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

from 30 May to 4 June 2003

The Hungarian Government has requested the publication of the CPT's report on the visit to Hungary from 30 May to 4 June 2003 (see CPT/Inf (2004) 18) and of its response. The response of the Hungarian Government is set out in this document.

Strasbourg, 17 June 2004

Reply by the Hungarian Government and the judicial authorities

to the report 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 30 May to 4 June

We are grateful for the thoroughgoing and forward-looking report of 18th November 2003 on the visit by the CPT from 30 May to 4 June 2003, as well as the recommendations, remarks and comments it contains.

The Minister of Justice of the Hungarian Republic issued a written statement (IM/BV/2004/EFEL) on 3 February 2004, which he reiterated in an oral communiqué at a later date, noting that "the Hungarian Government takes the findings and recommendations of the CPT extremely seriously". The leading officials of the justice ministry give outstanding priority to the implementation of the recommendations in an effort to further improve recent achievements in line with the CPT's expectations.

The Hungarian authorities first and foremost express their special thanks for the CPT's activities and particularly for the fact that the delegation not only remarked on the shortcomings but also acknowledged past efforts and achievements. They accept the statements, recommendations and comments contained in the report. In the following, they wish to comment or elaborate on certain points of the report, give an account of measures already taken and provide information about issues as required by the CPT.

A.

On observations regarding establishments under the authority and management of the Ministry of the Interior

I. On the Preliminary remarks

The CPT would wish to ensure that conditions of detention enjoyed by remand prisoners on the premises of police facilities are on a par with those prevailing in ordinary remand prisons. The shortcomings found in relation to detention conditions are not to be attributed to a lack of good intentions on the part of leading police officers responsible for detention: rather, they are a result of inadequate budgetary funding provided for police agencies and the technical conditions of existing facilities. Quite apart from this, the National Police Commander had instructed the responsible officials concerned as early as 2001 to pay increased attention at all times to the need to improve conditions of detention: in particular, to open newly-built remand prisons as soon after completion as possible, step up the frequency of sanitary paint-jobs, ensure food of appropriate quality for detainees and keep facilities and equipment clean.^[1]

II. Ill-treatment

On Point 9:

The CPT described as humiliating and degrading the treatment whereby a detainee is obliged to walk across the street to the nearby prosecutor's office with his hands cuffed and attached to a lead, which was held by the escorting police officer. Under standing legislation, a police officer must use handcuffs to escort a detainee to a place outside the police facility.^[2] In other circumstances, handcuffs must only be used if it is justified by the degree of danger represented by the detainee. Under Point 74 of the Regulations for Police Detention Facilities^[3] that a police officer must use standard equipment, i.e. a lead attached to the handcuffs and a fastening belt when performing what is referred to as "external escort". The lead and the belt can be replaced by some other appropriate device that does not violate human dignity. According to Subsection (a) Point 39 of the Recommendation on the European Prison Rules^[4], it is permitted to use, if necessary, handcuffs during transport (escort) and Point 40 leaves it to the states concerned to create detailed legislation in this field. The escort by police of uncuffed detainees outside the facility would create a hazard. Escort in public view is an exceptional arrangement resorted to in the absence of a police vehicle or free parking space, or again if the facilities are so close as that it would be unreasonable to employ a vehicle for transport. Under Point 50.1. of the Recommendation on the European Prison Rules, detainees must be transported in such a way that they "shall be exposed to public view as little as possible".

On Point 11:

The CPT considers that custodial staff in police facilities should not carry truncheons and teargas canisters "out of habit" in the view of detainees and that such devices should be hidden from view. It is not out of habit that staff carry such devices but they do so under internal regulations. Point 18 of the Regulations for Police Holding Facilities provides that the guard carries out his assignment in his service uniform, wearing rubber-soled shoes, but no gun, and should be equipped with a truncheon, a chemical device and other standard equipment. The truncheon is so constructed that in an emergency it can be used to send a signal to set off the alarm at the remand facility. Consequently, removal of the truncheon with no replacement by some other standard mobile signalling device would pose a threat to the security of detention. This is all the more important since police detention facilities, as opposed to prison establishments, have no external protection.

III. Conditions of detention

1. Material conditions

On Points 12-17:

- a) The Police is especially grateful for comments made in acknowledgement of improved detention conditions at the Police Central Holding Facility at Gyorskocsi utca in Budapest. The Police relied on PHARE funding to upgrade the facility in 2003 with input from the Joint Health Care and Psychology Centre of the Personnel General Directorate of the National Police Command (hereinafter: JHCPC PGD NPC), whose staff contributed to the improvement by conducting regular checks, giving ex-ante official opinions and by continuously monitoring the reconstruction project. They intend to put in similar efforts to help eliminate shortcomings (poor natural lighting and insufficient ventilation) remarked by the CPT, however, project implementation is primarily dependent on financial resources, as is noted in the comment on Point 8. Enlarging the windows of the facility would take a long time and cost a great deal of money. Having the project designed and approved would cost about HUF 100 million and, given that a public procurement procedure is very time-consuming, actual implementation would be unrealistic before three years after a contract has been awarded.

- b) The CPT expressed special anxiety at conditions found at police holding facilities in Districts II and IV in Budapest. The Police Commissioner of Budapest acknowledged that these facilities failed to meet criteria currently in effect and gave information to the effect that new holding facilities were to be established in the course of upgrading projects at the two police stations referred to. A new holding facility is to be built at the 2nd District Police Station by extending a section located at the centre of the building complex. The project features in the mid-term refurbishment plan of the Budapest Police Command and work on implementation may begin this year provided appropriate funding is secured. The new facility at the 4th District Police Station will be housed in an extension to be built on top of the present building. Work on the project, which features in the mid-term refurbishment plan of the Budapest Police Command, may begin in 2005, provided that appropriate funding is secured.

- c) Upgrading is sometimes hampered by the technical parameters of the buildings. Immediate access to communal sanitary facilities without a need to wait could be ensured by installing communal sanitary facilities opening from the cells, however, the holding facilities visited by the CPT are not suitable for such an arrangement. The Police intends to do its utmost to prevent detainees from situations violating human dignity on account of inadequate access to communal sanitary facilities, nevertheless, a satisfactory solution could only be found if new holding facilities were built.

- d) The CPT noted that at the Police Central Holding Facility at Gyorskocsi utca in Budapest most detainees were still accommodated two to a cell, just like on previous visits by the CPT. It has been experienced that detainees in individual cells tend to voluntarily harm themselves or cause some emergency situation at a rate that exceeds average figures in such facilities. Attempted suicides are almost exclusively reported to the guards by cellmates. Being alone in a remand prison cell is regarded as a kind of punishment.^[5] Consequently, Point 19 of the Regulations for the Construction of Holding Facilities^[6] prohibits the building of solitary cells. We should note that Point 14.1. of the Recommendation on the European Prison Rules provides that “prisoners shall normally be lodged during the night in individual cells except in cases where it is considered that there are advantages in sharing accommodation with other prisoners”. Notwithstanding the above, the practice of accommodating detainees will be reviewed in accordance with CPT recommendations. The deputy of the Budapest Police Commissioner responsible for public safety has taken measures to make appropriate changes to the narrow beds found at the 2nd District holding facility in Budapest in an effort to comply with regulations.
- e) The CPT recommends that custodial staff should be instructed to keep cell door hatches (openings for food delivery) open during periods of hot weather. This request contradicts Point 5 of the Regulations for Police Holding Facilities, which says that food delivery openings must be kept shut outside periods of regular use. This regulation is justified by security considerations: detainees are able to reach the lock of the cell door through the open hatch, see people in the corridor and engage in conversation with accomplices purposely kept apart. Also, they can pretend not to engage in prohibited activities when noticing an approaching guard. All this represents a serious hazard to the security of custody. As a measure against hot weather, we believe that proper maintenance of cell windows is the best solution. Otherwise, the General Directorate for Public Safety of the National Police Command had previously instructed leading officials responsible for custody to replace the dense grills that impeded natural ventilation through the windows with grills of a looser pattern.

2. Regime

On Points 18-19:

- a) In general, police holding facilities in Hungary have been found to offer one hour of outdoor exercise per day and it is regrettable that the three facilities visited by the CPT are all exceptions to the rule. Building courtyards for spending time out of doors is always hindered by the technical parameters and the layout of the facilities, but an exercise courtyard will be established inside the new Budapest 4th District holding facility yet to be built. Another relevant problem is low staffing levels, which requires custodial staff to work overtime if they are additionally employed to guard inmates on courtyards.
- b) The CPT remarked on deficiencies in inmates' regime, recommending that power points should be installed inside cells to allow detainees to operate television sets. The General Directorate for Public Safety of the National Police Command takes the view that for reasons of potential security risks and a hazard of emergency situations or suicidal attempts it cannot support this recommendation. Instead, it proposes to set up community rooms in which various leisure-time devices, including TV sets, may be operated, subject to regulations on personal segregation.

