



CPT/Inf (2006) 20

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

from 30 March to 8 April 2005

The Hungarian Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2006) 21.

Strasbourg, 29 June 2006

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Copy of the letter transmitting the CPT's report

Strasbourg, 3 August 2005

Dear Mr Vókó,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Government of Hungary drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Hungary from 30 March to 8 April 2005. The report was adopted by the CPT at its 57th meeting, held from 4 to 8 July 2005.

I would draw your attention in particular to paragraph 197 of the report, in which the CPT requests the Hungarian authorities to provide **within six months** a response setting out the action taken upon its visit report. The CPT would ask, in the event of the response being forwarded in Hungarian, that it be accompanied by an English or French translation. It would be most helpful if the Hungarian authorities could provide a copy of the response in electronic form.

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

Yours sincerely,

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

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I. INTRODUCTION

A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT visited Hungary from 30 March to 8 April 2005. The visit formed part of the Committee’s programme of periodic visits for 2005 and was the fourth visit to Hungary to be carried out by the CPT.¹

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

- Renate KICKER, Head of delegation
- Ingrid LYCKE ELLINGSEN
- Esteban MESTRE DELGADO
- Vladimir ORTAKOV
- Tatiana RĂDUCANU.

They were supported by the following members of the CPT’s Secretariat:

- Petya NESTOROVA, Head of Unit
- Borys WÓDZ
- Johan FRIESTEDT

and were assisted by:

- James McMANUS, Professor of Criminal Justice, Glasgow Caledonian University, United Kingdom (expert)
- Alan MITCHELL, Former Head of Health Care, Scottish Prison Service, United Kingdom (expert)
- István AMBRÓZY (interpreter)
- Jozsef BENDIK (interpreter)
- Zsuzsanna BORONKAY-ROE (interpreter)
- István HERNECZKI (interpreter)
- Gábor KARAKAI (interpreter)
- Zoltan KÖRÖSPATAKI (interpreter).

¹ The first periodic visit took place in November 1994 and the second in December 1999. Further, an ad hoc visit was carried out in May/June 2003. The CPT’s reports on these visits, as well as the responses of the Hungarian authorities, have been made public at the request of the Hungarian authorities (cf. documents CPT/Inf (96) 5, CPT/Inf (96) 15, CPT/Inf (2001) 2, CPT/Inf (2001) 3, CPT/Inf (2004) 18 and CPT/Inf (2004) 19).

B. Establishments visited

3. The delegation visited the following places of detention:

Establishments under the Ministry of the Interior

- Police Central Holding Facility, Budapest
- 3rd District Police Station, Budapest
- 6th/7th District Police Station, Budapest
- Kalocsa Police Station
- Kiskunhalas Police Station
- Orosháza Police Station
- Csongrád County Main Police Directorate, Szeged
- Kiskunhalas Border Guard Holding Facility for Aliens
- Orosháza Border Guard Holding Facility for Aliens
- Rösztke Border Guard Station
- Szeged Border Guard Office

Establishments under the Ministry of Justice

- Budapest Remand Prison (Unit III)
- Kalocsa Prison for Women
- Szeged Prison
- Judicial and Observation Psychiatric Institute (IMEI), Budapest

Establishments under the Ministry of Youth, Family, Social Affairs and Equal Opportunities

- Home for Persons with Psychiatric Disorders and Mental Disabilities, Kiskunhalas

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

4. As had been the case during the CPT's previous visits to Hungary, the co-operation received by the delegation, both from the national authorities and from staff at most of the establishments visited, was of a very high level.

5. The CPT is grateful for the time devoted to its delegation by József PETRÉTEI, Minister of Justice, Jenő RÁCZ, Minister of Health, Kinga GÖNCZ, Minister of Youth, Family, Social Affairs and Equal Opportunities, and Péter POLT, Prosecutor General. Further, constructive consultations were held with senior officials responsible for the police, Border Guard establishments, prisons, psychiatric hospitals and social care homes. In the course of the visit, the delegation also met Albert TAKÁCS, General Deputy Parliamentary Commissioner for Civil Rights.

The delegation would like to put on record the valuable assistance provided to it before, during and after the visit by the Government's Liaison Officer, György VÓKÓ, General Director at the Office of the Prosecutor General, and his deputy Eva HORVÁTH, Prosecutor at the Office of the Prosecutor General.

A number of discussions were also held with representatives of international and non-governmental organisations active in areas of concern to the CPT.

A list of the national authorities and organisations met by the delegation is set out in Appendix II to this report.

6. Further, the delegation enjoyed immediate access to all the places visited (including ones not notified in advance) and was able to speak in private with persons deprived of their liberty, in compliance with the provisions of the Convention. It was clear that information on the CPT's mandate and powers had been circulated to all relevant staff.

7. However, in several instances the information provided to the delegation by certain staff members appeared to be deliberately inaccurate or incomplete, in particular at Szeged Prison.

Further, at the latter establishment, the delegation gained the impression that some prisoners interviewed felt unable to speak freely. In particular, it would appear that restrictions were applied to one prisoner after he had spoken to the delegation and, for fear of further repercussions, he was unwilling to talk to delegation members again. Any kind of retaliatory action against a person because he has spoken to a CPT delegation would be totally incompatible with the obligations of Parties to the Convention. The CPT calls upon the Hungarian authorities to take appropriate steps to ensure that such acts do not take place (such as circulating instructions to staff indicating that no detainee should be subjected to any prejudice for having been interviewed by a CPT delegation).

D. Immediate observation under Article 8, paragraph 5, of the Convention

8. At the end of the visit, the CPT's delegation met senior Government officials in order to acquaint them with the main facts found during the visit. On this occasion, the delegation made one immediate observation, in pursuance of Article 8, paragraph 5, of the Convention, in respect of Szeged Prison. The delegation was seriously concerned by the plans to open a new unit at that establishment in which "actual lifers" would be permanently separated from the rest of the prison population. An additional matter of concern was the planned exercise yard for such prisoners, the configuration of which would not allow them to benefit from outdoor exercise in the true sense of the word. The delegation requested the authorities to revise the plans for setting up such a unit.

9. The above-mentioned immediate observation was subsequently confirmed in a letter of 21 April 2005 from the President of the CPT. The Committee requested the Hungarian authorities to provide, within one month, an account of the steps taken in response.

By letter of 4 May 2005, the Hungarian authorities informed the CPT of the measures taken. Those measures will be assessed later in the report. Nevertheless, the Committee would like to welcome already at this juncture the constructive spirit in which the Hungarian authorities took note of and reacted to its delegation's observations.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

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

1. Preliminary remarks

10. The legal provisions governing the detention of criminal suspects by the police are contained in the new Code on Criminal Procedure² (CCP), in force since 1 July 2003, and the 1994 Act on the Police³.

Pursuant to Section 126 (3) of the CCP, the maximum period a criminal suspect may spend in police custody is 72 hours; upon the expiry of this period, the person must be released if the court has not taken a decision concerning his pre-trial detention. Section 33 of the Act on the Police entitles the police to apprehend a person, in order to bring him before the competent authority, and hold him for up to 12 hours⁴, a time which is counted towards the overall period of police custody.

11. As regards the holding of remand prisoners in police establishments⁵, the situation has changed following the entry into force of Section 135 of the CCP on 1 January 2005. According to this section, remand detention must, as a rule, be carried out in a penitentiary establishment. However, in exceptional cases, persons remanded in custody may be held on police premises for up to 30 days upon the decision of a court, and may be sent back twice to police establishments, each time for a maximum of 15 days, in exceptional circumstances justified by the investigation and upon the decision of a prosecutor. In other words, the cumulative maximum a remand prisoner may spend in police custody is 60 days.

At the time of the 2005 visit, both the number of persons held on remand in police detention facilities and the average length of their detention had fallen significantly as a result of the entry into force of Section 135 of the CCP. This is a welcome development.

More generally, **the CPT must stress that the medium-term objective should be to end completely the practice of accommodating remand prisoners in police establishments. The return of remand prisoners to police custody (e.g. for further questioning) should only be sought and authorised when it is absolutely unavoidable. Further, for as long as the present practice continues, the judicial control of the treatment of persons remanded in custody and held on police premises should be reinforced; more specifically, such persons should be physically brought before a judge at regular intervals.**

² Act No. XIX/1998.

³ Act No. XXXIV/1994.

⁴ An initial 8 hours which can be prolonged once by 4 hours by the head of the police agency concerned.

⁵ This practice had given rise to serious concerns by the CPT during the 1994 and 1999 visits to Hungary and was the focus of an ad hoc visit in 2003.

12. Since the CPT's previous periodic visit in 1999, the legal framework governing the detention of foreign nationals irregularly present in Hungary has also undergone certain changes.⁶ If a foreign national cannot be immediately deported (e.g. on the basis of a re-admission agreement), the Aliens Act envisages three types of detention: for refusal of entry, in preparation for expulsion and in order to ensure the implementation of an expulsion order ("alien policing detention"). The Border Guard may hold a foreign national for up to 5 days, after which there has to be a court decision for further detention (initially up to 30 days, with possible extensions). The combined overall period of detention cannot exceed 12 months. As regards asylum seekers, they may also be detained in holding facilities for aliens, but this measure is generally used as a last resort (most asylum seekers being accommodated in open community shelters).

2. Ill-treatment

13. During the third periodic visit to Hungary, the majority of the persons met by the CPT's delegation who were, or had recently been, detained by the police, indicated that they had been correctly treated, both at the time of their apprehension and during questioning. Nevertheless, the delegation received a few allegations of physical ill-treatment by the police at the time of apprehension (such as kicks, punches, tight handcuffing).

Further, at the outset of the visit, the National Police Commander informed the delegation that an annual stocktaking of complaints of ill-treatment by police officers had been introduced, which showed an upward trend: in 2003, the number of complaints was 45 (of which 4 were upheld), while in 2004, there had been 74 such complaints (of which 11 were upheld).

Particular reference might be made to one case in which medical evidence consistent with the allegations of ill-treatment made was gathered by the delegation. A person interviewed at Csongrád County Main Police Directorate in Szeged alleged that, in the course of his apprehension on the evening of the previous day, he had been struck by police officers who jumped on him while he was lying in bed, handcuffed him behind the back and dragged him out of the room. Upon medical examination, the person concerned displayed bruising on the chest consistent with having suffered a fracture of the breast bone. He had apparently been taken to hospital for an X-ray which had revealed a fractured breast bone.

In the light of all information gathered during the visit, the CPT recommends that the Hungarian authorities remind police officers, through appropriate means and at regular intervals, that the ill-treatment of detained persons (whether of a physical or verbal nature) is not acceptable and will be the subject of severe sanctions. Police officers should also be reminded that no more force than is strictly necessary should be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can never be any justification for their being struck.

⁶ A new Aliens Act (Act No. XXXIX of 2001 on the Entry and Stay of Foreigners) entered into force on 1 January 2002 and was subsequently amended by Act No. XXIX of 2004, in force since 1 May 2004.

14. No allegations were received of ill-treatment by Border Guard staff in the detention facilities for aliens visited. However, one detained person met by the delegation alleged that he had been handcuffed to a radiator in an office at Röske Border Guard Station for 12 hours.

Offices should not be used as ad hoc detention facilities and the handcuffing of detained persons to radiators or other fixed objects should be avoided. Detention in a cell normally does not require the use of additional restraints. **The CPT recommends that the Hungarian authorities take appropriate steps to ensure that detained persons are not left handcuffed to radiators or items of furniture and are accommodated in rooms/cells designed specifically for custodial purposes and offering appropriate security conditions.**

15. As regards the procedure for investigating complaints of ill-treatment against law enforcement officials, the delegation was informed that, pursuant to the new Code of Criminal Procedure, all such complaints were brought to the attention of the County Prosecutor's Office and any investigation was carried out by an investigating judge (and no longer by the police). The CPT welcomes this development.

According to information provided by the General Prosecutor's Office, in 2004 there had been 564 cases opened against police and Border Guard staff on account of "ill-treatment during official proceedings", 32 of which had resulted in indictments (the number of judgements was not yet known).

In order for the CPT to obtain a complete and up-to-date picture of the current situation, **the Committee would like to receive the following information in respect of 2004 and 2005:**

- **the number of complaints of ill-treatment made against police and Border Guard staff;**
- **the number of criminal and disciplinary proceedings instituted as a result of these complaints;**
- **an account of criminal and disciplinary sanctions imposed.**

16. Adequate professional training for law enforcement officials is an essential component of any strategy for the prevention of ill-treatment.

