints (paragraph 92).

3. Grade 4 prisoners

recommendations

- a prisoner who is placed in a Grade 4 regime by the judicial or prison authorities or whose placement in such a regime is renewed to be informed in writing of the reasons for that measure (it being understood that the reasons given could exclude information which security requirements reasonably justify withholding from the prisoner) (paragraph 98);
- a prisoner in respect of whom such a measure is envisaged to be given an opportunity to express his views on the matter (paragraph 98);
- the placement of a prisoner in such a regime to be as short as possible and reviewed at least every three months (paragraph 98);
- immediate steps to be taken to review the practice concerning the use of means of restraint vis-à-vis Grade 4 prisoners, in the light of the remarks made in paragraph 100 (paragraph 100);
- the regime applied to Grade 4 prisoners, in particular as concerns isolation, visits and access to the telephone, to be reviewed. Above all, it must be ensured that such prisoners are guaranteed appropriate human contact (paragraph 101).

4. Conditions of detention

a. Budapest Remand Prison

recommendations

- vigorous efforts to be made to develop a satisfactory programme of activities for prisoners in both Budapest Remand establishments (paragraph 105);
- all prisoners to be offered at least one hour of outdoor exercise every day (paragraph 105).

requests for information

- confirmation that the new remand establishment in Budapest is now operational and information on the number of prisoners accommodated in both Budapest Remand establishments (paragraph 102).

b. Tököl Prison and Remand Centre for Adolescents

recommendations

- efforts to be made to ensure a better use of the number of cells available in the reception unit and regular cleaning of the premises, in particular of the sanitary annexes (paragraph 107);
- measures to be taken to improve access to natural light, artificial lighting and ventilation in the segregation/disciplinary cells. In addition, the toilets should be repaired (paragraph 108);
- steps to be taken to ensure that prisoners are offered one hour of outdoor exercise per day (paragraph 110).

comments

- the detention units were still somewhat austere (paragraph 106).

requests for information

- further details on the new reception unit (paragraph 107).

c. Veszprém Prison

recommendations

- steps to be taken to reduce the cell occupancy rates to an acceptable level. A standard of 4 m² per prisoner might usefully be adopted for this purpose (paragraph 112);
- prisoners to be offered the opportunity to take at least one hot shower per week (paragraph 112);

- means to be explored of improving ventilation in the cells (paragraph 112);
- the two cells measuring 3m² each, used for temporary accommodation of new arrivals and for punishment purposes, to be immediately withdrawn from service (paragraph 113);
- steps to be taken in order to ensure that:
 - all prisoners spend a reasonable part of the day (i.e. 8 hours or more) outside their cells, engaged in purposeful activities of a varied nature (work, preferably with vocational value, education, recreation/association);
 - all prisoners are offered at least one hour of outdoor exercise every day (paragraph 114).

comments

- prisoners were not allowed to have a radio/TV in their cells (paragraph 114).

requests for information

- detailed information on the new prison scheduled to enter into service in 2002 (paragraph 115).

5. Health care services

recommendations

- the two vacant posts of psychologists at Budapest Remand Prison to be filled without further delay (paragraph 117);
- immediate steps to be taken to ensure that at least one of the doctors' posts at Tököl Remand Prison and Centre for Adolescents is filled without delay (paragraph 118);
- Veszprém Prison to be provided with its own doctor, working on at least a half-time basis (paragraph 119);
- the Hungarian HIV policy to be brought into line with the relevant international standards, in particular those of the World Health Organisation and the Council of Europe (paragraph 122);
- staff working in prison establishments to be provided with ongoing training in the preventive measures to be taken and the attitudes to be adopted regarding HIV-positivity and given appropriate instructions concerning non-discrimination and confidentiality (paragraph 122).

comments

- a person competent to provide first aid to be always present on prison premises, preferably someone with a recognised nursing qualification (paragraph 119).

requests for information

- the comments of the Hungarian authorities on the questions raised concerning suicide prevention (paragraph 123);
- the measures envisaged by the Hungarian authorities to address issues related to drug dependent prisoners (paragraph 124).