IV. Health care

On Point 20:

According to CPT information, detainees repeatedly complained about the poor quality of medical care and doctors' alleged dismissive attitude to problems in dental care. JHCPC PGD NPC takes the view that medical care for detainees covers provisions to prevent impairment to health but does not include meeting special requests (e.g., physiotherapy, long overdue checkups, etc.). Basic dental care is provided at the Police Central Holding Facility in Gyorskocsi utca three days a week, covering dental extractions and dental pain relief. It is not possible to give extra aesthetic treatment or provide inmates with dentures under this arrangement. Many detainees are not clear about this and often make requests that the health care service cannot meet.

On Point 21:

- a) The CPT wishes to receive clear information about who police doctors are obliged to inform if they observe any injuries on detainees that are consistent with allegations of ill-treatment. Under Section 17 Paragraph (3) of Ministry of the Interior Decree 19/1995. 13.): "During medical screening, a written record must be made of external (XII. injuries found on the detainee, as well as the doctor's statement on the circumstances in which they were inflicted, or the absence of such external marks. If the detainee claims ill-treatment, an official record of the screening must be made, of which one copy must be forwarded to the detention facility and another to the prosecutor supervising the penitentiary system." As to the line of command and official channels through which this is to be accomplished, a measure taken by the National Police Commander contains instructions in line with a recommendation made by the CPT on its previous visit. Under Points 7, 8 and 9 of National Police Command Order 12/2001. (IV. 4.) already referred to, if the doctor notes external injuries on the detainee in the course of the medical screening on admission, the detainee must be asked to make a statement about them. If the detainee declares that a police staff member had ill-treated him/her or applied cruel or inhuman treatment, the doctor must take a constat of the injuries and have it signed by the detainee. Subsequently, the doctor hands over a copy of the constat in accordance with data protection regulations (in a sealed, stamped and signed envelope) to the head of the guard and the document will then be transferred by the head of the custodial service to the Prosecutor's Office. Contrary to the information gathered by the CPT, the doctor first notifies the head of the guard rather than the prosecutor, and the information will reach the Prosecutor's Office through regular official channels. Considering the fact that the CPT made a special request for access to the document containing this instruction, we have enclosed Measure 12/2001. (IV. 4.) of the National Police Command. The National Police Commander's measure had thus been issued before the relevant law was amended in a decree of the Minister of the Interior. Decree 19/1995. (XII. 13.) of the Minister of the Interior was amended only half a year later on 26 October 2001.^[7]

- b) The CPT raised objections on account of deficiencies encountered in the screening of detainees for tuberculosis and hepatitis C on the one hand and the unavailability of HIV screening and problems in mental treatment, on the other. According to information received from NPC PGD JHCPC, the doctor carrying out the screening on admission may consult the hygienic expert at the police detention facility who takes action, if necessary, to ensure that all required epidemiological measures (segregation, disinfection of persons, clothing and cell, epidemiological surveillance, quarantine, etc.) in the vicinity of a person who has or is suspected of having an infectious disease. Screening can be initiated either by the doctor or the detainee. Custodial staff have at their disposal protective kits against AIDS and various personal devices for health protection, which are replenished on a regular basis. Good progress has been made regarding the treatment of detainees with addictions (alcoholics, drug users and drug dependent persons). With a view to providing them with high-quality health care and continuous treatment in a standardised format, the head of NPC PGD JHCPC issued a professional position in June 2003, setting out detailed protocols for the disclosure of drug-use practices and action to be taken if an inmate has been diagnosed with addiction. At the detainee's request, a qualified psychologist may be invited for a talk, resulting in a call for either medical treatment or examination by a psychiatrist. We have enclosed the professional position referred to.

On Point 22:

The competent authorities also agreed with the CPT finding that it is difficult for outsiders to follow the medical documentation of detainees. The solution may lie in the introduction of individualised medical dossiers; while staff for the project have been provided, some technical conditions (appropriate IT background) are still missing. This problem will be resolved after the introduction of so-called remand houses, that is, after remand prisoners have been transferred from police holding facilities to remand establishments.

On Point 23:

The CPT found numerous cases where custodial staff were present during medical examinations inside the facility whereas police staff are not supposed to see or hear what takes place during the examination, "unless the doctor concerned requests otherwise in a particular case". A Hungarian regulation along similar lines has been in effect since 2001, which however is formulated in a reverse logical sequence: as a rule, staff are present at the screening but may be absent in exceptional cases. The regulation says that unless otherwise warranted by requirements related to guarding and personal security, it is possible, at the detainee's or the doctor's request, to conduct the medical examination out of the hearing and, if possible, of the sight of custodial staff. Decision on this matter lies with the head of guard.^[8]

While patients' sense of decency is respected, there is also a need to consider requirements related to guarding and personal security, for which the head officer of the guard, rather than the doctor, is responsible. There have been indications that doctors (notably female doctors) conducting an examination have felt defenceless and feared being left alone with a detainee since it is well-known that several medical instruments may be used to inflict serious injuries or even take a person's life, compounded by the fact that an unknown detainee's reactions are difficult to predict. That consideration led to the decision that custodial staff may only stay away from the scene if requested either by the detainee or the doctor. As a matter of routine, custodial staff usually follow the examination within hearing but not within sight.

On Points 24-25:

The Police takes the view that the issue of how medical documents are handled must be treated in conjunction with the administration of medication. At present, we are unable to ensure that medication for detainees is always administered by trained medical staff. Consequently, such documentation may not be held back from custodial staff, otherwise proper medical treatment of detainees would be jeopardised.

Police authorities naturally take the view that staff with medical training should be involved in preparing and administering medication, however, the problem remains that most police stations lack the required personnel and cannot rearrange staff so as to create a position for a medically trained person to be employed for the purpose of distributing medication. The parties concerned have emphasized that if the doctor compiles accurate documentation broken down to individual detainees, the practice of custodial staff administering medication does not normally give rise to concern. To this end, the head of NPC PGD JHCPC issued an emphatic call for accurate documentation enabling ex-post supervision. In the context of distribution of medication, it must be ensured that detainees should not accumulate stockpiles of medicaments, therefore the person distributing medication also makes sure that detainees have in fact taken their pills.

V. Other issues

On Point 26:

- a) The CPT takes the view that a one-hour visit per month, the standard currently in effect, is not sufficient to enable detainees to maintain good contact with the outside world. We wish to correct this statement by noting that the monthly 30-minute visit (to be extended by an additional 30 minutes on occasion) is the *minimum* length of visit for external persons.^[9] Accordingly, it is possible for a detainee to receive visitors on more occasions unless it is forbidden by the house-rules of the detention facility, jeopardises proceedings conducted against the detainee or if there is good reason to restrict the right of the detainee to receive visitors (e.g. thus ensuring successful criminal proceedings).^[10] Visiting times are coordinated by the head of the holding facility with due regard to maintaining security of guarding and preventing undue waiting and overcrowding.^[11] The right to maintain ties with the defence lawyer and human rights organisations may not be curtailed.^[12]

- b) In the context of detainees' contact with the outside world, the CPT remarked that letters are received or dispatched with considerable delay, believed to be attributable to censorship, adding that investigators are overburdened with the duty of censoring letters. The CPT, therefore, proposes that the job of censorship should be carried out by custodial staff in daily contact with detainees rather than by the investigators themselves.

The overall capacity of police detention facilities in Hungary is insufficient to ensure that each detainee could be accommodated in the holding facility of the agency handling his/her case. The problems caused by insufficient holding capacity are compounded by the fact that police facilities are required to accommodate detainees coming from other authorities (prosecutor's offices, courts martial, Customs and Finance Guard, etc.). The problem has assumed alarming proportions in Budapest, where as few as seven district police stations have their own holding facilities. On average, about half the detainees held at the Police Central Holding Facility in Gyorskocsi utca, Budapest, have been sent from agencies other than the police. The number of letters (each between 5 and 10 pages long) received at, or dispatched from this establishment was 250 in November 2002. It follows from the above that the job of censoring detainees' letters placed an undue burden on leading officials responsible for detention since no police body reserves a post for such purposes alone.

Otherwise, maintaining order and security at the facility is not the only purpose of the practice of censoring letters: it is also intended to prevent escape, alteration or destruction of evidence, commission of a new crime and any other act that might violate or compromise security there. The censor must establish whether a letter contains any data, objects or information representing a hazard to custodial security, success in proceeding against the detainee or any indications pertaining to the commission of a crime.