In their response to the Committee's report on the visit in 1999, the Hungarian authorities provided information on the content of the training programme for police and Border Guard staff, which comprises legal training, social studies, psychological studies and investigation techniques. Further, in the course of the 2005 visit, the delegation received additional information on the training provided to law enforcement officials in the area of human rights. This information suggests that an effort has been made to incorporate human rights concepts into the initial and ongoing training of police officers.

The CPT has also noted with interest the information provided by the Hungarian authorities in their response to the 1999 visit report on the psychological support offered to police staff with a view to helping them cope with highly stressful or violent situations (including individual psychotherapy provided by qualified psychologists employed by the police, training on conflict management, and regular general and targeted psychological tests to find out whether staff continue to satisfy aptitude requirements).

Nevertheless, the information contained in paragraph 13 underlines the need to intensify efforts in the area of training of law enforcement officials.

17. The role played by health-care services in police detention facilities in the prevention of ill-treatment has been emphasised by the CPT in the past (cf. paragraph 22 of CPT/Inf (2001) 1).

At the time of the 2005 visit, medical examinations of detained persons were still carried out as a rule in the presence of police officers, despite the CPT's previous recommendations in this respect (cf. paragraph 48 of CPT/Inf (96) 4 and paragraph 23 of CPT/Inf (2001) 1). The Committee has serious misgivings about the presence of police officers during the medical examination of detainees. It acknowledges that special security measures may be required during medical examinations in a particular case, when a security threat is perceived by the medical staff. However, there can be no justification for police officers being *systematically* present during such examinations; their presence is detrimental to the establishment of a proper doctor-patient relationship and could discourage a detained person who has been ill-treated from saying so. Alternative solutions can and should be found to reconcile legitimate security requirements with the principle of medical confidentiality. One possibility might be the installation of a call system, whereby a doctor would be in a position to rapidly alert police officers in those exceptional cases when a detainee becomes agitated or threatening during a medical examination. **The Committee calls upon the Hungarian authorities to take immediate steps to ensure that practice in this area is brought in line with the above considerations.**

18. The observations made by the CPT's delegation suggest that the procedure as regards the recording of injuries observed upon arrival in police holding facilities could be improved. Police doctors recorded injuries observed on new arrivals on a standard form, together with any allegations that the person concerned might make; however, no conclusion was drawn as to whether the injuries observed were consistent with the person's allegations. In their response to the 1999 visit report, the Hungarian authorities argued that the drawing of conclusions is the task of an outside forensic medical expert and, to preclude any bias, the police doctor may not make a statement in this connection. Such a state of affairs would not be objectionable if all detained persons bearing injuries were promptly seen by forensic experts. However, this does not seem to be the case.

A copy of the form recording injuries was given to the police officer accompanying the detainee during the examination. The doctor had no formal role in notifying a prosecutor of any injuries observed on a detained person, it being the responsibility of the accompanying police officer to transmit the form to his superiors. The delegation was told that a copy of the form would also be forwarded by the police to the relevant prosecutor.

The examination of detainees' files at the Central Police Holding Facility in Budapest revealed that persons presenting injuries upon admission had signed statements to the effect that the injuries had been sustained before apprehension or were self-inflicted. In the CPT's opinion, this is another practice which could clearly inhibit the person concerned from making a truthful statement about what had happened to him (especially if the injuries have been inflicted by the very same police officers in whose custody the person finds himself). In this context, it is noteworthy that only in one case had a detained person lodged a complaint alleging that the injuries had been caused by the police. The complaint had been investigated by the police and a senior police officer had concluded that the injuries were self-sustained. This appeared to be the end of the investigation into the complaint in question.

The CPT recommends that the practice of taking statements from detained persons presenting injuries be reviewed so as to ensure that no undue pressure is put on them. If a detained person presents injuries and makes allegations of ill-treatment, he should be seen by an outside medical expert and the case referred to a prosecutor.

19. In the report on the 1999 visit, the Committee voiced its misgivings about the dual allegiance of police doctors employed to provide medical care to persons detained by the police. In their response to that report, the Hungarian authorities stated that "when taking professional decisions, police doctors apply the professional rules of the medical profession. ... Under the law, the police must not give any kind of instructions to the police doctor in this part of his work and so he enjoys full legal independence."

It transpired during the meeting at the Prosecutor General's Office that investigating judges handling complaints against the police entertained doubts as regards the reliability of medical certificates drawn up by police doctors and usually ordered an independent medical examination. This can only reinforce the CPT's misgivings concerning the position of police doctors and makes it all the more important that persons detained by the police have access to outside, independent doctors (cf. paragraph 18).

20. Systems for the inspection of police detention facilities by an independent authority are capable of making an important contribution towards the prevention of ill-treatment and, more generally, of ensuring satisfactory conditions of detention.

The delegation was informed that public prosecutors visited police and Border Guard holding facilities at least once every 2 weeks. A Division for Supervision of Legality of the Execution of Punishments and Legal Protection had been set up at the Prosecutor General's Office, employing some 30 prosecutors specialised in the carrying out of such inspections and enjoying functional independence. The visits of inspection were unannounced and involved random interviews with detained persons. Some of the visits following a thematic approach (e.g. with a focus on medical check-ups, outdoor exercise, information to detainees, etc.). A report on the prosecutor's office supervision activities is published every year (copies of the last reports were provided to the CPT).

The CPT welcomes the existence of the system of prosecutors' visits. **In addition, the Committee wishes to stress once again the desirability of routine control performed in police detention facilities by independent outside bodies, in addition to visits by public prosecutors.**

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

21. In previous visit reports, the CPT examined in detail the formal safeguards against ill-treatment which are offered to persons detained by the police and Border Guard in Hungary and their operation in practice. The Committee has placed particular emphasis on three fundamental rights, namely the right of detained persons to inform a close relative or another third party of their situation, to have access to a lawyer, and to have access to a doctor. As the CPT has stressed repeatedly, these rights should be enjoyed by all categories of persons from the very outset of their deprivation of liberty (i.e. from the moment the persons concerned are obliged to remain with the police or Border Guard). It is equally fundamental that persons detained by the police and Border Guard be informed without delay of their rights, including those mentioned above, in a language they understand.

22. As far as the right of notification of custody is concerned, practically all detained persons interviewed confirmed that they had been informed of this right – and placed in a position to exercise it – either at the time of their physical apprehension or soon afterwards. The CPT has noted that, pursuant to Section 128 (1) of the new Code of Criminal Procedure, relatives (or another person designated by the defendant) should be notified of the fact and place of detention within 24 hours. As already indicated, the Committee is of the view that a detained person's right to inform a relative or a third party of his choice of his situation should apply from the very outset of his deprivation of liberty by the police. **The CPT would like to receive clarification as to why it was considered necessary to include the above-mentioned leeway of 24 hours in the new CCP.**

Further, according to the “statement on communication of rights of the apprehended persons”, notification of custody is allowed “in circumstances where it does not endanger the goal of the procedure”. The CPT has already recommended in the reports on its visits in 1994 and 1999 that the possibility to delay the exercise by detained persons of the right to inform a relative or third party of their situation be clearly defined, made subject to appropriate safeguards (e.g. any delay to be recorded in writing together with the reasons therefor and to require the approval of a public prosecutor or a senior officer unconnected with the case at hand) and strictly limited in time. **The Committee calls upon the Hungarian authorities to take steps to implement this long-standing recommendation.**

23. With regard to access to a lawyer, Section 5 (3) of the new CCP provides that a person who is the subject of criminal proceedings has a right to legal assistance at every stage of the proceedings. During the 2005 visit, the CPT's delegation once again sought clarification as to the precise moment at which the right of access to a lawyer becomes effective. Senior police officers (both at the Ministry of the Interior and at police establishments visited) affirmed that this right applied from the moment a person was declared a suspect and consequently information on it was provided before the first formal questioning. Thus a period of up to 12 hours – during which a person has the status of “apprehended” – might elapse before contact with a lawyer is permitted. In this context, it is noteworthy that the “statement on communication of rights of the apprehended persons” made no reference to the right of access to a lawyer.

It became clear during the visit that, in practice, it was rare for persons to benefit from the presence of a lawyer at any stage of police custody. Similar to what had been observed at the time of the 1999 visit, it was alleged that in many cases lawyers appointed *ex officio* had had no contact with detained persons until the first court hearing or did not even appear in court. As a result, persons in police custody who were not in a position to pay for legal services were effectively deprived of the right of access to a lawyer.

The CPT calls upon the Hungarian authorities to take steps to ensure that persons in police custody benefit from an effective right of access to a lawyer, as from the very outset of their deprivation of liberty.

For as long as there is not an effective system of free legal assistance for indigent persons at the stage of police custody, any right of access to a lawyer will remain, in most cases, purely theoretical. **The CPT recommends that a fully fledged and properly funded system of legal aid for persons in police custody who are not in a position to pay for a lawyer be developed as a matter of urgency, and be applicable from the very outset of police custody. If necessary, the relevant legislation should be amended.**

24. In respect of access to a doctor, the situation remained unchanged: all medical examinations of persons in police custody were performed by police-appointed doctors. The delegation's observations from the 2005 visit suggest that the sole purpose of such examinations was to determine whether the person concerned was fit for detention; insufficient attention was given to health-care needs that he might have.

As stressed by the CPT in the report on the 1994 visit, granting detained persons the right to a medical examination by a doctor of their own choice (in addition to any medical examination carried out by a police-appointed doctor) is an essential additional safeguard for detainees. **The Committee therefore reiterates its recommendation that the right of detained persons to be examined, if they so wish, by an external doctor be formally guaranteed (it being understood that an examination by such a doctor may be carried out at the detainee's own expense).**

25. As for information on rights, in their response to the 1999 visit report, the Hungarian authorities indicated that information sheets in 9 languages on the rights and obligations of detainees had been made available to every police establishment that operates a holding facility. On reception, detainees were said to receive information on their rights and obligations, which they attested by signing a sheet which was subsequently filed with all other documents relevant to their case.

At most police establishments visited, the delegation did note the presence of the above-mentioned information sheets; however, they were not always available in foreign languages. Most detained persons interviewed by the delegation indicated that they had received information on their rights upon or soon after apprehension (albeit not always in writing).

The CPT welcomes the Hungarian authorities' efforts to improve the provision of written information to persons in police custody. **The Committee invites the Hungarian authorities to take further steps to ensure that the information sheet is available in all police establishments in an appropriate range of languages and is systematically given to detained persons.**

26. In the report on its 1994 visit, the CPT recommended that the Hungarian authorities draw up a code of conduct for police interrogations (cf. paragraph 51 of CPT/Inf (96) 5). In their response to the 1999 visit report, the authorities stated that a new decree by the Ministry of the Interior on procedures of investigation would be issued after the Code of Criminal Procedure had been amended. According to its legislative schedule, the Ministry of the Interior planned to submit the draft decree to Parliament in June 2001. **The CPT would like to be informed of developments in this area.**

27. The delegation's examination of custody records at the police and Border Guard establishments visited revealed that the period spent in custody was not always comprehensively documented. In particular, information on the time of release/transfer of detained persons was sometimes lacking. **The CPT recommends that the Hungarian authorities remedy these shortcomings.**

28. As regards the safeguards for foreign nationals detained under the aliens legislation, pursuant to Section 54 (3) (b) of the Aliens Act, foreign nationals detained by the Border Guards have the right to contact their legal representative and consulate. Foreign nationals who do not understand Hungarian and are not in a position to contact a lawyer are appointed an *ad hoc* legal representative ("case guardian") to represent them in court. However, the delegation noted that access to a lawyer was not provided in the early stages of deprivation of liberty, i.e. before foreign nationals were transferred to a Border Guard holding facility. **The CPT recommends that the Hungarian authorities take measures to ensure that immigration detainees have an effective right of access to a lawyer/legal representative as from the very outset of their deprivation of liberty (i.e. from the moment when the persons concerned are obliged to remain with a law enforcement agency).**

Further, the delegation noted that foreign detainees were not systematically provided with written information about their rights in a language they understood, in particular at Border Guard stations at points of entry. **The CPT recommends that steps be taken to ensure that foreign nationals detained under the aliens' legislation and asylum seekers are systematically issued at the very outset of their deprivation of liberty with a form setting out in a straightforward manner their rights and the procedure applicable to them; the form should be available in an appropriate range of languages.**

29. The CPT attaches considerable importance to the manner in which deportation orders are enforced in practice.

Following the death of a Cameroonian national during deportation in 2003, specific guidelines have been adopted by the Ministries of the Interior and Justice in July 2004 (Joint Decree No. 40/2004 (VII.2) of 2 July 2004). This is a welcome development. **The CPT would like to receive information on steps taken to ensure the implementation of the above-mentioned guidelines (e.g. training, setting-up of internal and external monitoring mechanisms).**

4. Conditions of detention in police establishments

30. Since the previous CPT's visit in 2003, the official capacity of the Police Central Holding Facility in Budapest has been reduced from 208 to 134, following the transfer of the two upper floors to the adjoining Unit II of Budapest Remand Prison. After the entry into force of Section 135 of the CCP, the average occupancy levels have dropped by some 70% and the average stay of detainees has been reduced to a few weeks. On the day of the CPT delegation's visit, the establishment was holding 52 adults, including three women. All but two of the detained persons present were remand prisoners.