6. Other issues related to the CPT's mandate

recommendations

- the visit entitlement of prisoners at Budapest Remand Prison to be substantially increased and the possibility of improving the conditions under which visits take place to be explored (paragraph 125);
- visiting arrangements at Veszprém Prison to be reviewed in order to ensure, as far as possible, that prisoners are able to receive visits under reasonably open conditions (paragraph 125);
- steps to be taken to review the procedure applied to making telephone calls, in the light of the comments made in paragraph 126. The objective should be to increase significantly access to the telephone for prisoners; close surveillance of telephone calls should be the exception rather than the rule (paragraph 126);
- prisoners facing disciplinary charges to be formally accorded the following rights:
 - to be informed in writing of the charges against them and to be provided with sufficient time to prepare their defence;
 - to call witnesses on their behalf and to cross-examine witnesses giving evidence against them (paragraph 128).

requests for information

- whether the practice of granting confidential access in writing to the prison Director is followed in other prison establishments in Hungary (paragraph 129).

C. Psychiatric establishments

1. Patients' living conditions

recommendations

- all non bed-ridden patients at Balassagyarmat General Hospital to be allowed to wear their own clothes during the day or to be provided with appropriate non-uniform garments (paragraph 135);
- the practice of using men's toilet facilities at Balassagyarmat General Hospital as a temporary storage place for rubbish to cease (paragraph 136);
- a high priority be given to the implementation of plans for the reconstruction of Unit 6 at Ludanyhalaszi Care Home (paragraph 140).

comments

- some of the shower facilities for men at Balassagyarmat General Hospital were not well ventilated (paragraph 136);
- certain of the residents rooms in Units 1 and 2 at Ludanyhalaszi Care Home were somewhat overcrowded (paragraph 139);
- the number and the size of the communal rooms in Units 1 and 2 at Ludanyhalaszi Care Home were rather limited (paragraph 139);
- the CPT trusts that reconstruction of the kitchen at Ludanyhalaszi Care Home will be accorded a high priority (paragraph 143).

requests for information

- details of the situation in the refurbished premises of Unit 6 (residents' living conditions, distribution of the residents, programme of therapeutic activities, staffing levels, etc.) at Ludanyhalaszi Care Home (paragraph 140);
- confirmation that separation by gender is now effective in the closed ward in Unit 6 at Ludanyhalaszi Care Home (paragraph 141).

2. Staff and treatment

recommendations

- efforts to be made to increase the number of psychiatric patients at Balassagyarmat General Hospital taking part in therapeutic and rehabilitative activities, and to offer a wider range of such activities (paragraph 146);
- steps to be taken to update and complete the equipment in the ECT room at Balassagyarmat General Hospital or, alternatively, to have ECT administered in the hospital's intensive care unit. Further, recourse to ECT should be recorded in detail (paragraph 148);
- the presence of psychiatrists and general practitioners at Ludanyhalaszi Care Home to be substantially increased. That presence should be at least the equivalent of one full time position of psychiatrist and one full time position of a general practitioner. The number of nurses with relevant specialist qualifications should also be increased (paragraph 149);
- steps to be taken to attach psychologist and physiotherapist services to Ludanyhalaszi Care Home (paragraph 149);
- steps to be taken to provide appropriate dental care to all residents at Ludanyhalaszi Care Home; this treatment should be free of charge for those residents not in a position to pay for it (paragraph 150).

comments

- the Hungarian authorities are invited further to develop rehabilitative and therapeutic activities at Ludanyhalaszi Care Home, including better access to occupational therapy, group therapy, individual psychotherapy, art, drama, music and sports (paragraph 151);
- the Hungarian authorities are invited to explore ways of facilitating the placement of the Care Home's residents in half way houses (paragraph 152).