It is often impossible for the person representing the custodial institution to decide whether the contents of a detainee's mail represent a hazard to the success of the proceedings. In extreme cases, a detainee may maintain regular correspondence with an accomplice who is defending himself at large and who may not be known to the custodial institution. It was, therefore, rational to reverse the rule on censorship while it is still possible for the custodial institution to continue censoring mail if the prosecuting authority handling the case is satisfied with the level of safety thus secured. Therefore, Decree 19/1995. (XII. 13.) of the Minister of the Interior on Regulations for Police Holding Facilities was amended as of 1 November, 2003. It is for similar reasons that the presence of the official handling the criminal case, or if he is prevented from attending, a person appointed in his stead, is mandatory in the event of visitor reception under controlled circumstances.^[13]

In the wake of the amendment to the decree of the Minister of Interior, it was proposed by Police that in certain cases the standard two-day deadline for delivery should be extended for relatively long letters. This would have been necessary because, due to a shortage of space, it was not possible for each detainee to be held at the holding facility of the authority handling his/her case and, therefore, it would also take longer to check such a detainee's mail. The proposal sought to apply different deadlines for detainees held in the same place as the headquarters of the proceeding authority as opposed to those held at some other facility.

On Points 27.-28:

The report cites a case in which an investigator told the CPT that "he *would* always *read* letters written by remand prisoners to their defence lawyers". The CPT requests a clarification of this statement. We are not in a position to give an explanation as the statement was made in the conditional and we have no further information about the circumstances. The CPT itself uses the wording, "Such a practice, if indeed in existence, would be inadmissible". The right to correspondence between detainees and their defence attorneys is inviolable and such mail must not be censored in relation to its contents.^[14] If a member of the Police staff violates this rule, he/she will invariably be taken action against by the responsible official. The same would happen if custodial staff were to request or accept presents from detainees in exchange for extra favours. Police leader will continue to warn custodial staff of this on a regular basis.

On Points 30. -31:

The Hungarian authorities have reviewed the method of keeping record of detention, and in the light of circumstances encountered by the CPT at police stations in Districts II and III of Budapest, the Prosecutor General's Office is conducting a nationwide supervision with a view to initiating a change to current regulations and practices as regarded desirable by the CPT and on the basis of inspections held so far.

B.

On observations regarding organisations under the Ministry of Justice

I. On preliminary remarks

On Points 32.-33:

In an effort to reduce overcrowding, and acting along the principles laid down in Recommendation R. (99) 22. of the Committee of Ministers of the Council of Europe on overcrowding in prisons and inflation of prison populations, the Ministry of Justice has taken the following measures:

The Criminal Code has been amended. The amendment re-instates the instrument of release on probation for some persons previously denied the possibility of being placed on probation. As a result, the number of persons released on probation grew from 6,372 cases in 2002 to 8,803 in 2003 (33 %).

The newly-amended legislation also does not compel judges to adjust a sentence to the middle of the sentencing range. This new development will make for a reduction in total time spent in prison in the long run and is therefore an instrument of reducing overcrowding.

The use of alternative types of punishment will hopefully reduce prison overcrowding, too.

The new law on criminal proceedings came into effect on 1 July 2003. In the wake of the introduction of new measures of restraint, the number of pre-trial detainees had dropped by 553, and 147 persons had been released on bail at the end of 2003.

Prison population was reduced by 1,331 persons (7.4%) as a result of new measures in criminal policies.

The capacity of prison establishments was reduced by 90 places. This, however, is just a temporary drop caused by refurbishment work underway in two establishments. When the projects have been completed, the prison system will gain an additional 291 places meeting current standards.

In spite of the temporary drop in capacity, the utilisation index of the prison system went down from 157 % to 145 %.

With a cap put on the length of pre-trial detention, overcrowding is expected to ease, though it is foreseen that under a provision of the law to take effect at a later time, pre-trial detainees held at police facilities will be transferred to remand prisons as of 2005.

The National Prison Command has set up a special unit to allocate accommodation for detainees with regard to overcrowding indices at individual remand prisons. If the prison population in a particular establishment exceeds its capacity, the unit will take steps to rearrange the prison population.

Cognisant of the size of the prison population and the resulting overcrowding of facilities, the Minister of Justice called for a study of what measures might be taken to improve factors influencing prison morale. The study led to a 10 % increase in food ration and food allowance. As a result the diet became more varied, detainees gained more frequent access to fruit, fruit juice and foodstuffs rich in vitamins. The budget for personal expenses was raised and now the proportion of wages that can be spent on purchasing everyday necessities has increased to 90 % at holding facilities and in temporary groups, 85 % in prisons, and 80 % in strict-regime penitentiary establishment. Basic sanitary articles are guaranteed for every detainee out of budgetary resources. Detainees held in cells without hot water may now take hot baths twice a week, as opposed to once a week before. Arrangements have been made to enable detainees to make more frequent use of fitness rooms and outdoor sports facilities. Measures have been taken to install additional public payphones at detention facilities in order that detainees and their relatives may have more frequent opportunities to make a higher number and longer telephone calls than before. Under current regulations, a detainee may use the telephone at least once a week for 5 minutes each case. The regime has been revised to stagger detainee activities (e.g. reveille, etc.). Steps have also been taken to enable a period of quiet and rest during the day and to allow detainees to receive parcels above the standard minimum frequency.

In an effort to help released detainees to adjust to society at large, a re-organised system of professional probation officers was launched on 1 July.

The funds earmarked in last year's budgetary titles did not permit any new projects to be launched while the budget did provide for the continuation or completion of ongoing projects, resulting in both increased accommodation capacities and better and more advanced holding conditions.

In compliance with Government Decrees 2072/1998. (III. 31.) and 2147/2002. (V. 10.), a Regional Institute for Adolescents was established within Block "B" of the Borsod-Abaúj-Zemplén County Prison in 2002 a year ahead of plan.

Work on the Veszprém County Prison, a new facility for 214 persons, was completed on 26 June 2003.

A reconstruction project on the Sopronkőhida Penitentiary and Prison begun in 1997 was continued.

A public procurement tender for designs to increase capacity at the Szabolcs-Szatmár-Bereg County Prison has been prepared.

A project whereby the Komárom-Esztergom County Prison is to receive an additional 30 places is an element of the long-term development plan for the prison system. However, the municipal government does not support the idea of increasing detention capacities at the present location of the establishment, which it is believed would be of little if any help to alleviate existing problems. The local government has offered to donate a non-residential property close to the centre of town for the purpose of building an establishment for 200-250 detainees. The property has been selected and the delivery procedure is underway.

In the absence of appropriate budgetary funding, the following projects laid down in various government decrees have not been completed or begun:

- a 100-place establishment for convicted women in north-eastern Hungary,
- reconstruction and extension of the Martonvásár unit of the National Prison at Baracska,
- extension of the Solt unit of the National Prison at Állampuszta,
- extension of the National Prison at Nagyfa,
- Development of accommodation facilities and equipment at health care units within the prison system.

At the same time, work on a section for mothers and children born during their detention on the premises in Wéber Ede utca, Kecskemét, of the Bács-Kiskun County Prison has been completed. The new building consists of 20 units containing a furnished cell each equipped with toilet, bath, an adult-size bed, a baby cot and a changing table.

In the context of preparations for an establishment with a capacity of 700 persons to be realised through Public Private Partnership (hereinafter referred to as: PPP), the following major steps have been taken: a related draft government decree has been made involving all necessary consultations at the public administration level, potential construction sites have been explored, documentation on construction and operating conditions have been compiled and a preliminary tender for the prison project has been launched.

In selecting the site for the project, 31 properties offered by the Central Property Management Directorate, local governments, companies and private persons have been examined.

In the course of the preparatory prison project, an invitation to tender was published in an attempt to size up the market and create a model for similar projects. Eleven companies and consortia of companies submitted bids and one company put in a letter of intent by the deadline for tenders.

The procedure was successful and useful to the prison system.

With a view to resolving problems to be generated by an expected increase in the number of detainees as of 2005, which is a likely result of an amendment to criminal proceedings (pre-trial detainees must be transferred to a remand prison after 30, but at the latest, after 60 days), a study of holding facilities offered by the Police to the prison facility system has been made and it was proposed that a police establishment in Gyorskocsi utca should be converted into a remand prison. This, however, would require the facility to be refurbished. Building a prison in Hungary is only a matter of finances, and so a decision can be taken by the Ministry of Finance alone.

II. Ill-treatment

Points 34.-35.-36:

Disciplinary action against detainees held at Budapest Remand Prison can only take place in the course of a disciplinary procedure conducted in accordance with legal regulations. If a detainee's disciplinary responsibility has been established, the detainee has the right to legal remedy as set out in legal provisions both within and outside the prison system.