31. The above-mentioned developments have had a number of positive consequences: there were no signs of overcrowding and no difficulties for detained persons to gain access to the communal toilet and washing facilities. Further, all detainees were guaranteed at least one hour of outdoor exercise per day and telephone calls to lawyers were not subject to limitations.

That said, other deficiencies described in previous visit reports remained. Ventilation, access to natural light and artificial lighting as well as the state of cleanliness of most of the cells left something to be desired. Further, nothing had been done to improve the outdoor exercise yards which were criticised by the CPT in the report on the 1994 visit⁷.

32. As regards the other police holding facilities visited (the 3rd and 6th/7th District Police Stations in Budapest and the Csongr ad County Main Police Directorate in Szeged), the cells were of a reasonable size for the number of persons they were being used to hold (e.g. one person in a cell measuring 8 m², two in a cell of 10 m²). All cells had windows; however, access to natural light and ventilation was quite limited due to the presence of dense grilles on the windows. As regards artificial lighting, it was generally adequate. The cells were clean and in a decent state of repair, as were the communal toilet and washing facilities. Further, with one exception (at the 6th/7th District Police Station in Budapest), the delegation did not hear any complaints from detained persons regarding access to the toilet.

The cells' equipment consisted of sleeping platforms and shelves or lockers, and detainees were provided with bedding (mattress, bed sheets and blankets) at night. However, at the Szeged facility, the delegation was concerned to see narrow (some 50 cm) sleeping platforms, of the same design as those criticised in the report on the 2003 visit (cf. paragraph 14 of CPT/Inf (2004) 18).

As regards food, it was provided three times per day and included one warm meal. There were no problems with the provision of drinking water.

33. To sum up, conditions in the police holding facilities could generally be considered as acceptable for the duration of police custody (i.e. 72 hours maximum). However, they were not suitable for prolonged stays, as was the case for remand prisoners (i.e. up to 60 days). In particular, there were no activities, except for one hour of outdoor exercise per day, which was taken in small and oppressive yards.

⁷ Cf. paragraph 35 of the report on the 1994 visit, CPT/Inf (96) 5.

In this context, the CPT is particularly concerned by the absence of positive developments as regards the regime applicable to remand prisoners at the Police Central Holding Facility in Budapest. Despite the Committee's previous recommendations, no attempt had been made to offer any sort of activities (such as access to books, board games, sports, etc.). The delegation noted that the setting up of communal rooms in which various leisure activities (including TV and radio) could be provided – as announced by the Hungarian authorities in their response to the report on the 2003 visit – had not materialised.

34. The inadequacy of the above-described regime was compounded by unsatisfactory arrangements for contact with the outside world. All contacts of remand prisoners with their families – whether in the form of visits or telephone calls – were subject to authorisation by the competent investigator, prosecutor or court. Most of the prisoners with whom the delegation spoke indicated that they had not received such an authorisation or that it had been granted only sporadically. Further, the practice of censoring all prisoners' correspondence continued, and several prisoners complained about long delays in the delivery of letters.

Further, at the Csongrád County Main Police Directorate in Szeged, the delegation received an allegation that a prisoner's telephone conversations with his lawyer were being listened to by the investigator in charge of his case; **such a practice would be totally inadmissible**.

35. Specific mention should be made of the problems encountered by foreign detainees due to the paucity of written information about their rights and the facilities' regulations in languages other than Hungarian, as well as communication difficulties with staff. This problem, particularly evident at the Budapest central facility and in Szeged, has already been highlighted in the report on the 2003 visit (cf. paragraph 19 of CPT/Inf (2004) 18).

36. The CPT is also concerned by the apparent lack of progress on a number of points with respect to the provision of health care.

The Police Central Holding Facility in Budapest employed twelve doctors who ensured 24 hour medical cover in the facility as well as in district police stations in Budapest. Regarding the Szeged establishment, it was visited on a daily basis by three police doctors working in turn.

However, the delegation heard several complaints from detained persons about the quality of care provided by police doctors. Further, medical documentation remained poor (e.g. absence of a single, comprehensive medical file; sparse character of the medical notes; no record of administered medicines). As already noted (cf. paragraph 17), the confidentiality of medical consultations was not respected. It is also noteworthy that at all police holding facilities, except the central one in Budapest, medication was distributed to detainees by medically untrained staff.

Moreover, the CPT has certain reservations about the management of detained persons suffering from drug withdrawal symptoms in view of the fact that the prescription of medicines to relieve such symptoms was not tailored to meet the individual's needs. Further, as regards detainees known to be suffering from HIV infection or hepatitis, the approach adopted (i.e. segregation of the detainee concerned and obligation to use a separate toilet and shower) suggests a serious lack of information among management and staff as to the possible transmission of blood-borne viral infections and the precautions necessary to limit the potential for such transmission.

37. The CPT recommends that decisive steps be taken to address the above-mentioned shortcomings and, in particular, to:

- remedy the deficiencies observed with regard to ventilation, artificial lighting and state of cleanliness of the cells at the Police Central Holding Facility in Budapest;
- improve access to natural light and ventilation in the 3rd and 6th/7th District Police Stations in Budapest and the Csongrád County Main Police Directorate in Szeged;
- improve the sleeping arrangements at the Csongrád County Main Police Directorate in Szeged;
- provide some form of activity (including association, subject to an assessment of the security risk individual prisoners may represent and to the interests of the investigation) for remand prisoners for as long as they are being held in police establishments;
- improve remand prisoners' possibilities for contact with the outside world; in this context, the CPT must stress once again the need to reconsider the current procedure as regards family visits and correspondence. The objective should be to offer each remand prisoner at least one visit every week;
- provide foreign detainees with written information about their rights and the establishments' regulations in an appropriate range of languages;
- remedy the deficiencies observed with regard to the provision of health care described in paragraph 36.

38. The other police establishments visited (in Orosháza, Kalocsa and Kiskunhalas) were used for periods of detention not exceeding 12 hours. The best conditions were observed at Orosháza, where the two recently refurbished cells were of an adequate size (some 8 m²), well lit and ventilated, equipped with a means of rest, and clean. Conditions were also quite acceptable in the two cells seen at Kalocsa Police Station: although the cells were deprived of access to natural light, artificial lighting was adequate and there was a bench and a call bell in each cell.

At Kiskunhalas, the delegation was informed that the cells previously used (which were dark, poorly ventilated and in a dilapidated state) had been taken out of service. Apprehended persons were being held in a waiting room, the conditions of which call for no particular comment.

5. Border Guard establishments

39. The delegation visited two Border Guard holding facilities for aliens, in Kiskunhalas and Orosháza. As already noted, foreign nationals may be detained in such establishments for up to one year.

The delegation also visited the Border Guard office in Szeged and the Border Guard station in Röszke (point of entry on the border with Serbia and Montenegro). Foreign nationals could be held on these premises for a maximum of 24 hours.

a. conditions of detention in the holding facilities for aliens

40. The Kiskunhalas holding facility had a capacity of 90 and was accommodating 17 adult men at the time of the visit. Due to ongoing refurbishment, only one of the two detention areas (with a capacity of 50) was in use. For its part, the Orosháza holding facility, with an official capacity of 25, was accommodating 6 men. Some of the persons detained in the two establishments had spent as long as ten months in custody.

41. In both establishments, material conditions were generally of a good standard. The living space per detained person was adequate: in Kiskunhalas, up to six persons could be held in cells measuring some 30 m² and in Orosháza, cells measuring 16 m² and 42 m² contained three and six beds respectively. Access to natural light, artificial lighting and ventilation were satisfactory, as was the state of cleanliness. The equipment consisted of beds, a table and stools, and, in the case of Kiskunhalas, personal lockers to which detainees held the keys; such an arrangement should also be introduced in Orosháza. However, the delegation noted that in Orosháza, the bedding was of a poor quality.

Access to toilets, shower and washing facilities was unlimited. Further, detainees were provided with an adequate range of personal hygiene items.

42. Foreign nationals held in both establishments received three meals a day which they took in well-appointed dining rooms. However, several detainees complained that religious/cultural dietary habits were not always taken into account. Further, in Orosháza, the canteen did not operate at week-ends, as a result of which detainees were only provided with canned food. **The CPT invites the Hungarian authorities to review the food arrangements in the Kiskunhalas and Orosháza holding facilities for aliens in order to ensure that the dietary habits and needs of detained persons are being adequately catered for.**

43. At both establishments, detainees benefited from an open door regime within the detention area; this is a welcome approach. One hour of outdoor exercise was offered every day and, in Orosháza, detainees could play table tennis in the exercise yard. Further, throughout the day, detainees could watch TV (including foreign channels) in a separate room.

In spite of these positive elements, the offer of activities remained limited. The provision of recent newspapers/magazines and books was clearly lacking and there were no possibilities for work. Bearing in mind the detainees' legal status, the paucity of purposeful activities might engender further frustration and stress and even provoke tensions among persons held in these facilities.

The CPT invites the Hungarian authorities to review the regime for foreign nationals detained under the Aliens Act, with a view to enlarging the offer of purposeful activities (e.g. access to sports facilities, provision of books and recent newspapers/magazines in various foreign languages, games, etc.). The longer the period for which persons are detained, the more developed should be the activities which are offered to them.

b. health care

44. The provision of health care at the Kiskunhalas and Orosháza holding facilities for aliens could be considered as generally adequate, and no complaints were received from detained persons. As a rule, newly-arrived detainees were examined by a doctor on the day of arrival. The presence of a doctor was ensured during weekdays and, in Orosháza, a feldsher was present at weekends. Access to medication, possibilities for hospitalisation and psychiatric/psychological support also appeared satisfactory.

However, the CPT has misgivings as regards the observance of medical confidentiality. The delegation was informed that Border Guard staff were systematically present during medical consultations. **The Committee recommends that the Hungarian authorities take appropriate measures to ensure that all medical examinations of detainees (whether on arrival or at a later stage) are conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of Border Guard staff.**

c. staff

45. In its report on the 1999 visit (cf. paragraph 62 of CPT/Inf (2001) 2), the CPT underlined the need to review the selection and training of Border Guard staff working with foreign nationals deprived of their liberty. In their response, the Hungarian authorities indicated that a curriculum to that effect had been prepared.

However, at the Kiskunhalas and Orosháza holding facilities, the delegation was informed that very little specialised training was offered to staff. Only a few staff members had some notion of foreign languages, and the delegation noted that the relations between staff and detainees were limited and distant.

As indicated in the report on the 1999 visit, the CPT places a premium upon the supervisory staff working in centres for foreign nationals being carefully selected and receiving appropriate training, notably as concerns interpersonal communication and language skills and information on the different cultures of the detainees. Staff should also be taught to recognise possible symptoms of stress reactions displayed by detained persons and to take appropriate action. **The CPT recommends that the Hungarian authorities:**

- **review the training of Border Guard staff in the light of the above remarks;**
- **encourage greater interpersonal communication between staff and detainees.**

46. The delegation also noted that some staff openly carried truncheons, tear gas canisters and handcuffs in the detention areas. In the interest of promoting positive relations between staff and detainees, **the CPT considers that Border Guard staff should not carry such devices as a matter of routine in detention areas; if it is deemed necessary for staff to be armed with such devices in specific and clearly defined circumstances, they should be hidden from view.**

- d. information to detainees and contact with the outside world

47. According to Section 53 (2) of the Aliens Act, upon admission to Border Guard premises, a foreign national should be provided with information on his rights and obligations in his mother tongue or any other language he understands.

In the Kiskunhalas holding facility, written information on rights, internal rules and procedures applicable to foreign nationals was available in a variety of languages. However, at Orosháza, such information existed only in Hungarian; interpreters were said to come when required and explain the content of documentation to detainees. **The CPT recommends that steps be taken to ensure that written information on detainees' rights, internal rules and applicable procedures is available in a variety of languages at the Orosháza holding facility and given to detainees upon admission (as well as at any other holding facility for aliens in Hungary where this is currently not the case).**

48. The major complaint of foreign nationals was the lack of knowledge of what was happening in their case and how long they would spend in custody. The physical distance and the lack of communication between the body responsible for processing asylum applications (i.e. the regional directorates of the Ministry of Interior's Office of Immigration and Nationality (OIN)) and the Border Guard holding facility resulted in difficulties in providing detainees with regular information on their situation. **The CPT invites the Hungarian authorities to seek ways to improve channels of communication between the OIN and the Border Guard, with a view to better informing detainees of their situation.**

49. A positive aspect was the involvement of NGOs in the provision of assistance and information to foreign nationals, through the implementation of a co-operation agreement between the Border Guard and the Hungarian Helsinki Committee. Lawyers from the latter organisation paid regular visits to the Kiskunhalas and Orosháza detention facilities and provided free legal assistance concerning both the asylum procedure and detention. However, the fact that outside bodies have been contracted to help foreign detainees does not discharge the State from its responsibility to provide information and assistance to such detainees.