3. Means of restraint

recommendations

- a clear written policy to be established at Balassagyarmat General Hospital and Ludanyhalaszi Care Home (and, as appropriate, at other psychiatric establishments in Hungary) as regards the use of means of restraint, taking into account the remarks made in paragraph 155 (paragraph 155).

requests for information

- the solution subsequently found as regards the case of the patient observed in a net-bed ("halos agy") at Ludanyhalaszi Care Home (paragraph 156);
- the findings of the special rapporteur designated to supervise the effective removal of net-beds in care homes for psychiatric patients (paragraph 157).

4. Safeguards in the context of involuntary placement

recommendations

- a booklet setting out the establishments' routine and patient's rights and duties to be issued to every patient on admission, as well as to their families, in the two establishments visited. This booklet should also identify a clearly-designated body to which patients can address complaints in a confidential manner (paragraph 160);
- the procedures concerning complaints to be supplemented by a formal complaints procedure; specific arrangements should exist enabling patients to lodge formal complaints with a clearly-designated body and to communicate on a confidential basis with an appropriate authority outside the establishment (paragraph 162);
- steps to be taken at Balassagyarmat General Hospital to ensure that all written communications addressed to the European Court of Human Rights and the CPT are transmitted to those bodies in confidence and without delay (paragraph 163);
- steps to be taken to ensure that all psychiatric establishments in Hungary - including care homes for psychiatric patients - are visited, on a regular basis, by an independent outside body responsible for the inspection of patients' care. This body should be authorised, in particular, to talk privately with patients/residents, to receive directly any complaints which they might have and to make any necessary recommendations (paragraph 164).

requests for information

- the comments of the Hungarian authorities on the practice observed at Balassagyarmat of persuading patients to accept placement in the General Hospital on a voluntary basis (paragraph 168);
- copy of the recommendations about the legal protection of residents placed in social care homes drawn up by the special committee established in September 1999 (paragraph 169);
- the views of the Hungarian authorities on the lack of adequate care/accommodation in the outside community for residents of social care homes (paragraph 170).

APPENDIX II

LIST OF THE NATIONAL AUTHORITIES AND NON-GOVERNMENTAL ORGANISATIONS WITH WHICH THE CPT'S DELEGATION HELD CONSULTATIONS

National authorities

Ministry of Defence

Mr János SZABÓ	Minister of Defence
Mr Alfred KOUHALMY	Head of Private Office
Mr Markus ANDREAS	

Ministry of Health

Mr Árpád GÓGL	Minister of Health
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Ministry of the Interior

Mr László FELKAI	Administrative Secretary of State
Mr Zsolt NEMETH	Head of International Department

Ministry of Justice

Mr István SOMOGYVÁRI	Administrative Secretary of State
Mr Istvan BÖKÖNYI	Head of the Prison Service
Mr Mihály TÓTH	
Mr Sándor CSORDÁS	
Mrs Katalin HEYMANN	

Ministry of Social and Family Affairs

Mr Gyula PULAY	Administrative Secretary of State
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Office of the Prosecutor General

Mr János FÁBIÁN
Mr György VÓKÓ
Ms Eva HORVÁTH
Mr Miklós JORDAN

Deputy Prosecutor General
Government's liaison officer to the CPT,
Deputy liaison officer

Office of the Parliamentary Commissioner for Human Rights

Ms Katalin GÖNCZÖL
Ms Erika CSORE
Mr Laszlo KIS
Ms Katalin HARASZTI
Mr Miklos KARAN

Parliamentary Ombudsman
Deputy Ombudsman

Non-Governmental Organisations

European Roma Rights Centre (ERRC)
Centre for Defence of Human Rights (MEJOK)
Constitutional and Legal Policy Institute (COLPI)
Hungarian Civil Liberties Union (HCLV)
Hungarian Helsinki Committee (HHC)