It would appear from the contents of the CPT report on ill-treatment as if ill-treatment were a form of conduct characteristic of custodial staff at Unit III of Budapest Remand Prison. At this establishment, a total of 18 cases were brought against 17 persons of all staff employed there for well-grounded suspicion of commission of the crime "ill-treatment in an official procedure" in the period 2002-2003. Of the 18 cases, 14 were initiated by the head of the establishment. 83.33% of the criminal proceedings launched were discontinued without establishing that the suspects had committed a crime. Three cases are still pending. There is evidence to the effect that such acts are rarely committed at this establishment and most complaints by detainees are unconfirmed. The management of the establishment always takes strict action against the potential perpetrators if suspicion arises that such or similar events may have been committed.

Staff for Unit III of Budapest Remand Prison had to be recruited in a short time in the year 2000. It took relatively long to provide organised teaching and training for newly recruited personnel with no relevant experience. Following a brief training period, the "novices" had to act in real-life situations, guarding, handling, and providing for inmates with no previous experience of this kind. Today, there is far more scope for "quality screening" of recruits, as provided for under Section 10 Paragraph (4) of Act CVII of 1995 on the prison system, which sets out, inter alia, that "professional prison staff must have the psychic abilities enabling them to carry out the duty among detained persons in a humane manner".

In an attempt to meet legal criteria to the full, the regular training project for staff features a course on proper handling of detainees. In order to enhance the quality and efficiency of training, the National Police Command established one position for an independent Department of Education at Budapest Remand Prison on 1 January 2004. A comprehensive reform of education for the staff of the prison system will be launched on 1 September 2004. In line with European Union practice, the reform treats training in education and psychology as high priorities.

Following an amendment in July 2001 to Act XLIII of 1996 on the Status of Professional Armed Forces Staff, employment and staffing conditions in the prison system have improved and staff fluctuation has returned to normal. Thus, the foundations for a strategic enhancement of the training system have been laid.

Currently, there are six types of training (introductory, basic, medium-level, prison supervisor, chief supervisor, college level). Centrally provided in-house professional re-training courses are implemented on the basis of yearly re-training plans. It is in this framework that professional staff and public servant personnel are both trained. Rationalisation of the training system and updating of the teaching material are currently under way.

The need to update the training system arose earlier on, and as a first step the National Council for Vocational Training adopted a proposal submitted by the Minister of Justice for the introduction of vocational certificates for the posts of prison supervisor and chief supervisor in December 1997. Supervisors are trained to fill the posts of warden, security and shopfloor supervisor. Training for the post of chief supervisor has the additional feature that the trainee will be qualified to handle jobs related to security, accommodation and the workshop at the level required from a chief supervisor, as well as to manage and supervise custodial staff and detainees in his/her charge. The two vocational courses are included in the National List of Vocational Courses.

It is a new element in the training provided for supervisors and chief supervisors that it now comprises both theoretical and practical courses. At the practical sessions, trainees are required to do service at the establishment and record their experiences in writing. In-house practice involves input from qualified trainers who have a minimum of two years prison experience. The upgraded training system will give practical training a bigger role than it plays in the current training system. It is foreseen in the training proposal that staff will be able to make efficient use of all theoretical subjects.

All but a few persons who fill posts requiring a college degree meet the respective qualification criteria but they, too, need to be trained for special skills relevant to their qualifications in the frame of the internal training system.

Post-graduate courses are primarily designed to help fill up managerial staff levels by giving appropriate training to current staffers who have the necessary people skills and professional, managerial and psychological aptitudes. In accordance with the elevated criteria that managerial staff are required to meet, prison managers will, in the long term, have to obtain a university degree and a medium degree in at least one foreign language.

The prison system establishes contacts with a number of domestic and international organisations in the course of its day-to-day affairs. A number of penitentiary specialists of the required level and qualification contribute to the work of various organisations and committees and attend scientific sessions held as part of co-operative projects. High-level academic and research skills are also indispensable in the case of personnel engaging in prison research and improvement of the prison system.

A draft measure written by the commander of the national prison system on professional training and related examinations in the prison system is about to be published. The document covers both professional staff and public service personnel working for the prison system.

The reform of the training system is primarily designed to create a modular system in which theoretical and practical courses are built on each other and trainees are required to pass tests after each phase and pass a final vocational examination at the end. The training period is to be substantially extended and upgrading of the teaching material is under way.

III. Conditions of detention

1. Material conditions

On Point 39:

a) Access to shower facilities

On account of staff shortages and insufficient financial resources, it is not possible to radically change current practices and thereby resolve problems related to access to showering facilities. A top-level measure was taken in September 2002 to enhance non-working detainees' access to showers. The management of Budapest Remand Prison is studying ways to improve current conditions. In periods of summer heat, all detainees are allowed to take a refreshing shower 2-3 times a week.

In the case of health problems, access to showers is granted three times a week, or on a daily basis if necessary.

b) Sanitary items

Budapest Remand Prison fully complies with its obligations contained in National Command Order 1-1/80/2002. (IK Bv. Mell. 11.), providing every detainee with free sanitary items set out in Annex 6 of Decree 6/1996. (VII. 12.) of the Ministry of Justice. We have received no information about detainees complaining about a lack of free sanitary items.

On Point 40:

Call system:

It is technically impossible for staff serving a given floor to switch off the system.

Due to a regrettable shortage of staff needed to carry out the prescribed assignments in prison facilities, it may happen that it takes some time for staff to respond in person to a call received from a cell. Delays like this are, however, infrequent, priority always being given to urgent cases requiring an immediate response. Minor delays could fully be eliminated by a major increase in custodial staff. Budapest Remand Prison management will study whether the display system can be technically improved.

On Point 41:

a) Overcrowding

With a view to reducing overcrowding in Hungary's prison system, various measures have been taken and others are being drafted. To illustrate some of the results of this effort: the three units of Budapest Remand Prison held almost 2,000 detainees in the second half of 2002, and their number dropped to 1,652 by 31 December 2003. Budapest Remand Prison has no authority to take further action and so any further improvement can only be achieved if appropriate measures are taken at government level. The prison system is making continued efforts to treat local problems related to overcrowding, however, a long-term solution to the problem may only come from government resolutions leading to increased capacities and a wider scope and application of alternative punishments. It is practically impossible to ease overcrowding by increasing the number of cells in existing prison facilities. Overcrowding evidently has a negative impact on detainees' morale, but under present circumstances all we can do is just mitigate the problem by improving the handling of and provisions for inmates.

b) Ventilation

In an effort to eliminate ventilation problems identified at the establishment, Budapest Remand Prison has studied the issue within the limits imposed by the structural arrangement of the facility. The management regularly makes concessions in the summer by opening feeding hatches and thereby enhancing cell ventilation, while fully complying with statutory regulations related to segregation and other aspects of security. Any substantial improvement in Unit III could only be made by a replacement of all windows or by installing forced ventilation and air-conditioning in every cell. Such a project could only be completed with major budgetary funding.

2. Regime

On Points 42.-43:

Activity programmes, organised education and cultural activities:

Budapest Remand Prison chiefly accommodates detainees in pre-trial custody, therefore, segregation rules provide limited opportunities for collective activities. Organising small-group activity programmes is not always possible due to the high number of inmates, a shortage of personnel and an absence of physical conditions. Notwithstanding the paucity of such opportunities, the management of the establishment gives maximum support to various programmes and training courses which it encourages detainees to attend.

There is continuous improvement in access to group-based self-training activities at the establishment. Training provided by the People's College was launched in all three units in 2002-2003. Belvárosi Tanoda (City School) provided added scope for inmate education under a co-operation agreement. Detainees may voluntarily attend group sessions or religious services offered by charity and church organisations (Hungarian Evangelical Prison Mission, Hungarian Red Cross, etc.). Occasionally (before family celebrations), inmates may attend arts-and-crafts sessions organised and held by educators to make presents for relatives. Members of the drama circle regularly produce and present shows related to religious and national feasts.

A library of 32,830 books at the establishment helps inmates to train themselves and find a meaningful way of spending leisure time. The stock of books keeps growing every year, thanks primarily to offers made by charity organisations. Lending figures are on the increase in all three units. To enhance opportunities for sports activities, table tennis facilities have been installed in all three units in spite of acute space shortages and efforts are being made to increase fitness room utilisation by detainees.

Accession to the European Union is expected to provide new opportunities for grants with which to finance major new projects for detainee programmes.

On Point 44 of the CPT report:

The problem related to the reconstruction of Unit II of Budapest Remand Prison will hopefully be resolved in 2004 as a decision by the national commander of the prison system contains a mandatory provision for the planned reconstruction project to be commenced.

In the context of new opportunities that may arise for improving staffing conditions in the prison system, Budapest Remand Prison enjoys a priority. The 2004 staffing table of this establishment features an additional four posts for officers and six posts for non-commissioned officers. The current staffing levels at the various specialised areas of work just allows the jobs concerned to be carried out and it is impossible to reshuffle personnel within the establishment.