50. Detained foreign nationals were in principle entitled to receive visits. However, each visit required a specific authorisation from the head of the establishment. In Kiskunhalas, the delegation was informed that visits were limited to 30 minutes and only one visitor could come at a time.

A pay-card telephone was available in the detention area of each establishment. The delegation was informed that detainees were entitled to one free-of-charge call on arrival and could subsequently buy phone cards if they had money (which was not the case of most detainees). There was no restriction on detainees' correspondence.

In the light of the above, **the CPT recommends that the Hungarian authorities take steps to ensure that the right of foreign nationals to receive visits is not unreasonably restricted.**

e. means of restraint and discipline

51. Detained foreign nationals were systematically handcuffed whenever they left the Border Guard premises (e.g. to appear in court, to be transferred to a hospital, etc.). In addition, during transfer, the handcuffs were often attached to a leash which was held by the escorting Border Guard officer (detained persons commented that this made them feel like animals). In the CPT's view, applying handcuffs as a matter of routine to immigration detainees outside the detention area is disproportionate, in particular when considering their legal situation. Likewise, the use of a leash could be seen as a demeaning practice. **The CPT invites the Hungarian authorities to review their policy on the use of means of restraint with respect to foreign nationals detained under the Aliens Act.**

52. The delegation was informed that Hungarian legislation did not contain provisions concerning disciplinary sanctions applicable to foreign nationals detained under the Aliens Act. However, at Orosháza, detainees could apparently be punished for violations of the internal rules by withdrawal of privileges (e.g. watching TV). According to the director of the Kiskunhalas holding facility, the main disciplinary sanction was a fine. Further, detained persons who were being aggressive could be segregated in a special room for a few hours. **The CPT would like to receive clarification of the disciplinary regulations applicable to Border Guard holding facilities.**

f. other Border Guard establishments

53. The detention facilities at the Border Guard establishments in Röszke and Szeged (where foreign nationals could be kept for up to 24 hours) were not equipped for overnight stays. There were no beds, mattresses or blankets, and no food was provided.

The CPT recommends that the Hungarian authorities ensure that persons detained at the Border Guard establishments in Röszke and Szeged (as well as at any other Border Guard premises where foreign nationals may be held following apprehension) are provided with mattresses and blankets for overnight stays and have access to food and drinking water.

B. Establishments under the authority of the Ministry of Justice

1. Preliminary remarks

54. The delegation carried out a targeted follow-up visit to Budapest Remand Prison (Unit III) and paid first-time visits to Kalocsa Prison for women, Szeged Prison and the Judicial and Observation Psychiatric Institute (IMEI) in Budapest. The latter establishment is dealt with in a separate part of the report (cf. Section II.B.7).

55. At the time of the 2005 visit, the trend of increasing overcrowding, which had blighted the Hungarian prison system in recent years, seemed to have been reversed. The overall prison population had dropped to around 16,100 as compared with 17,506 at the time of the 2003 visit (a fall of 8%). At the same time, the overall capacity of the prison estate had increased from 11,163 to 11,406 (which corresponded to an over-population rate of 141% as compared with 157% in 2003).

The delegation was informed of various measures taken by the Hungarian authorities to control the problem of overcrowding. In particular, following amendments to the Criminal Code, there had been a 33% increase in the number of conditional releases. Further, the wider use of alternatives to imprisonment and the introduction of bail had also had a positive effect. These measures were complemented by the construction of new establishments, in particular Veszprém County Remand Prison (214 places) and a high security unit at Sopronkőhida Prison. The opening up of other new facilities was envisaged in 2007 (e.g. a new prison for juveniles with 50 places; new prisons in Szombathely and Tiszalök, each with 700 places).

The CPT trusts that the Hungarian authorities will continue their efforts to combat prison overcrowding and in so doing, will be guided by Recommendation Rec(99)22 of the Committee of Ministers of the Council of Europe concerning prison overcrowding and prison population inflation, as well as Recommendation Rec(2003)22 on conditional release (parole).

2. Ill-treatment

56. At Kalocsa Prison, the majority of prisoners stated that staff treated them in a correct manner. However, the delegation heard several allegations of female prisoners being slapped or pulled by the hair by guards. Further, a number of complaints were heard of verbal abuse by guards. The general atmosphere appeared to be rather tense, which was related to the fact that the establishment was grossly overcrowded and staffing levels in the prisoner accommodation areas were low. This resulted in the imposition of stricter control than would normally be necessary for the maintenance of good order and discipline. As a result, inmates appeared over-controlled and fearful.

57. At Szeged Prison, the delegation received a few allegations of physical ill-treatment and several allegations of threats and verbal abuse of prisoners by guards. Further, numerous prisoners reported incidents of inter-prisoner violence. In this connection, it was stated that staff did not intervene when assistance was needed and that, in particular, cell doors were not opened at night because of staff shortages. The delegation observed that relations between prisoners and staff - as well as among prisoners themselves - were tense. As in Kalocsa, this situation was compounded by the fact that the establishment was seriously overcrowded and staffing levels were very low.

One case encountered at Szeged Prison deserves particular mention. The delegation interviewed an inmate in Unit II who alleged that he had been sexually assaulted by his cellmates on several occasions, the most recent dating back to a few days before the CPT's visit. He also indicated that he had repeatedly complained about his situation to one of the guards; however, the latter apparently refused to take action to protect him and, allegedly, punched and verbally abused him.

On 1 April 2005, the inmate in question sent a written request to the prison Director to be placed in a different cell, following which he was transferred to another cell in Unit II on 5 April 2005. The Director met the prisoner concerned at the initiative of the CPT's delegation and took action for him to be transferred to Unit I as well as initiating a procedure for his transfer to another establishment.

58. During its short and targeted visit to Unit III of Budapest Remand Prison, the CPT's delegation received an allegation of recent physical ill-treatment of a prisoner by guards. The ill-treatment was said to have occurred on the day of the inmate's arrival and was described as five guards having struck the prisoner with truncheons on the chest and back while he was handcuffed in a storage room. The prisoner alleged that he was subsequently repeatedly insulted and threatened by one of the guards who had struck him and warned against any attempts to complain about his treatment.

59. The CPT recommends that the management of Kalocsa Prison, Szeged Prison and Budapest Remand Prison deliver the clear message to custodial staff that physical ill-treatment and verbal abuse of inmates as well as other forms of disrespectful or provocative behaviour vis-à-vis prisoners are not acceptable and will be dealt with severely.

Further, the management of Kalocsa and Szeged Prisons should make use of all means at their disposal to decrease tension at the establishments. In addition to investigating complaints made by prisoners, this will involve the regular presence of prison managers in the detention areas, their direct contact with prisoners, and the improvement of prison staff training.

The CPT also wishes to stress that the duty of care which is owed by custodial staff to those in their charge includes the responsibility to protect them from other inmates who might wish to cause them harm. In this context, **the Committee recommends that the management and staff of Szeged Prison exercise continuing vigilance and make use of all the means at their disposal to prevent inter-prisoner violence and intimidation.**

60. More generally, the CPT wishes to stress that ensuring positive staff-inmate relations will depend greatly on having an adequate number of staff present at any given time in detention areas and in facilities used by prisoners for activities. An overall low staff complement will certainly impede the development of positive relations; more generally, this will generate an insecure environment for both staff and prisoners. **In this connection, reference is made to the recommendation in paragraph 108.**

61. During the discussions with senior officials of the Ministry of Justice at the beginning of the 2005 visit, the delegation was informed that the number of complaints against prison staff had significantly decreased in recent times. All cases of injuries observed on prisoners were said to be thoroughly assessed, but none of the allegations of ill-treatment by staff had been upheld.

The CPT would like to receive detailed information on the complaints and disciplinary procedures in respect of prison staff, including the safeguards incorporated to ensure their objectivity, proper documentation, timely consideration and resolution.

Further, in order to obtain a nationwide view of the situation concerning the treatment of prisoners by prison staff, **the CPT would like to receive the following information for 2004 and 2005 in respect of all prisons in Hungary:**

- **the number and type of complaints of ill-treatment lodged against prison staff;**
- **an account of disciplinary and/or criminal sanctions imposed.**

62. It should also be emphasised in this section that the CPT has serious concerns about the security arrangements applied to prisoners, in particular those subject to a special security regime. An excessive use of means of restraint can lead to situations which could amount to inhuman and degrading treatment. This matter will be explored further in the following section.

3. Prisoners placed under a special security regime

63. In the reports on the 1999 and 2003 visits, the CPT paid close attention to the situation of prisoners placed under a special security regime on account of their perceived dangerousness, in particular *Grade 4 prisoners*⁸. The delegation which carried out the 2005 visit re-examined this issue.

At the time of the visit, Unit III of Budapest Remand Prison, Kalocsa Prison and Szeged Prison were accommodating, respectively, 16, 10 and 253 prisoners classified as Grade 4.

64. Concerning the legal safeguards applicable to prisoners placed in Grade 4, their status is now reviewed every three months (at the time of the 1999 visit, the frequency of reviews was every six months); the CPT welcomes this change. However, the other long-standing recommendations of the CPT – concerning the provision to the inmates concerned of written information on the reasons for the measure and offering them an opportunity to express their views on the matter – had not been implemented.

⁸ Cf. paragraphs 94-101 of CPT/Inf (2001) 2 and paragraph 53 of CPT/Inf (2004) 18.

Many Grade 4 prisoners interviewed by the delegation complained that they had not been informed of the reasons for the measure, had had no involvement in the review procedure and had received no information on the possibilities to contest it. Further, it was generally felt that the periodic review of the Grade 4 status was a pure formality. The examination of relevant documentation and interviews with inmates led the delegation to conclude that the determining factors in retaining the Grade 4 status were historical ones, like the violent nature of the crime committed (often many years before), rather than an assessment of the inmate's current dangerousness or propensity to act again in an unacceptable way. At Kalocsa Prison, the main reason for classifying female inmates as Grade 4 appeared to be unrelated to their dangerousness to other inmates and staff, but rather the potential danger they represented to themselves (practically all of them had been identified as presenting a suicide risk).

The CPT calls upon the Hungarian authorities to take steps to implement its previous recommendations concerning the provision to prisoners placed in a Grade 4 regime of written information on the reasons for the measure as well as the opportunity to express their views on the matter. It is equally important to provide such prisoners with written information on the possibilities to contest the decision. More generally, the Committee recommends that the Hungarian authorities review and refine the system of classifying prisoners as Grade 4 with a view to ensuring that this grade is only applied – and retained – vis-à-vis prisoners who genuinely require to be accorded such a status.

65. The CPT has in the past strongly criticised the use of means of restraint vis-à-vis Grade 4 prisoners, which it considered to be disproportionate and punitive (cf. paragraphs 94 to 101 of CPT/Inf (2001) 2 and paragraph 53 of CPT/Inf (2004) 18). In their response to the report on the 2003 visit, the Hungarian authorities stated that the director of Budapest Remand Prison had issued instructions prohibiting the use of means of restraint with respect to prisoners taking outdoor exercise. Further, the authorities agreed that “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”.

66. At Unit III of Budapest Remand Prison, all Grade 4 prisoners were handcuffed each time they left their cells, and body belts were additionally applied to a number of them during transfers to the exercise area. Further, despite the above-mentioned instructions, certain inmates were handcuffed during outdoor exercise, as well as during visits and medical examinations.

The situation was somewhat better at Szeged Prison, where only 19 of the 253 Grade 4 prisoners were subjected to special security arrangements. Handcuffs or chains attached to a body belt were systematically applied to the prisoners in question during internal and external movements, on the basis of the Director's decision, following individual assessment by an internal commission (composed of security, educational, psychological and health-care staff).

As regards Kalocsa Prison, sentenced Grade 4 prisoners were accommodated within the general population but kept under increased supervision (checks every 30 minutes); additionally, Grade 4 prisoners on remand were handcuffed during outdoor exercise.

The CPT must reiterate its view that there can be no justification for routinely handcuffing prisoners outside their cells, all the more so when this measure is applied in an already secure environment. The application of restraints while the prisoner is inside a secure exercise yard is clearly an unacceptable practice. As regards the handcuffing of prisoners during medical consultations, in the CPT's view, such a practice infringes upon the dignity of the prisoners concerned and prohibits the development of a proper doctor-patient relationship (and is possibly detrimental to the establishment of an objective medical finding). **The CPT calls upon the Hungarian authorities to review without further delay their current policy with regard to the application of means of restraint to prisoners placed under a special security regime (Grade 4 prisoners).**

67. As for material conditions of detention, Grade 4 prisoners in Unit III of Budapest Remand Prison were accommodated in generally good conditions. The 15 m² cells, housing one to three prisoners each, were well lit and ventilated, clean and in a good state of repair. The cell equipment consisted of single or bunk beds with full bedding in good condition, as well as a table, stools and a fully partitioned sanitary annexe.

Conditions were less favourable at Unit I of Szeged Prison. In particular, some Grade 4 inmates were held in overcrowded conditions (up to three prisoners in 8 m² cells). The equipment consisted of double or triple bunk beds with bedding (which was in poor condition), a table, stools and washbasin. Further, there was an unscreened toilet located some 30 cm from the beds (directly under the window). Inmates tried to create a modicum of privacy by using a bed sheet to separate the toilet and the rest of the cell; however, this was only a makeshift solution. Concerning other Grade 4 inmates, their material conditions of detention were not different from those of the rest of the population of the "Csillag" block (cf. paragraphs 92-93)

Grade 4 prisoners at Kalocsa Prison were spread throughout the establishment and subjected to the same material constraints as their fellow inmates (cf. paragraphs 76-77).

The CPT recommends that steps be taken to address the shortcomings observed in the cells for Grade 4 prisoners at Szeged Prison, in the light of the above remarks. In particular, efforts should be made to reduce overcrowding, improve lighting and ventilation and equip in-cell sanitary annexes with full partitioning.

68. Turning to the regime of activities, Grade 4 prisoners at Kalocsa Prison were treated in basically the same way as other inmates, i.e. they could work, attend the prison school and participate in other activities. Similarly, the situation of most of the Grade 4 prisoners at Szeged Prison was comparable to that of other inmates (for example, 50 of the life-sentenced prisoners classified as Grade 4 had a job). However, out-of-cell activities (other than outdoor exercise) were not available to 17 Grade 4 prisoners: they could only be offered simple assembly jobs inside their cells, which was apparently not a frequent occurrence.

The worst situation was observed at Unit III of Budapest Remand Prison, where Grade 4 prisoners spent the bulk of the day - except for one hour of outdoor exercise - locked in their cells. None of them had access to work, education or vocational training (except distance learning) and association (chess or table tennis) was only sporadically allowed by the responsible educators. **The CPT recommends that strenuous efforts be made to increase the offer of organised activities for Grade 4 prisoners at Szeged Prison and Unit III of Budapest Remand Prison.**

69. During the visit to Szeged Prison, the CPT's delegation paid particular attention to the situation of the so-called "*actual lifers*" (i.e. prisoners sentenced to life imprisonment who cannot be released except on compassionate grounds or by pardon). The high-security "Csillag" block of Szeged Prison was accommodating all the "actual lifers" in the country, of whom there were 8 at the time of the visit: two of them were sharing cells with other inmates, four were being held together in one cell and two were being accommodated in single cells.

As regards activities, two of the "actual lifers" were allowed to work in the workshop area, while the others could only work inside their cells (packing paper bags). All the "actual lifers" had the possibility to take one hour of outdoor exercise per day. However, very strict security measures were applied to two of them: their hands were attached with chains to a body belt during outdoor exercise as well as when being taken to the telephone, visiting area and for medical and psychological consultations.

The current situation of the "actual lifers" needs much improvement: increasing out-of-cell time, allowing for more human contact, expanding the range of activities (work and education) and alleviating the restraint measures. That said, it is the future plans with respect to this category of prisoner that give rise to the CPT's gravest concerns.

70. The delegation was shown an area on the top floor of wing 2 of the "Csillag" building where a separate unit for "actual lifers" was to be opened in a month's time. Cells measuring 8 m² were being transformed into eight "suites" of 16 m² each, comprising a living and a bedroom area. Overall, it would appear that material conditions in these enlarged cells would be quite adequate.

However, the delegation was extremely concerned by the planned design of the exercise area of the new unit. Located on the roof of the block, it measured some 23 m² and would have a pitched cover, with one half made of plexi-glass and the other half tiled. The only fresh air gap would be a 2.3 x 1 m opening in one of the walls, situated at a height of some 3 m. Obviously, such a facility would not allow outdoor exercise in the true sense of the word. As already mentioned (cf. paragraph 8), at the end of the visit the delegation requested the Hungarian authorities to revise the existing plans for the exercise area. In their letter of 25 April 2005, the Hungarian authorities informed the CPT that the yard would be redesigned so as to make it "truly open".

The CPT must stress that, given its actual size, the rooftop exercise yard is not sufficient to enable prisoners to physically exert themselves. **Steps should therefore be taken to enable prisoners placed in the new unit for "actual lifers" to have access at regular and frequent intervals to proper sports facilities.**

71. As to other aspects of the regime, the delegation was initially told that cell doors would be open 8 hours a day and inmates allowed to associate in the corridor and the common room (equipped with a tennis table, TV set, kitchenette and pay phone). It appeared subsequently – especially upon perusal of the draft rules for the operation of the unit – that the degree of freedom of movement and association would be set individually for each prisoner by a multi-disciplinary team involving specially trained custodial officers, educators and psychologists.

In its immediate observation made pursuant to Article 8, paragraph 5, of the Convention, the CPT's delegation expressed reservations about the rationale of creating a separate unit for "actual lifers". The Hungarian authorities stated, in their letter of 25 April 2005, that this was needed to ensure the security of the prisoners concerned as well as that of staff and visitors. In this context, the CPT must again stress that it can see no justification for keeping "actual lifers" apart from other prisoners serving lengthy sentences (as indeed demonstrated by the fact that two such prisoners at Szeged Prison were employed in the establishment's workshops). In many jurisdictions, life-sentenced prisoners are not viewed as necessarily more dangerous than other prisoners; many of them have a long-term interest in a stable and conflict-free environment. Risk/needs assessment of such prisoners should therefore be made on a case-by-case basis.

Further, if a special unit for prisoners requiring security of that level is necessary, prisoners held in it should enjoy a relatively relaxed regime, by way of compensation for their severe custodial situation. In particular, they should be able to meet their fellow prisoners in the unit and be granted a good deal of choice about activities. This can do much to counter the deleterious effects upon a prisoner's personality of living in the bubble-like atmosphere of such a unit. The activities provided should be as diverse as possible (education, sport, work of vocational value, etc.). As regards, in particular, work activities, it is clear that security considerations may preclude many types of work activities which are found in ordinary prison units. Nevertheless, this should not mean that only work of a tedious nature is provided for prisoners. In this respect, reference might be made to the suggestions set out in paragraph 87 of the Explanatory Memorandum to Recommendation No. R(82)17 of the Committee of Ministers of the Council of Europe.

The CPT recommends that the Hungarian authorities take due account of the above remarks when devising their policy on the treatment of "actual lifers".

4. Conditions of detention in the prisons visited

- a. follow-up visit to Unit III of Budapest Remand Prison

72. The generally positive impression of material conditions at Unit III of Budapest Remand Prison gained by the delegation which visited the establishment in 2003 remains valid. During the 2005 visit, certain improvements were noted, such as the removal of plexi-glass screens from all cell windows (eliminating problems with ventilation and access to natural light) and the setting up of two cells specifically equipped to accommodate disabled prisoners.

That said, despite the relative decrease in the prisoner population since the 2003 visit (from 1,116 to 982 inmates, including 775 on remand and 207 sentenced), the establishment remained overcrowded. In particular, the standard 15 m² cells continued, for the most part, to accommodate four inmates each. As already stressed in the 2003 visit report, such an occupancy level is too high.

The CPT recommends that the Hungarian authorities continue their efforts to reduce cell occupancy rates at Unit III of Budapest Remand Prison.

73. At the time of the visit in 2003, the considerable potential offered by the facilities for collective use stood in stark contrast to the paucity of the regime of activities actually delivered. Regrettably, the situation observed in 2005 was hardly different: the unit's communal and fitness rooms remained clearly underused. Further, except for 10-12 remand prisoners distributing food, only sentenced inmates had a job (in the industrial laundry and on general prison services). As for education, vocational training and cultural activities, the offer was extremely limited.

In their response to the report on the 2003 visit, the Hungarian authorities informed the CPT of various steps undertaken, such as facilitating access to group-based self-training, organising arts-and-crafts sessions, enlarging the stock of the library, installing table tennis tables and encouraging the use of the fitness room. However, it is clear that further efforts need to be made.

The CPT reiterates the recommendations made in paragraph 44 of its 2003 visit report concerning the development of activity programmes for inmates, in particular by means of:

- **allowing remand prisoners to participate in association periods outside their cells (naturally, subject to an assessment of the security risk individual inmates may represent and to the interests of the investigation);**
- **increasing the use of the existing communal facilities;**
- **exploiting to the fullest the space available in the establishment;**
- **increasing and/or redeploying staff resources (custodial and specialist).**

b. Kalocsa Prison

74. Kalocsa Prison is the largest prison for sentenced women in Hungary. It is located in the main street of the small town of Kalocsa in what was originally a court building, which was transformed in the 1950s into a female prison. The present facilities have an official capacity of 240. On the first day of the visit, the establishment was holding 358 prisoners: 342 women and 16 men. Some 35% of the women were serving long sentences under a strict regime (including 5 life-sentenced prisoners). The remainder were placed under a medium (166 inmates) or light regime (7 inmates). Further, there were 18 women awaiting sentence or appeal. As for the male prisoners, 9 of them were sentenced and employed on various maintenance tasks, 5 were on remand and 2 in transit.

i. *material conditions*

75. At the time of the visit, the prison was overcrowded at 150% in relation to the official envisaged capacity. The present situation was nevertheless a considerable improvement on the mid-1980s, when the prison population had peaked at 650. According to the establishment's management, the changes in sentencing policy in recent years and the increased use of alternatives to imprisonment were beginning to bear dividends.

76. Prisoner accommodation was provided in a four-storey detention block as well as on some of the floors of the adjacent building, where former court rooms had been transformed into cells. There were 50 cells (measuring some 8.5 m², including a toilet), which were equipped with two bunk beds and were accommodating three to four prisoners each; such an occupancy rate is far too high. **Cells of such a size should never accommodate more than two prisoners and should preferably be used for single occupancy.** The living space in the cells was very restricted. Further, there were 25 larger dormitories which were also overcrowded (e.g. 10 prisoners for 30 m²; 20 prisoners for 50 m²).

No overcrowding was observed in the cells holding male prisoners, which took up most of the ground floor of the main detention block. In fact, some of these cells were empty at the time of the visit, which, in the light of the overcrowding observed at the rest of the establishment, was indefensible. In this context, **the CPT invites the Hungarian authorities to re-consider the need for accommodating sentenced male prisoners at Kalocsa Prison.**

77. Artificial lighting and ventilation were generally adequate; however, access to natural light in many cells was insufficient, due to the additional wire-mesh grilles fitted to windows. In addition to bunk beds, the cells and dormitories were equipped with a table, stools, lockers, shelves, and frequently a television and radio. All cells had integral sanitation (a toilet and sink, with hot and cold water). However, the absence of partitioning around the toilets in the vast majority of the cells was clearly unacceptable. Further, none of the cells had a call system.

Moreover, there was an almost total lack of personalisation (prisoners were not even allowed to display family photographs) which made the cells look very austere. Inmates complained about the excessive restrictions on items allowed (e.g. it was prohibited to have certain cosmetics, such as deodorants and hair-dye, orthopaedic slippers, jewellery, etc.). In view of the fact that the establishment holds many prisoners serving long sentences, it is all the more important to provide them with a positive and individualised environment in order to counter the negative effects of institutionalisation.

78. Conditions in some parts of the establishment – the “transitional” cells, the therapeutic-educational unit and the drug-free cell – were of a better quality.

The two “transitional” cells were intended as a preparation for release facility. Prisoners who had served at least 5 years of their sentences could spend the remainder (but not more than 2 years) in these cells. Twelve women were being accommodated in the “transitional” cells at the time of the visit. Efforts were being made to create a positive environment: the cells had good furniture made of wood, there were carpets on the floors and the in-cell sanitary facilities were fully partitioned.

The therapeutic-educational unit and the drug-free cell also offered good-quality conditions (cf. paragraphs 87-89).