IV. Health care

On Points 45.-46.-47.-48:

The six doctors, two dentists, two dental assistants and 24 nurses employed full time as well as two full-time and two part-time psychologists employed by Budapest Remand Prison and its three units would be more than sufficient to cater for the basic health care needs of an average of 1,700 detainees there, particularly in comparison with staffing conditions in health care services provided for the Hungarian population in general. At the same time, due consideration should be given to real turnover figures at the establishment, the high rate of fluctuation and the fact that 10% of all admissions in the country are handled at Budapest Remand Prison. Another major concern is the high incidence of morbidity and psychosomatic diseases among pre-trial detainees. As a consequence, there is a great demand for services provided by the prison health care system, which – in the wake of a CPT recommendation for a review – has been upgraded as follows:

One additional post for a medical doctor was established as of 1 January 2004, specialist posts in the staffing table stand at 29 and there is an additional medical administrator to help deliver medical services. Additionally, an independent psychological department was launched with five posts offered for psychologists. Service quality is enhanced by the fact that most medical staff are highly qualified specialist doctors, specialist psychologists and nurses or assistants.

The CPT delegation welcomed the development brought about by new legislation on HIV screening and a decree issued by the Ministry of Health that is mandatory for the prison system.

The procedure is in line with general practice in Hungary in the sense that screening is voluntary and, if so required, anonymous. Those who request screening and, following further selection, are informed by an outside expert engaged for the test that they are HIV positive have the right to receive treatment. Such detainees are taken care of, and medicated if necessary, by specialists at the Szent László Hospital of Budapest. To provide easy access to the above hospital, a high-standard residential establishment has been set up within the prison for adolescents at Tököl, which does not in any way belong to the Central Hospital of the Prison System. If a detainee develops AIDS, steps will be taken to interrupt the person's prison term, a petition for a pardon will be submitted, and he/she will be transferred to Szent László Hospital of Budapest for medical treatment.

The operational, staffing, material and architectural conditions for fundamental health care to be provided within the prison system are based on general, nationally applied minimum norms. The National Public Health Service, the competent authority, refuses to grant a licence for conducting a particular activity unless the above standards are met. Operating conditions are checked on a regular basis and official supervision of the health service is also carried out by this authority.

Under authority provided by legislation, the Health Care Division of the National Command of the Prison System and the health care service of the given prison establishment co-operate in the performance of the above assignment. Relevant regulations are contained in a joint decree issued by the Minister of Justice and the Minister of Health Care, Social and Family Affairs, while detailed tasks are spelled out in a co-operation agreement between the National Chief Medical Officer and the National Prison Commander. Provisions to ensure that public health standards are met are set out in an legislative amendment that took effect in 2003 and in a related joint implementing decree, as well as in an agreement between the heads of the two organisations (the National Command of the Prison Service and the National Public Health Service).

Health care services based on the social security system is granted for detainees as of right. Providing such services is mandatory for all health care providers, including prison establishments. Detainees have access to every level of progressive patient care. With a view to offering ever higher standards of care for detainees, the health care establishments and basic care services of the prison system maintain a day-to-day working relationship with clinics as well as inpatient and outpatient medical establishments.

V. Other issues

On Point 49:

Access to telephones

Access time to telephones at prison establishments must be determined so as to give every detainee a chance to avail themselves of the opportunity. The minimum time set just serves this purpose. It is difficult to understand the CPT's remark that a 5-minute phone call per week is insufficient to properly prepare detainees' defence. Budapest Remand Prison grants a minimum of 5 minutes per week for family calls, and another 5-minute opportunity for calling the defence lawyer. Some groups of detainees are granted access to the telephones beyond the above minimum (e.g. detainees who work have an entitlement of 10 minutes per week for family calls). Access to telephones has the primary purpose of helping detainees to maintain contact with their families and detainees indeed often avail themselves of the opportunity to convert their entitlement for "calls to their lawyers" to that for family calls. Defence lawyers may visit their clients at any time and without any limitations within office hours except for the lunch break. If there is a justified need for a consultation between the detainee and the defence lawyer outside normal office hours and if a delay might have legal consequences, permission for the inmate to see his/her lawyer may be granted on an ad-hoc basis. In addition, detainees may engage in unlimited and uncensored correspondence with their defence lawyers. In justifiable cases, the competent department head may grant permission for detainees and their defence lawyers to make extraordinary and out-of-turn telephone calls to each other.

The management of the establishment is giving further attention to the issue in an attempt to create better conditions for detainees to engage in telephone conversation in 2004.

On Point 50:

Visits

The management is constantly seeking opportunities to improve visiting conditions and extend visiting times.

Under current staffing conditions, however, the establishment is unable to take measures on its own to increase the number of visits or extend visitation times. An increase in visit entitlement could only be accomplished if a proportionate increase in custodial staff were granted.

Visiting facilities at Unit III will be upgraded out of central funding in the first half of 2004. The new arrangement will result in a more open type of visiting facility and improved ventilation.

On Point 51:

Reception and dispatch of letters with delay

Letters reaching the establishment must be forwarded to the addressee within two working days. This is a requirement that the establishment meets to the full. Correspondence with family members and contact persons is undocumented and so the small number of detainee complaints about delays in the reception and dispatch of letters cannot be substantiated.

On Point 52:

Contact entitlements for detainees of foreign origin

Section 225 Paragraph (2) of Decree 6/1996 (VII. 12.) of the Ministry of Justice provides that "if a detainee of foreign origin has no money deposit, he/she is allowed to send a letter to a relative at the cost of the establishment once per month". This is a criterion that the prison establishment fully meets.

The financial standing of the establishment makes it impossible for it to provide telephone cards for inmates on a regular basis.

In justified cases and at the request of the detainee, the competent department head may permit a call to be made at the cost of the establishment. During the year 2003, several inmates of foreign origin were allowed to make calls at the cost of the establishment.

On Point 53:

Movement of Grade 4 prisoners

As is usual, means of restraint were not routinely applied to Grade 4 prisoners taking outdoor exercise during the visit by the CPT. Such measures were indeed applied to a few highly dangerous inmates on an ad-hoc basis.

The prison director has issued instructions prohibiting the use of means of restraint on detainees taking outdoor exercise on the courtyard.

The use of handcuffs as a means of restraint complies with relevant legislation and instructions issued by the national commander. Leading officials of the security area are entitled to issue an order for means of restraint to be applied to a detainee, provided that conditions specified by legislation prevail. The director of the establishment follows closely the lawful use of means of restraint. He reserves the right to order the use of anklecuffs, which are indeed applied only in fully justified cases.

An order issued by the national commander, 0114/1997. (IK Bv. Mell. 2.), contains a list of cases when a detainee must undergo a body search. The establishment may not ignore this rule. The director of the establishment has the right to regulate the order of search arrangements.

Indeed, it would require some reconsideration and more detailed regulation to decide whether or not certain means of restraint should be applied as a preventive security measure to certain Grade 4 prisoners taking outdoor exercise. It has been established that these detainees do not wear any means of restraint, except for the walk to and from the exercise yard. However, there is every reason to maintain the prison director's right to take exceptional measures with some highly dangerous detainees (special security cell, solitary confinement, certain cases of segregation for disciplinary or security reasons).

The use at the prison of "service dogs" as means of restraint must be in full compliance with relevant legislation but there has not been a single case of this for years. The use of service dogs for purposes unrelated to personal restraint is necessary in order to carry out security jobs as part of the security system of the establishment. Since service dogs are barred by a metal grill from engaging in physical contact with detainees, the above practice is not disproportionate to actual security needs.

On Points 54.-55:

The issue of female custodial staff:

Act CXXV of 2003 on Equal Treatment and the Furthering of Equal Opportunities also covers professional service persons and requires compliance with criteria related to equal treatment. The establishment does not discriminate against persons that it recruits or employs in any manner whatsoever (such as on the basis of gender, race, religion, etc.). Under Section 6 Paragraph (2) of Act XLIII of 1996 on the Status of Professional Armed Forces Staff, differentiation resulting from the type of service, service time, rank and position does not qualify as discrimination. Under current regulations, implementing an order is both a right and an obligation. There are some mandatory measures specified by law which, if addressed by an increasing proportion of female staff whose build is different from that of male staff, could be implemented with undue delay. The CPT recommendation in relation to custodial staff could only be met through an increase in staffing levels.

The CPT recommendation is being realised in areas where there is no obligation to take the types of immediate action referred to above: the male-female proportion in these areas is clearly shifting towards female predominance. The staff in one department of Budapest Remand Prison consists of 12 female educators, five female welfare officer, as opposed to five male educators and three male welfare officers. Educators and welfare officers carry out the duties in such a manner that they maintain daily contact with detainees and so detainees at the men's section may meet members of the opposite gender every day, thereby improving interaction between detainees and staff.

On Point 55:

Educators and welfare officers

The assignments of educators and welfare officers dealing with inmates are governed by law. Specialist training and qualification for educators are a basic condition for their employment. Educators act in the best interests of detainees. On average, there are 90-100 detainees to one educator at Budapest Remand Prison. Persons employed as educators at this establishment generally have teaching qualification and above-average people skills, which makes it easier for them to treat inmates' problems as their own. Considering the high number of detainees per educator, the latter is certainly interested in handling cases to the satisfaction of detainees. The prison director receives a low number of complaints, most of them unfounded, of the work done by educational staff. In response to the relevant CPT recommendation, the prison director has taken action to hold a higher number and more rigorous supervisory inspections in this area.

On Point 56:

Suicides

The management of the prison system has introduced a number of measures in the frame of its suicide prevention strategy, whereby each prison establishment has created in-house regulations broken down to job descriptions for individual posts and persons.

Self-harm inflicted by a detainee is not a disciplinary offence. The procedure to be followed in such a case has been regulated by the national command of the prison system as follows:

The person who has committed an act of self-harm should be accommodated so as to prevent, as far as possible, the person from being alone in a cell.

Immediate action must be taken to provide the person inflicting self-harm with medical treatment. The educator should conduct an out-of-turn interview with the person to explore the cause and conditions of the act with a view to preventing its recurrence. Preferably, the educator should enlist the help of a psychologist and the prison pastor.

A list of objects that can be kept in a cell during disciplinary or security segregation and solitary confinement is contained in a ministerial decree and the internal rules of prison establishments. The in-house rules of Budapest Remand Prison allow detainees to keep books other than religious ones during disciplinary segregation. The staff at the establishment act in accordance with the internal rules.

C.

On measures taken by the Prosecutor's Office

On Points 5. and 29:

We are thankful to the CPT for its positive evaluation of efficient prosecutorial action. We are especially grateful to the CPT for its acknowledgement that Hungarian authorities had addressed these issues conscientiously. The prosecutorial inspection of places of detention in Hungary may make a major contribution to the prevention of ill-treatment and, more generally, to the creation of satisfactory condition of detention.

On Points 30.-31:

In full agreement with the CPT's remark that there is a need to improve the system of keeping files on detainees held on police premises, the Prosecutor's Office intends to examine the issue and initiate measures in order to improve present conditions. The problem outlined indeed may gravely hinder inspections from being carried out by directors of establishments and supervising prosecutors or other supervisory bodies. It may also make it difficult for detainees to maintain personal contact. Prosecutors will insist on strict adherence to the provision that persons held in remand prisons may only be transferred back to a police holding facility if it is absolutely necessary.

In conclusion, the Government and the authorities and organisations concerned wish to emphasise that the comments, recommendations and remarks made by the CPT advanced the work of Hungarian authorities and its report contained useful information. We are especially thankful for the CPT's endeavour to maintain good co-operation and for its intention to help. The Hungarian Government and the bodies and authorities that received visits by the CPT request that in line with uniform European practice, the CPT should publish the present Reply in conjunction with the CPT's report on the visit to Hungary carried out by the CPT between 30 May and 4 June 2003. With reference to some unfavourable experiences regarding the media, we request that decision on the above matter should first be communicated to the organisations and government officials concerned via the CPT liaison officer to ensure that the media receives true and fair information.

(The Hungarian reply was compiled from written reports and opinions received from the authorities concerned, and the final text was discussed with these organisations and relevant government officials by dr. György Vókó, CPT liaison officer.)

Instructions 12/2001 (IV.4) of the National Police Command

Regarding the implementation of the recommendations made to the Police by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment

Ref.: 5-2/12/2001. TÜK

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (henceforth CPT) held an inspection mission in Hungary from 5 to 16 December 1999. The purpose of the visit was to inspect a number of police facilities, and the findings of the inspections were summed up in the mission report.

I hereby issue the following instructions in order to implement the recommendations of the report regarding the Police:

1. Scope: this measure applies to the central, regional and local police organisations.
2. All staff training courses and briefing sessions for new recruits must explain that it is mandatory to implement the provisions under Sections 15 and 16 of Act XXXIV of 1994 on the Police (henceforth Police Act) regarding the principle of proportionality, the prohibition of torture, interrogation under duress, and cruel, inhuman or degrading treatment in the course of police operations and proceedings. Commanders must point out to the force again that no means of restraint are allowed when there is no further resistance and the operation can succeed without the use of force.
3. Training programmes for the police must be reviewed with the involvement of the head of the Police Academy and the Training Department of the Ministry of the Interior. Ways must be found to integrate training in citizens' rights into practical training in police operations and the use of means of restraint. Proposals must be elaborated regarding any changes that may be required.

Responsible person: head of the National Police Command's Human Resources Service.

Deadline: geared to the preparation of the curriculum for 2001/2002.

4. At the request of the detainee or the physician, arrangements must be made to keep the custodian staff outside hearing range or preferably out of sight during medical examination and the administration of treatment, unless doing so would compromise the requirements of custodial security or personal safety. The related decision must be made by the head of the guard.
5. The detainee must be given the opportunity upon admission to study and sign the medical opinion based on the prior medical examination after his/her requests for information have been satisfied. The detainee must not be obligated to sign – if (s)he refuses to sign, the refusal must be recorded.
6. The detainee, his/her proxy, duly authorised in writing, or appointed defence counsel may access the related medical documentation and health files, and may make copies thereof at his/her own expense.
7. If the doctor notices external marks of ill-treatment during the medical screening on admission, the detainee must be asked to explain their origin. If the detainee claims that (s)he was ill-treated by a policeman (border guard, customs guard, finance guard, etc.) or suffered cruel or inhuman treatment by the aforesaid, the doctor must record that circumstance in the medical report and ask the detainee to sign the document. The doctor must then forward a copy of the medical report to the head of the guard – in compliance with the data protection rules (i.e. in a sealed, stamped and signed envelope).
8. Pursuant to Item 7, the head of the guard must forward the envelope containing the medical report through the command chain to the official in charge of custody.
9. The official in charge of custody must ensure that the detainee is heard in order to clarify any ill-treatment and that the medical report is forwarded within 3 working days to the competent prosecutor, together with the protocol of the hearing.
10. When an order for detention or remand is issued, the detainee's relatives and any other persons specified by legislation must be notified without delay, pursuant to the provisions under Article 91 (4), Article 93 (2) of the Code on Criminal Proceedings (Act I of 1973), Article 18 (1) of the Police Act, and Article 77 (6) of Act LXIX of 1999 on Misdemeanours. A note must be added to the decision in which detention is ordered to record the fact, method and date/time of notification. This note must be included in the detainee's file.
11. Special care must be taken to ensure that detainees are always informed in writing about their rights and obligations on admission to remand facilities – in accordance with the provisions under Article 2 (8) and (9) of Interior Ministry Decree 19/1995 (XII. 13.), and Item d), Section 35 of the Regulations for Police Holding Facilities attached to National Police Command Measure 19/1996 (VIII. 23.). The officials in charge of detention must ensure that this written information is also available in any foreign languages that may be generally required under local circumstances.
12. The officials in charge of detention must take special care to improve the conditions of detention, with special regard to the commissioning of newly built remand prisons in compliance with European prison requirements, increasing the frequency of sanitary painting, the quality of meals for the inmates, the cleanliness of rooms and equipment.
13. A study must be made to establish the degree to which the rules for the construction of police detention facilities meet the requirements of the European Union. Based on the deficiencies identified, a proposal must be elaborated to amend applicable rules.

Responsible: National Police Command Director General for Economics

Deadline: 31st May 2001

14. The forensic and financial prerequisites for the electronic recording of interrogations must be investigated. The competent leaders of the Prosecutor General's Office and of the Supreme Court must be contacted about the matter, and the readiness of prosecutors' offices and courts to admit such solutions and to put the required resources in place must also be taken into account.

**Responsible: National Police Command Director General for Criminal Investigation
National Police Command Director General for Economics**

Deadline: 31st May 2001

15. Efforts must be made to make sure that – as far as possible – only staff with healthcare qualifications prepare and distribute medication to the detainees. The officials in charge of detention must review the practice of preparing and distributing medication – with regard to any issues in relation to available jobs and the rules for the handling of special personal data. The Budapest Commissioner of Police and the County Commissioners must draft a report on the findings of the investigation, outline the proposals submitted on that basis, and the required actions. A copy of the report must be sent to the Joint Institute for Health and Psychology of the National Police Command.