79. Prisoners could take a shower twice a week, and those who worked, every work day. The central bathroom had been refurbished a year previously and was a good facility. A range of personal hygiene items was provided to inmates on a monthly basis. Further, bed linen and towels were washed in the prison laundry and changed once a fortnight. However, many prisoners washed their own clothes in the cells.

80. Food was served in an austere dining-room situated in the central corridor of the ground floor of the main detention block. Working prisoners alleged that they were allowed to take only two slices of bread with them to the factory and that this was the only food they could consume between breakfast (4.30 a.m.) and lunch (2 p.m.).

81. **The CPT recommends that steps be taken at Kalocsa Prison to:**

- **substantially reduce the occupancy rate of the establishment, the objective being to provide a minimum of 4 m² of living space per prisoner;**
- **improve access to natural light in the cells;**
- **ensure that all in-cell sanitary facilities are fully partitioned off;**
- **create a more personalised environment for prisoners;**

The Committee also invites the Hungarian authorities to review the laundry arrangements for prisoners’ own clothes and ensure that food is distributed at normal meal times.

ii. *regime of activities*

82. Some 80% of the prisoners had paid work. The majority (218) were employed in the multi-function factory which occupied the upper floors of the establishment. The factory was run by a private company (Kft) but effectively belonged to the prison service; it had workshops for clothes-making, embroidery, thread packaging, carton files production, etc. Working hours were from 5.45 a.m. until 1.45 p.m., requiring prisoners to be up by 4.30 a.m. and leaving little time for other aspects of a regime during the working week.

A further 66 prisoners had jobs in the general prison services (kitchen, laundry, cleaning, etc.) and 30 were employed on farming-related activities (some of them outside the prison).

83. The prison had a general education school which was attended by some 50 prisoners (who received, as a form of incentive, 1/3 of the basic salary). As regards vocational training, there were periodic courses for embroidery, leather-work and lace-making. Further, the delegation was informed that a computer training course was organised once a year, with some 15 prisoners attending it.

84. All prisoners were entitled to one hour of outdoor exercise per day. However, the exercise yard – a rather small and bare inner courtyard – was of a configuration which did not encourage prisoners to take exercise. The majority of working prisoners indicated that they hardly ever took advantage of the exercise period set aside for them (from 4 to 5 p.m., a time when they rested after the working hours). The delegation observed that only some 25 to 30 prisoners were taking outdoor exercise during the period in question; in fact, given the yard's restricted dimensions, it would have been practically impossible for all working prisoners to be in it at the same time.

Further, there was a clear shortage of sports facilities. The prison had a small indoor gym with a few running machines and work-out bicycles which had a rather unused appearance. The delegation was told by staff that non-working prisoners could use the gym if staff were available. However, all prisoners interviewed by the delegation stated that they had never been to the gym.

85. As regards other activities, the prison had a library with some 10,500 books in a variety of languages. Further, there was a chapel (with a capacity of 120 places, used by all denominations and religions). Staff also made efforts to promote various cultural and recreational activities, such as organising choir and poetry competitions, inviting theatre and music groups, etc.

86. To sum up, Kalocsa Prison offered a fair range of activities to inmates. However, the daily schedule for the majority of prisoners was heavily circumscribed by work at the factory, which hindered the delivery of a full regime in the prison.

The CPT recommends that further efforts be made to provide prisoners at Kalocsa Prison with a varied regime of activities, and in particular to:

- **diversify the training courses available and encourage more prisoners to take part in them;**
- **ensure that all prisoners can benefit from outdoor exercise and have access to sports facilities. This would involve improving the available facilities.**

The Committee also invites the Hungarian authorities to explore the possibility of changing the work schedule.

iii. the therapeutic-educational unit and the drug-free cell

87. The CPT's delegation gained an overall positive impression of the prison's therapeutic-educational unit and drug-free cell.

At the time of the visit, the therapeutic-educational unit was accommodating 28 prisoners suffering from personality disorders, psychiatric problems or alcohol dependence. Placement in the unit took place in accordance with three different procedures: i) by court order, in the case of compulsory treatment for alcohol dependence; ii) on the basis of referral from the IMEI, in the case of personality disorders; iii) by decision of a team of specialists working at the establishment (psychiatrist, psychologist, educator). All placements were reviewed once every six months.

The unit comprised six cells, material conditions in which were better than those observed in the rest of the establishment. In particular, living space was more generous (e.g. three prisoners in a cell measuring 12 m²; six prisoners in a cell of 26 m²) and there were elements of personalisation. Further, the in-cell toilets were fully partitioned.

88. The unit was staffed by an educator and a psychologist. Further, an occupational therapist attended the unit a few hours per day and there were weekly visits by a psychiatrist.

On admission to the unit, an individual educational plan was drawn up in respect of each prisoner. Group therapy sessions were provided by the educator and individual therapy by the psychologist and visiting psychiatrist. 90% of the prisoners were receiving psychopharmacological medication prescribed and periodically reviewed by the psychiatrist.

During the day, inmates moved freely within the unit. There were two rooms where they could engage in various activities (embroidery, applied arts, watching videos, playing games, etc.). Further, nine of the inmates worked in the prison factory and all prisoners could take part in the general organised activities at the prison (school, vocational training, etc.).

89. The drug-free cell, which was opened in December 2003, fulfilled the purpose of keeping prisoners sentenced for drug related crimes free from drugs and providing them with a constructive environment and meaningful activities. Placement in the cell was made on the basis of an application from the prisoner concerned, followed by a formal decision by a commission comprising various categories of staff. Prisoners placed in the cell were tested for drugs at least once a month, in addition to random checks. In the event of two positive tests, the prisoner was moved to an ordinary cell.

The drug-free cell measured some 31 m² and was holding seven prisoners at the time of the visit. In addition to beds and lockers, the equipment comprised a TV set, DVD and fridge. Further, prisoners had access to a small kitchen and were entitled to one extra visit per month.

An educator was in charge of all activities and programmes applicable to prisoners in the drug-free cell. An individual plan was drawn up in respect of each inmate, with objectives, a breakdown into programmes for each week and an evaluation every 6 months. Prisoners held in the drug-free cell took part in lectures and group sessions 2-3 times a week and received individual counselling. Further, all of them worked.

c. Szeged Prison

90. Szeged Prison comprised two separate parts: Unit I, a high and medium security facility for sentenced prisoners located in the centre of town, and Unit II, a recently constructed facility for remand prisoners on the outskirts of Szeged. The CPT's visit concentrated on Unit I; as for Unit II, it was only briefly visited by the delegation in order to interview some remand prisoners.

With the official capacity of 702 (calculated on the basis of 4 m² of living space per prisoner), on the first day of the delegation's visit, Szeged Prison was accommodating 1,167 inmates. Unit I was holding 832 male adult prisoners, some 85% of whom were serving long (including life) sentences.

i. *material conditions*

91. Unit I comprised three detention blocks dating back to the late 19th century. The four-storey cross-shaped "Csillag" block provided high-security accommodation for male prisoners sentenced for serious offences (including all the life-sentenced prisoners with final sentences in the country, cf. paragraph 69). Another block (referred to as M I) housed the therapeutic and drug prevention unit, the health-care service and the school. The third block (M II) comprised two detention units - the "medium regime" unit (M II/1) and the "transitional unit" (M II/2) for inmates serving the last two years of their sentence - as well as the establishment's kitchen and laundry.

92. The situation at the establishment was marked by overcrowding, which had negative repercussions for all aspects of life and was the source of tension between the inmates and the inmates and staff (cf. paragraph 57).

The “transitional unit” offered arguably the most favourable conditions of detention. The cells, although cramped (e.g. 10 prisoners in a 27 m² cell; 9 inmates in a 22 m² cell), were bright, pleasantly decorated, clean and in a good state of repair. The open-door regime in the unit attenuated to some extent the negative impact of overcrowding and it to be welcomed.

Conditions were worse in the “Csillag” block, where standard 8 m² cells were used to hold up to four inmates, and the larger cells (25 to 40 m²), up to 14 inmates each. The level of overcrowding was also high in the “medium regime” unit, where cells measuring from 10 to 36 m² were accommodating between three and ten inmates. The overcrowding was compounded by the fact that the cells were fitted with additional unoccupied beds, suggesting an even higher intended level of occupancy (e.g. 6 beds in a 10 m² cell; 13 beds in a 36 m² cell). On the positive side, most of the cells offered adequate access to natural light and fresh air and were in a reasonable state of cleanliness and repair.

The worst conditions were observed on the ground level of the “Csillag” block which held the admission cells (accommodating newly-arrived prisoners for up to 30 days) and transfer cells (where prisoners could be held for up to 7 days). The cells in question were overcrowded (e.g. 9 persons – and 13 beds – for a surface of 20 m²; 6 persons – and 16 beds – in a 25 m² cell), poorly lit and ventilated, humid and dilapidated.

93. The cells’ equipment consisted of double or triple bunk beds with bedding (which for the most part was in a poor condition), a table, stools and shelves. Each cell was also fitted with a toilet and washbasin, which in the larger cells were partitioned by makeshift screens made of cloth or cardboard. However, in some of the smaller cells, the toilet was unscreened.

Prisoners were entitled to take a shower at least once a week (and those who worked, each working day). However, the state of repair and cleanliness of the showers left something to be desired, especially in the “Csillag” block.

94. Food was provided to prisoners three times a day, and special diets were available on medical or cultural grounds. Most of the prisoners interviewed by the delegation were satisfied with the food provision; however, the delegation heard some complaints about the quantity of the food received, especially from inmates who were indigent and were not provided with work at the prison.

95. **The CPT recommends that:**

- **strenuous efforts be made to reduce the cell occupancy levels at Szeged Prison, the objective being to meet the norm of 4 m² of living space per prisoner;**
- **the lighting, ventilation and state of cleanliness and repair of the admission and transfer cells in the “Csillag” block be improved;**
- **the state of the bedding in all cells be improved;**
- **sanitary annexes in all the cells be fitted with a full partition;**
- **the shower facilities be refurbished and maintained in a good state of cleanliness.**

The Committee also invites the Hungarian authorities to verify the quantity of the food served to prisoners.

ii. programme of activities

96. All prisoners were entitled to one hour of outdoor exercise per day. There were two spacious outside exercise areas fitted with fitness, football and basketball equipment, as well as some means of rest. A third, smaller yard (some 80 m²) was out of service at the time of the visit.

97. The delegation was informed that a total of 471 inmates from Unit I (including two “actual lifers”) had work; this number comprised 107 life-sentenced prisoners and 42 prisoners classified as Grade 4. Jobs were available in the establishment’s vast workshop area (carpentry, cardboard production, metal processing, printing shop, sewing, packaging, basket weaving, manufacturing small souvenirs, producing rubber parts for agricultural machines, mounting TV stands and electric motors for hospital beds, refilling fire extinguishers), in the kitchen, laundry and general prison services. Further, a small number of prisoners worked inside their cells. In addition, 19 prisoners from the “transitional unit” were employed at an outside cement plant.

The management of the prison was making efforts to secure new contracts and attract outside companies to the establishment’s production facilities. Despite that, the workshop area was being used at less than 40% capacity. The prison director informed the delegation that there were many more inmates willing to work than places available. The delegation observed for itself that many prisoners resented the lack of work, which was particularly frustrating for long-term prisoners.

98. Regarding education, 78 prisoners attended the prison’s elementary school and 44 the general secondary school. Both schools were staffed by teachers employed by the Ministry of Education and had at their disposal well-equipped classrooms.

As for vocational training, 45 prisoners were following courses (for bricklayers, sports trainers and information technology). Further, 33 inmates attended language classes (English, Hungarian and Latin). It is noteworthy that 58 of the inmates engaged in education/vocational training activities were classified as Grade 4, and 27 were serving life sentences.

99. As regards other activities, prisoners (except for those subject to a special regime for security reasons, cf. paragraph 68) had access to a gym at least once a week, and inmates from the “transitional unit”, without any limitation. Further, various sports activities (football, jogging, table tennis, chess competitions) were organised periodically. There was also a well-equipped library with some 23,000 volumes and a reading room with newspapers and magazines to which prisoners had access for 45 minutes a week.

The prison possessed a large hall where theatre and music events were organised with the participation of prisoners and artists invited from outside. Further, a small art studio offered four inmates the possibility to engage in painting and sculpture. There were also two large chapels used by different denominations and religions. As regards in-cell activities, inmates had at their disposal cable TV and a video network with 49 channels, as well as a radio broadcasting system with its own studio.

100. The CPT acknowledges the efforts made by the prison administration to provide a range of purposeful activities for inmates held at Unit I of Szeged Prison. Despite these efforts, it remained the case that some 200 prisoners – many of them were serving long or life sentences – spent up to 23 hours a day confined to their cells, with little to occupy themselves.