Deadline: 31st May 2001

16. The head of the Joint Institute for Health and Psychology of the National Police Command must prepare a summary report based on the reports submitted pursuant to Section 15, and convey the summary report to me via the command chain.

Deadline: 15th June 2001

17. A detainee held in a remand prison – even in cases where applicable rules are met – may be transferred to police detention facilities for proceedings only in justified cases, and prosecutors may request such a transfer if it is justified and advisable under the circumstances of the given case, and if it represents the best solution in view of the interests of the proceedings.

18. Commanders and officials in charge of detention must take special care to control and enforce compliance with my measure. Remand prison inspections should preferably be carried out simultaneously with the detention inspections performed by the prosecutor's office. Regular checks – at least once a month – must focus on legality of treatment, and information must be sought regarding the implementation of the rules that forbid torture and other humiliating, cruel or inhuman treatment.

19. The summary of the CPT's report on Hungary must be shared with the officials in charge of detention and the affected staff – in keeping with the applicable data protection and privacy rights.

**Responsible: National Police Command Director General for Criminal Investigation
National Police Command Director General for Public Safety**

20. The National Police Command Directors General for Criminal Investigation and Public Safety must designate one official each (i.e. a lead officer) to evaluate, analyse and coordinate, to check police compliance with human rights, to take specific action as and when required, to propose changes to standards, and to liaise with human rights organisations.

Deadline: lead officers must be designated by 10th July 2001

21. Commissioners of Police, the Commissioner of the Emergency Police, and the Commissioner of the Airport Security Service must take special care to investigate complaints in which the affected individuals complain about cruel, inhuman or humiliating treatment in the course of police operations and/or proceedings. Based on the complaints investigated and the violations identified, and the findings of the inspections performed under Section 18, they must evaluate the degree to which the organisations under their control respect human rights. They are to include their conclusions in a separate chapter of the annual report on the disciplinary situation of the force.
22. From 1 April 2001 to 30 June 2002, Commissioners of Police, the Commissioner of the Emergency Police, and the Commissioner of the Airport Security Service must prepare quarterly reports on the complaints investigated and found substantiated under Section 21, and on the findings of the inspections performed by the officials in charge of detention under Section 18. Following the above period, they are to prepare semi-annual reports and submit them to the National Police Command Directors General for Public Safety and Criminal Investigation, with a copy to the head of the National Police Command Supervisory Department.
**Deadline: 10th July 2001 for the first quarterly assessment, and the 10th day of each month thereafter,
for semi-annual reports, the 15th day after the end of the current six-month period.**
23. The National Police Command Directors General for Public Safety and Criminal Investigation must review the reports submitted to them under Section 22, and they must take the required actions in their respective fields. Based on the reports submitted under Section 22, the head of the National Police Command Supervisory Department must assess the degree to which human rights are respected at the national level, and include his conclusions in a separate chapter of the annual report on the disciplinary situation of the Police Force.
24. Special care must be taken to ensure that the media coverage of police operations includes only statements based on the truth and verified facts. All news coverage should highlight the public service nature of policing – as opposed to a focus on the use of force. Excessive emphasis on operations that may – from time to time – require coercion should be avoided.
25. The National Police Command Directors General for Public Safety and Criminal Investigation must review the methodology guidelines, and the information and supplementary materials available to the force on human rights – with special regard to practical policing, operations and the use of means of restraint. They must arrange for the drafting, changing or updating of those materials as necessary.
26. This measure enters into force on its date of issue and must be shared with all professional members of the force. If the medical screening in detention facilities is not carried out by police doctors, all non-police doctors must be asked by the officials in charge of detention to sign a declaration to the effect that they have read and understood this measure. Obviously, the physicians involved in screening on a regular basis should be asked to sign the declaration the first time only.

**NATIONAL POLICE COMMAND
Directorate General for Human Resources
Joint Centre of Health and Psychology**

Ref.: 39/8/1/2003

**Professional position paper of
the Senior Chief Doctor of the Police**

on health services for drug users held in police detention facilities

At the end of 2000, Parliament adopted the programme titled “National Strategy to Combat Drug Abuse” (by virtue of Parliamentary Decision 96/2000 (XII.11.) on the adoption of the National Strategy Programme to Combat Drug Abuse /henceforth: Programme/).

In April 2002, the Government adopted a resolution regarding the implementation of short and medium term tasks under Section 2 of the Programme (Resolution 1036/2002 (IV.12.) of the Government on government tasks regarding the implementation of the short and medium term goals set forth in the National Strategy Programme to Combat Drug Abuse /henceforth: Resolution/).

Section 16. of the Resolution on the government tasks regarding the implementation of the short and medium term goals set forth in the National Strategy Programme to Combat Drug Abuse provides for the following:

“...Arrangements must be made to ensure the provision of professional care for, and treatment of, drug users on remand in non-prison facilities (...i.e. in police detention facilities...), and the opportunity must be provided for such detainees to participate in special programmes. ...”

Pursuant to the above, the programmes to ensure professional care for, and treatment of, drug users on remand in police detention facilities must be developed, and the opportunity must be provided for the detainees to take part in special programmes as of 30 June 2003.

In order to implement a uniform approach and uniform practices at the national level, and to improve professional standards – by virtue of the authorisation under Sections 22 and 60 of Interior Ministry Instructions 9/2001 (BK 4) – I hereby issue the following professional position regarding health services for drug users on remand in police detention facilities:

Diagnosing drug abuse

The medical examination prior to admission must establish whether the person to be detained is a drug user or not – except for obvious cases when prosecution is initiated on grounds of drug abuse.

The medical pre-admission examination at the police detention facility must focus on identifying the examined person's drug use patterns as follows:

- explore medical history by asking the detainee the following questions regarding drug use patterns
 - Do you use any drugs?;
 - What kind of drug(s) do you use? (with special regard to multiple diagnosis);
 - How do you use the drug(s)?;
 - When did you start taking drugs?;
 - What doses do you take and how frequently?;
 - What kind of symptoms do you notice when you are not using the substance?;
 - When was the last time you used drugs, what substance did you take and how much?;
 - Have you ever taken a detoxification cure (therapeutic attempt) and what sort of treatment did you receive?;
 - What sedatives or tranquillisers do you abuse on a regular basis?

- *the medical examination must focus especially on*
 - the identification of (needle) marks around the elbows and ankles;
 - the examination of the nasal and oral mucous membranes;
 - the examination of pupil condition and pupil reactions;
 - the examination of hand tremor;
 - the Romberg test and hardened Romberg test;
 - feeling the abdomen with hand (abdominal spasms, pain);
 - the observation and examination of behaviour, speech and orientation (in space and time);
 - the (informative) examination of psychic status;
 - the examination of signs of depression.

- *when necessary, use the rapid test to establish drug abuse.*

Based on the questions, the results of the medical examination and the rapid test, the physician performing the examination prior to reception must take a stance as to whether or not the person examined is a drug user or not.

Whether drug users can or cannot be received

If it is established as a result of the medical examination prior to admission that the person to be detained is a drug user, whether or not (s)he can be received will be determined by his/her current health status, where the related decision should take into account the following:

➤ ***Acute symptoms of drug overdose or withdrawal are noticeable on admission:***

Reception in the police detention facility is not possible if the person to be detained shows acute symptoms of drug overdose or withdrawal during the medical examination prior to admission – provided that the symptoms cannot be treated in the detention facility. Such persons must immediately be transferred to hospital to receive proper treatment.

➤ ***The person to be detained shows no symptoms of drug overdose or withdrawal:***

The examined person may be received, but (s)he must be monitored on an ongoing basis and undergo regular medical checkups in order to notice any deterioration in condition in time.

Such persons should be held in the detention facility of the county seat that is covered by the competent police doctor, or in the Police Central Holding Facility of the Budapest Police Command.

The physician must prescribe as a prerequisite for reception that the detainee cannot be placed in a cell on his/her own – without supervision.

Starting medical treatment for prevention purposes at reception is not justified; such treatment need to be started only in response to the occurrence of objective symptoms.

Preparations must be made for the occurrence of acute overdose or withdrawal symptoms within 72 hours of reception. The detainee must immediately be transferred to a medical institution for proper treatment as soon as such symptoms occur.

Medical treatment that suits the current condition of the detainee must also be started in response to the occurrence of mild symptoms that do not necessitate institutional care. In addition, the detainee should be monitored on an ongoing basis and undergo regular medical checkups.

Generally, no major deterioration is likely to occur in the detainee's condition beyond 72 hours after reception, so the detainee may be held in the facility – subject to medical treatment for any symptoms as necessary, and under medical surveillance.

During the treatment of detained drug users, the opportunities for medical consultations and/or advice from the available psychologist must be used in order to help determine future actions.

The following facilities may be availed of for medical consult or treatment:

- psychiatric services, care facilities and/or in-patient institutions;
- intensive therapy units;
- drug outpatient centres;
- the National Institute of Psychiatry and Neurology;
- the Emergency Internal Ward and Clinical Toxicology Ward of Erzsébet Hospital, Budapest.

If the person received in the facility is an Intravenous Drug User (IDU) (s)he belongs in the high risk group from the point of view of HIV, hepatitis B and C. Therefore, IDUs must be tested for the above infections immediately – in accordance with the effective regulations. Special attention must be paid also to compliance with the public health and epidemiological rules in order to prevent infection, and to the use of available protective equipment.

If the detainee has received treatment in relation to drug abuse in the past, efforts should be made to gain access to the related medical documentation.

Withdrawal symptoms generally cease after 14 days following reception. The detainee must, therefore, undergo a medical checkup by all means, which is to determine whether maintenance of the medical treatment is justified or whether medication may be minimised or terminated altogether.

- *If the detained drug user is on drug substitution (methadone) therapy on admission or needs to participate in a special programme:*

Treatment to cure drug addiction cannot be started in a police detention facility, nor can ongoing treatment be continued.

Drug addicts who credibly certify participation in drug substitution (methadone) therapy or a psychotherapy-based special programme may only be received in police detention facilities for a maximum of 72 hours. If detention is to last more than 72 hours, the transfer of such detainees to a remand prison must be initiated – since the detention facility does not have the resources to provide treatment.

If the criteria for special therapy are met while the person received in the police detention facility is held there, the transfer of the detainee to a remand prison must be initiated, where his/her participation in the programme is regulated by the Instructions 1-1/31/2000 (IK Bv.Mell.6.) OP of the Commander of the Prison Service regarding the participation of detainees on therapy to cure drug addiction.

A brief summary of the symptoms occurring in drug users and requiring emergency treatment, and treatment practices to prevent the drug withdrawal syndrome is included in the Annex.

The general principles and examination methods stated in the professional position paper are mandatory for the physician performing the examination – whether (s)he is a police doctor or not. Such principles and methods must be used in the medical examination prior to reception in the police detention facilities or in the medical examination of detainees.

Pursuant to the authorisation under Section 60 of Interior Ministry Instructions 9/2001 (BK 4.), I will arrange, in the framework of professional supervision, for monitoring compliance with the provisions set forth in the professional position paper .

Budapest, 13 June 2003

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TREATMENT PRACTICES I.

EMERGENCY TREATMENT

In practice, emergency treatment stands for acute detoxification, which is mostly performed on general psychiatric, addictology or toxicology wards. People receiving treatment spend an average of 2.59 days on these wards. This kind of detoxification is distinct from preventive detoxification, the purpose of which is to avoid referral to rehabilitation institutions.

Opiates (heroin, poppy infusion, methadone)

The leading symptoms are a “flash” experience, “needle pupils”, a confused state of mind, breathing disorders.

Adequate interventions include intubation, assisted breathing, and the administration of naloxon (Narcanti).

Marijuana: (cannabis-derived substances)

Intoxication is generally accompanied by mild physical symptoms, a moderately confused state of mind, palpitation and elevated blood pressure.

This condition is generally normalised in 4-6 hours by the administration of β Blockers and mild sedatives.

Amphetamine derivatives

The symptoms include signs of arousal, dry mouth, dehydration, blurred vision, palpitation, arrhythmia, co-ordination disorders, elevated body temperatures, confused state of mind.

Requires supervision and the administration of therapy to alleviate the symptoms.

Cocaine

The symptoms may include tachycardia, sweating, pupil dilatation, elevated body temperatures, loss of appetite, insomnia, confused state of mind, chest pain. The administration of β Blockers is counter-indicated, due to the risk of acute myocardial infarction. The therapy should alleviate the symptoms.

Body packers

The capsules containing cocaine and/or heroin in the gastro-intestinal tract (in fact, up to 40-100 capsules) may cause a critical condition, so hospitalisation is mandatory in any suspected cases.

LSD

Leaps in blood pressure, pyrexia, headache, pupil dilatation, tachycardia, visual hallucinations, extreme mood changes from elation to depression. The mild physical symptoms are accompanied by crude psychic distortions.

Requires supervision and therapy to alleviate the symptoms.

TREATMENT PRACTICES II.

TREATMENT OF DRUG WITHDRAWAL SYNDROME

In the case of substances causing no physical (bodily) withdrawal symptoms (THC, LSD, amphetamines)

These substances cause only psychic addiction and, therefore, do not justify medication overdose treatment when withdrawn. Their assessment is uncertain, based on self-reporting, and the examination may at best reveal signs of mild vegetative arousal.

It is not necessary to administer tranquillisers or sedatives for preventive purposes at examination prior to admission, while it is imperative that the physician checks the detainee daily, and medical treatment must be administered depending on the patient's condition during the daily examinations.

Drugs of choice: Andaxin, Seduxen, Rivotril, perhaps Xanax. It is generally superfluous to administer low-dose sedative vitamins, since no physical deterioration is observed.

In the case of withdrawal syndrome causing physical (bodily) withdrawal symptoms (morphine, heroin, opium, Hydrocodine, Codein)

Withdrawal symptoms may occur as early as 2-3 hours after the last dose is administered. Mild cases trigger a runny nose, sweating, tachycardia, pupil dilatation, diarrhoea, pain in the bones (especially in pelvis, spine, legs); more serious cases trigger nausea, vomiting, abdominal spasms, painful muscles and joints.

Psychic symptoms include high irritability, insomnia, tension, anxiety, waves of strong and insurmountable hunger for the substance. The symptoms are intolerable and cause a lot of suffering, but lethal complications are very rare in a withdrawal state.

The severity of withdrawal symptoms is difficult to judge, due to the subjective nature of complaints. The judgment may rely on the patient's account of his/her regular daily dose which, however, must be handled with reasonable criticism. Experience suggests that drug users generally tend to report 2-4 times the actual dose in order to receive more medication. Therefore, the first 3 days should suffice to adjust medication up or down.

General medication: 3x4-6 mg Rivotril, 3x1 Tegretol CR 400 or the same amount of Tegretol 2% syrup, 3x2 Donalgin or 3x100 mg Contramal, sedative in the evening, and treatment for gastrointestinal symptoms (Reasec, etc.). The administration of Gerovit or Polivitaplex may be justified to patients in a very poor condition.

Heminevrin and Pipolphen are not to be used at all!

Haloperidol may be administered in severe cases, especially when hallucinations occur, provided that continuous medical supervision (i.e. by a physician or paramedic) is available until the ambulance crew arrive.

The key to successful treatment is daily checkups, accompanied by the recording of the patient's status and a gradual lowering of the dose.

Special care must be taken to control medication tightly in order to avoid abuse. It is recommended to use medication in liquid form, where available. If the pharmaceutical is not available in liquid form or is impossible to administer as such then solid medication should be dissolved and administered orally to the patients, since this method practically ensures that the medication is taken.

^[1] Point 12 of National Police Instruction 12/2001. (IV.4.) issued on the subject of how the CPT's recommendations for the police should be implemented.

^[2] Section 82 Paragraph (10) of Ministry of Interior Decree 3/1995. (III.1.) BM on the Service Rules of the Police.

^[3] Issued in conjunction with National Police Instruction 19/1996. (VIII.23.).

^[4] Recommendation no. R (87) 3 adopted by the Committee of Ministers of the Council of Europe on 12th February 1987.

^[5] Point 38.1. of the Recommendation on the European Prison Rules regards disciplinary confinement, i.e. keeping a prisoner alone for disciplinary reasons, as an institution that may upset the convict's bodily and mental balance and therefore it can only be used if a doctor issues a written certificate following a medical examination.

^[6] Ministry of the Interior Order 22/1988. (X.24.).

^[7] Section 17 Paragraph (3) of Decree 19/1995. (XII.13.) of the Minister of the Interior.

^[8] See Point 4 of Order 12/2001. (IV.4.) of the National Police Command.

^[9] See Point (c) of Section 2 Paragraph (1) and Section 3 Paragraph (7) of Decree 19/1995. (XII.13.) of the Minister of the Interior.

^[10] Based on Sections 2 Paragraph (2) and (7) of Decree 19/1995. (XII.13.) of the Minister of the Interior.

^[11] Under Point 52 of the Regulations for Police Holding Facilities.

^[12] On the basis of Sections 2 Paragraph (2) and 3 Paragraph (7) of Decree 19/1995. (XII.13.) of the Minister of the Interior.

^[13] On the basis of Point 54 of the Regulations for Holding Facilities.

^[14] As prescribed by Section 6/A Paragraph (4) of Decree 19/1995. (XII.13.) of the Minister of the Interior on Regulations for Police Holding Facilities.