In this context, the CPT wishes to stress that any lengthy term of imprisonment, and particularly a life sentence, may have desocialising effects on prisoners. In addition to becoming institutionalised, such prisoners may be affected by a range of psychological problems (including loss of self-esteem and impairment of social skills) and tend to become increasingly detached from society, to which most will eventually return.

In the CPT’s opinion, the regimes offered to prisoners serving long sentences should seek to compensate for these effects in a positive and proactive way. The prisoners concerned should have access to a wide range of purposeful activities of a varied nature (work, preferably with vocational value; education; sport; recreation/association). Moreover, they should be able to exercise a degree of choice over the manner in which their time is spent, thus fostering a sense of autonomy and personal responsibility. Additional steps should be taken to lend meaning to their period of imprisonment; in particular, the provision of individualised custody plans and appropriate psycho-social support are important elements in assisting such prisoners to come to terms with their period of incarceration and, when the time comes, to prepare for release. Moreover, the provision of such a regime to prisoners serving long sentences enhances the development of constructive staff/inmate relations and hence reinforces security within the prison.

The CPT recommends that the Hungarian authorities continue their efforts to ensure that all prisoners at Szeged Prison benefit from a developed programme of activities, taking into account the above remarks.

101. The programmes provided at the therapeutic and drug prevention unit deserve a separate mention. The unit comprised two departments: the therapeutic-education department (for inmates suffering from personality disorders or alcohol dependency) and the drug prevention department. The regime offered to prisoners included handicraft, manual work and daily one-hour sport sessions. Additionally, inmates in the drug prevention department participated in individual and group therapy sessions conducted by an external psychologist (a specialist in drug addiction problems) twice a week.

Overall, the CPT’s delegation gained a positive impression of the therapeutic and drug prevention unit.

5. Health-care services in the prisons visited

102. Unit III of Budapest Remand Prison employed three doctors and ten nurses, all of whom worked full time. Nursing cover was provided on a 24-hour basis. There was also a part-time dentist. Prisoners in need of psychiatric examination or suffering from a severe degree of drug addiction were transferred to the IMEI. Access to other specialist treatment and prison hospital services was, in principle, not a problem.

The health-care team at Kalocsa Prison consisted of a head doctor (gynaecologist), a head nurse and five other qualified nurses, all of whom worked full time. The nurse provided 24-hour cover and the doctor was on call at night. In addition, the prison was visited by several medical specialists: a general practitioner, who was also a specialist in cardiology (once or twice a week), a psychiatrist (once a week for about 2 hours) and a dentist.

At Szeged Prison, the health-care service consisted of three full-time doctors, a part-time doctor providing services to the remand unit and 17 nurses covering the prison as a whole. A psychiatrist visited twice weekly and there were also weekly visits from a dermatologist, ophthalmologist, radiologist, and ear, nose and throat specialist. Further, there was a part-time dentist; however, he provided only emergency treatment.

To sum up, the health-care resources at Unit III of Budapest Remand Prison, Kalocsa Prison and Szeged Prison appeared to be generally satisfactory. Further, the health-care facilities were adequate and there was a good supply of medication.

103. From the information gathered, it appeared that the procedure for access to a doctor at the establishments visited was satisfactory. Prisoners who wanted to be seen by a doctor informed either a nurse during the latter's daily tour of the units or one of the guards (without having to specify the reasons for their request).

However, some complaints were heard at Kalocsa Prison about delays in access to the doctor and the standard of treatment and care provided. According to information received from the doctor, he received working prisoners one week and non-working prisoners the following week (except for urgent cases). **The CPT would like to have the comments of the Hungarian authorities on this matter.**

104. Newly admitted prisoners were as a rule seen by a doctor within 24 hours of their arrival at the establishments. However, the delegation was concerned to learn that the medical examination of prisoners took place in the presence of guards. Such a state of affairs is not in conformity with medical confidentiality and can inhibit the establishment of a doctor-patient relationship. Moreover, it does not facilitate the detection and recording of injuries received prior to admission to the prison, which is one of the important functions of prison health-care services.

The CPT recommends that steps be taken to ensure that all medical examinations of prisoners (whether on arrival or at a later stage) are conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a particular case – out of the sight of non-medical prison staff.

105. At Unit III of Budapest Remand Prison and Kalocsa Prison, the delegation observed that the recording of medical data for each prisoner was generally of a good standard.

However, at Szeged Prison, the delegation was concerned about the paucity of information contained in the computerised health-care records, in particular the lack of detailed clinical findings in relation to the examination of injuries and the absence of the prisoner's statements as to how the injuries had been sustained. Further, the psychiatrist did not keep any individual records of prisoners seen by him; all information was entered in a chronological register and thus it was impossible to follow the progress of each prisoner.

The CPT recommends that steps be taken to improve the recording of medical information at Szeged Prison, in the light of the above remarks.

As regards in particular the record drawn up by a prison doctor following a medical examination of a newly arrived prisoner, the Committee recalls that such a record should contain: (i) a full account of statements made by the person concerned which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment), (ii) a full account of objective medical findings based on a thorough examination, and (iii) the doctor's conclusions in the light of (i) and (ii), indicating the degree of consistency between any allegations made and the objective medical findings. The same approach should be followed whenever a prisoner is medically examined following a violent episode in prison.

Further, whenever injuries are recorded which are consistent with allegations of ill-treatment made, the record should be systematically brought to the attention of the relevant authority. Moreover, the results of every examination should be made available to the detained person and his lawyer.

106. In accordance with a new practice introduced in January 2003, no routine testing for HIV was performed at the three prisons visited. Prisoners could ask to undergo an HIV test on a voluntary basis (anonymously, if required). All prisoners found to be HIV-positive were transferred to a special unit at Tököl Prison. According to the authorities, this arrangement was made in order to facilitate future transfers of prisoners who need medical care or develop AIDS to the nearby Szent László Hospital (which specialises in the treatment of AIDS).

The CPT welcomes the new approach taken by the Hungarian authorities vis-à-vis testing for HIV. However, the transfer of all HIV-positive prisoners to a special unit at Tököl Prison would appear to be a way of segregating them from other prisoners. As stated by the Committee in the past, there is no medical justification for the segregation of an HIV-positive prisoner who is well. **The CPT would like to receive the comments of the Hungarian authorities on this issue.**

6. Other issues of relevance to the CPT's mandate

a. prison staff

107. Staffing levels in the prisons visited were not satisfactory and, in particular, the number of staff working in direct contact with prisoners was low. By way of example, at Unit I of Szeged Prison, there were only 16 guards present in the detention areas during the day and 8 at night; in the “Csillag” block, one guard could be responsible for the security of an area housing as many as 250 inmates. At Kalocsa Prison, one guard was on duty for three accommodation floors (holding some 160 prisoners).

One consequence of the shortage of staff was the significant amount of overtime and sick leave days⁹. At Szeged Prison, the delegation was told that many of the staff members had no time to participate fully in the in-service training programme because they had to replace their sick colleagues.

108. The CPT wishes to stress that ensuring positive staff-inmate relations will depend greatly on having an adequate number of staff present at any given time in detention areas. An overall low staff complement will certainly impede the development of positive relations; more generally, this will generate an insecure environment for both staff and prisoners, which in turn is likely to exacerbate the tension inherent in any prison environment. Further, prison staff shortage has a negative influence on the quality and level of development of the regimes of activities and of therapeutic work inside penitentiary establishments. **The CPT recommends that the Hungarian authorities take steps to improve prison staffing levels. This may to some extent be achieved by redeploying the existing staff within the prisons.**

109. At Kalocsa Prison, the delegation noted that very few female custodial staff were deployed in the prisoner accommodation areas. According to the prison director, this situation was preferable as “female prisoners follow commands better if they come from men”.

The CPT considers that in women’s prisons, the preponderance of staff in contact with prisoners should be female. **The Committee invites the Hungarian authorities to increase the number of female staff deployed in prisoner accommodation areas at Kalocsa Prison.**

110. At the outset of the visit, the delegation was informed by the Hungarian authorities that an overall reform of the prison staff training system had been introduced in September 2004. Currently, there were six types of training (introductory, basic, medium-level, prison supervisor, chief supervisor, college-level). The aim of the new training curricula was to integrate practical training elements in theoretical training (e.g. in the handling of security issues).

The CPT welcomes this development. In the light of the situation observed in the establishments visited in 2005 (cf. paragraphs 56-58), **the Committee recommends that, in the course of prison staff training, additional emphasis be placed on the acquisition of interpersonal communication skills. Building positive relations with prisoners should be recognised as a key feature of a prison officer's vocation.**

⁹ For example, over 10,000 days at Szeged Prison in 2004.

111. In the establishments visited, the CPT's delegation observed that many custodial officers carried truncheons in the detention areas in full view of the inmates. This is not conducive to developing positive relations between staff and prisoners. **If it is considered necessary for prison officers to carry truncheons, they should be hidden from view.**

b. contact with the outside world

112. There have been no changes to the rules governing prisoners' access to the outside world since the CPT's previous visit. In particular, despite the Committee's long-standing recommendation, the visit entitlement of at least one hour per month had not been increased. However, the delegation noted that at Kalocsa Prison, inmates were allowed two hours of visit time per month.

The CPT must stress once again that the minimum rule of one hour of visit time per month (which was adhered to at Budapest Remand Prison and Szeged Prison) is not sufficient to enable prisoners to maintain good contact with members of their family and friends. **The Committee calls upon the Hungarian authorities to increase the visiting entitlement substantially.**

At Szeged Prison, the delegation heard numerous complaints from prisoners concerning a recent decision by the Director to prohibit all inmates from having any physical contact with their visitors (a decision apparently intended to prevent the entry of drugs into the establishment). The indiscriminate nature of this measure is clearly excessive; it should be replaced with a case-by-case approach, based on an individual risk assessment. **The CPT recommends that steps be taken at Szeged Prison to review the visiting arrangements, in the light of these remarks.**

At Kalocsa Prison, the so-called visiting area was in fact a corridor in the middle of the main detention block, which had been fitted with a long table with benches on both sides (used also for taking meals). Conditions in this facility were clearly unsuitable for the maintenance of proper relationships. **The CPT recommends that proper visiting facilities be set up at Kalocsa Prison.**

113. Regarding access to a telephone, the entitlement for remand prisoners at Unit III of Budapest Remand Prison remained the same as in 2003 (i.e. two calls of 10 minutes each per month). The entitlement for sentenced prisoners' rules at Szeged Prison was one call of 5 minutes per week; that said, the delegation was informed by the director that the entitlement was about to double as of 1 May 2005, thanks to the installation of additional public phones. By contrast, female prisoners at Kalocsa Prison could make an unlimited number of telephone calls, provided that they could pay for a phone card.

The CPT would like to receive clarification about the rules currently applicable to prisoners' access to a telephone (including calls to lawyers).

114. As on previous visits, the delegation heard many complaints from sentenced prisoners about significant delays in the dispatching of inmates' correspondence, apparently due to the continuing practice of random censoring of prisoners' correspondence. **The CPT recommends that appropriate steps be taken to prevent such delays.**

115. Finally, at Kalocsa Prison, the delegation was inundated with complaints concerning the granting of home leave to prisoners. Many prisoners felt that such leave was granted on a discriminatory basis and there appeared to be widespread misconceptions concerning the applicable rules. It would assist the inmates' understanding of the system if the written reasons for decisions concerning home leave were routinely provided to prisoners. **The CPT invites the Hungarian authorities to review the situation as regards the granting of prisoners' home leave at Kalocsa Prison, in the light of the above remarks.**

c. discipline and segregation

116. The disciplinary procedure offered adequate safeguards to prisoners (in particular, the rights to be heard, to have a lawyer and be assisted by him during the hearing; the right to appeal against the sanction to the penitentiary court). It is noteworthy that prisoners were making frequent use of their right of appeal and that many of these appeals resulted in the reduction of the period of punishment.

117. The delegation did not gather any evidence of the excessive use of disciplinary sanctions. However, at Kalocsa Prison, some allegations were heard of staff applying informal disciplinary punishments, such as making prisoners stand still in silence in the corridor in groups, removal of the TV from the cell, and obliging prisoners to clean corridors and staircases. **The CPT would like to receive the Hungarian authorities' comments on this matter.**

118. The CPT is concerned by the practice of preliminary segregation of inmates pending the outcome of the disciplinary procedure. It involved placing inmates in disciplinary cells for up to 15 days, a period which was not included in the overall time in disciplinary isolation. As a result, the total length of disciplinary isolation could extend to 45 days (for prisoners under a strict regime). The only practical difference between preliminary segregation and disciplinary isolation was that inmates were allowed to sit on their beds during the day and to keep a small number of personal items. In the Committee's view, the current practice of preliminary segregation amounts to prolonging disciplinary isolation. **The CPT recommends that steps be taken to incorporate preliminary segregation in the total length of any disciplinary sanction of segregation; if necessary, the relevant legislation on this matter should be amended. In this context, it must be stressed that preliminary segregation should not last any more than is absolutely necessary; if it exceeds 24 hours, there should be a preliminary hearing to assess whether there is any justification for its continuation pending the outcome of the disciplinary procedure.**

119. Regarding material conditions in disciplinary cells, they remained generally adequate at Unit III of Budapest Remand Prison, where the cells (measuring 15 m²) were well lit and ventilated, clean and properly maintained. The equipment in the cells consisted of a sleeping platform (which was lifted and attached to a wall during the day), a table and stool fixed to the floor, an unscreened toilet and washbasin.

The disciplinary cells at Kalocsa Prison (measuring some 8 m²) were also quite acceptable. They were equipped in a similar way to those in Budapest, enjoyed good access to natural light and were well ventilated.

By contrast, the disciplinary cells at Szeged Prison (measuring some 8 m² each) displayed a number of shortcomings: inadequate access to natural light, dim artificial lighting, inefficient ventilation, a poor state of repair and cleanliness (especially as regards the toilets), sleeping platforms fitted very low (less than 20 cm from the floor). **The CPT recommends that steps be taken to address these shortcomings.**

120. As to the regime applicable during disciplinary isolation, prisoners were being provided with reading matter. The sleeping platforms were lifted from the very early morning hours (4.00 a.m. in Budapest, 5.00 a.m. in the other establishments visited) until the evening (7.00 – 8.00 pm). One particular aspect of the regime gives rise to the CPT's concern, namely the fact that prisoners placed in disciplinary cells had to take their daily outdoor exercise in the early morning (the most extreme situation was observed at Unit III of Budapest Remand Prison, where such inmates had access to the exercise yards between 4.00 and 5.00 a.m.). **The CPT recommends that the regime applicable to disciplinary isolation be reviewed so as to ensure that prisoners are able to take outdoor exercise at normal hours of the day.**

121. The delegation was concerned by the conditions observed in the cells for temporary placement of agitated and/or aggressive prisoners ("padded cells") seen at the three prisons visited. The cells in question were very small at Unit III of Budapest Remand Prison (3 m²) and Szeged Prison (4 m²). Further, they were poorly lit (or even completely dark at Unit III of Budapest Remand Prison, where the artificial lighting was out of order) and poorly ventilated. The cell at Kalocsa Prison had no call system; it was fitted with a CCTV camera, but the only monitor was in the control room (located some distance away) and nearby members of staff had no visual access to the cell when the door was closed.

The CPT recommends that the above-mentioned cells be taken out of service without delay and that more suitable facilities be found for holding aggressive and/or agitated prisoners. The latter facilities should be of a reasonable size, properly lit and ventilated and equipped with a call system. The prisoner concerned should be kept under constant and adequate observation by custodial or medical staff, as the case requires.

d. complaints and inspection procedures

122. In all the establishments visited, prisoners appeared generally well informed about the avenues of complaint available (both internally and to outside authorities) and were making frequent use of them¹⁰. In this context, the CPT is pleased to note that the system of confidential "complaint boxes" (observed at Budapest Remand Prison during the 1999 visit), to which the establishments' Directors had access, has been extended to all penitentiary establishments in the country.

However, many prisoners expressed little confidence in the complaints system. Some of them alleged that prison staff, in particular educators, attempted to dissuade prisoners from complaining, by insisting to be told the content of confidential complaints sent to outside authorities and commenting that complaints had little chance of success and could have negative repercussions for the inmates concerned. **The CPT would like to receive the comments of the Hungarian authorities on this issue.**

¹⁰ For example, there had been 313 complaints from prisoners to the director of Szeged Prison in 2004, including at least 5 concerning the treatment of inmates by the prison staff and 6 concerning treatment by fellow inmates.

123. Regarding inspections, all prisons were visited by prosecutors at least once every two weeks. These visits were well documented and the prosecutors' reports contained recommendations as well as the responses of the prison management, with an indication of the measures taken. According to prosecutors met during the 2005 visit, they visited the prisoner accommodation areas and spoke in private with prisoners who had requested to meet them, as well as other inmates chosen at random.

However, many of the prisoners with whom the delegation spoke claimed that they had not seen a prosecutor inside the detention area; in particular, none of the "actual lifers" at Szeged Prison had apparently been visited by a prosecutor. At Kalocsa Prison, the inspecting prosecutor was apparently always accompanied by senior staff members when visiting the accommodation areas, which made it impossible for prisoners to speak to him in private; further, he apparently received prisoners who had asked to talk to him in the presence of the establishment's management. **The CPT would like to receive the comments of the Hungarian authorities on this issue.**

e. police officers carrying out investigative activities inside prisons

124. At each of the prisons visited, the delegation noted the presence of a "police investigation officer". The delegation was told that this was the result of a national agreement between the Ministries of Justice and the Interior which was replicated in local agreements. The main task of these officers was to investigate criminal offences committed by inmates (both inside the prison and prior to imprisonment) and to gather information relevant to the establishments' internal security. For the purpose, they had access to the detention areas at any time, and could interview inmates and consult documentation without any restrictions. Further, it would appear that the police investigation officers could exert considerable influence on decisions concerning prisoners (e.g. allocation to cells, application of means of restraint, etc.). The officers in question were apparently not subordinated to the prison management and their work was said to be "secret".

125. The presence in a prison of a person with free access to all prisoners who is not accountable to the prison Director is a matter of concern to the CPT. Further, it can be detrimental to the safeguarding of inmates' rights. It is also arguably contrary to Rule 58.1 of the European Prison Rules, according to which the prison administration must ensure that every institution is at all times in the full charge of the director, the deputy director or other authorised official.

At the end of the 2005 visit, the delegation requested the Hungarian authorities to provide it with a job description of police investigation officers as well as information about the rationale of the above-mentioned system. Such information has not yet been received; consequently, **the CPT reiterates this request.**

According to Section 346 of the draft new Prison Code, the tasks currently performed by police investigation officers would apparently be assigned to prison staff. In this connection, the CPT is of the view that involving prison officers in the investigation of criminal offences and the collection of related evidence is a highly questionable practice, bearing in mind that in principle investigation and custodial functions should be separated. **The CPT would like to receive the comments of the Hungarian authorities on this issue.**

f. security arrangements

126. In the prisons visited, the delegation was struck by the over-reliance on means of restraint (handcuffs, including some in the form of chains, and body belts) in the context of movements of prisoners both within and outside the secure perimeter. All prisoners transferred out of the establishments were handcuffed and use was made of a leash to connect them to an officer, rather than handcuffing them directly to him. Further, prisoners continued to wear handcuffs, and some body belts, while inside secure prison vans.

The CPT recommends that the current rules concerning the use of means of restraint be reviewed so as to ensure that they are applied in a proportionate way. Further, prison staff should be trained and encouraged to use other methods for controlling prisoners, such as verbal instruction and manual control techniques.

127. The delegation was informed of plans to introduce electric stun batons and body belts at all prisons (as well as police establishments) by the end of 2005. The equipment had apparently already been delivered to prisons but staff had not yet been trained in its use. The intention is to use this equipment (instead of conventional body belts) during transfers of prisoners. It should be noted that the batons and belts in question can produce an electric shock impulse of 50,000 volts; further, the belts have handcuffs and forearm restraints fitted so that the prisoner can not move his arms at all.

In the CPT's view, electric stun batons and body belts constitute a potentially dangerous and inhumane means of treating detained persons (in addition to the possibility of them being misused). **The Committee would like to received detailed information on the Hungarian authorities' plans to introduce electric stun batons and body belts in prisons and police establishments and, in particular, on the training provided to staff, the concrete circumstances in which the use of this equipment is envisaged, and any instructions which have been issued in this respect.**

7. Judicial and Observation Psychiatric Institute (IMEI)

a. introduction

128. The Judicial and Observation Psychiatric Institute (IMEI) is the only high-security psychiatric hospital in Hungary. It comprises three separate buildings within the security perimeter of Budapest Prison (*Budapesti Fegyház és Börtön*).

On the first day of the visit, the establishment was accommodating 269 patients (including 33 women) for a total capacity of 311. The majority of them (193) had been declared criminally irresponsible for their acts and were receiving compulsory treatment upon court decision¹¹. The average stay of such patients was said to be five years, but some of them had spent up to 20 years in the establishment. Further, there were 25 patients subject to temporary compulsory treatment for up to one year pending trial¹² and 14 patients who had developed mental illness after being sentenced and had been “re-classified” as undergoing compulsory treatment¹³. These three categories of patients were being accommodated in buildings I and III.

Building II fulfilled a multiple function. It was accommodating 44 patients (for an official capacity of 97) with a variety of legal statuses and clinical diagnoses: (i) persons undergoing forensic psychiatric assessment of up to 30 days (a period which can be extended by another 30 days)¹⁴, (ii) prisoners with psychiatric symptoms/personality disorders who had been placed under observation for up to six weeks, (iii) prisoners receiving treatment for neurological problems, and (iv) sentenced prisoners receiving compulsory treatment for alcohol problems upon court decision¹⁵.

129. The IMEI operates under Ministry of Justice Decree 36/2003 (X.3.) “On the implementation of compulsory treatment and temporary compulsory treatment and the functions and operation of IMEI”. A variety of other laws and regulations apply to the establishment (in particular, the Criminal Code, the Criminal Procedure Code, the Rules on the Execution of Punishments and related Measures, as well as the Health Care Act of 1997 (No. CLIV).

130. The CPT has reservations about the very location of the IMEI within the boundaries of a prison complex. The establishment is effectively a psychiatric hospital and should offer living conditions which generate a positive therapeutic environment and are conducive to a proper observation/assessment of patients. **The CPT considers that it would be highly desirable for the IMEI to be re-located; this would help to ensure that a medical, rather than a penal, ethos prevails.**

Further, **the Committee would like to know if the Hungarian authorities have considered the possibility of transferring responsibility for the running of the IMEI to the Ministry of Health.**

¹¹ Cf. Section 74 of the Criminal Code.

¹² Cf. Section 140 of the Criminal Procedure Code.

¹³ Cf. Section 31 (1) of the Rules on the Execution of Punishments and related Measures.

¹⁴ Cf. Section 107 of the Criminal Procedure Code.

¹⁵ Cf. Section 75 of the Criminal Code. These prisoners generally remain at the IMEI for a period ranging from two to four weeks, during which a treatment plan is drawn up.

b. ill-treatment

131. The delegation did not receive any allegations of ill-treatment of patients by staff. On the contrary, it observed that medical personnel adopted a professional and caring attitude towards patients.

132. The number of inter-patient incidents registered was relatively low (14 in 2004). However, a few patients alleged that violence or intimidation between patients sometimes occurred without staff intervention, in particular in building II.

In this context, the Committee wishes to emphasise that the duty of care which is owed by the staff to patients in their charge also includes the responsibility to protect them from other patients who might wish to cause them harm. The authorities must act in a proactive manner to prevent inter-patient violence or intimidation (e.g. sufficient staffing levels, including at night-time; appropriate training programmes). **The CPT invites the Hungarian authorities to take appropriate action in the light of the above remarks.**

c. patients' living conditions

133. As already noted, buildings I and III were accommodating patients undergoing compulsory treatment. In building I, the majority of patients were accommodated in dormitories with 10 to 20 beds, which were generally overcrowded. The female ward comprised two large dormitories measuring some 50 m² each and containing 13 and 18 beds respectively (as well as two single rooms of some 8 m² each for patients requiring close supervision). In the two male wards, dormitories measuring some 70 m² contained as many as 20 beds; some of the beds had been joined together so that there was no room at all between them. It was clear that the official norm of 4.5 m² of living space per patient was not being respected.

In building III, the second floor had been recently refurbished. Patients were accommodated either in two-bed rooms (measuring some 8 m²) or in dormitories with 8 to 10 beds (measuring some 40 m²).

Access to natural light, artificial lighting and ventilation were good (except for some dormitories in the non-refurbished part of building III where access to natural light left something to be desired). The equipment consisted of beds and bedside tables. Patients stored their personal belongings in individual lockers (to which they had the keys) in the corridors of each ward.

Patients in buildings I and III were free to move within the wards. Each ward had a variety of areas for recreation/association (TV, table tennis, etc.). The wards were clean and tidy and decorated with plants and pictures.

The CPT recommends that the Hungarian authorities take steps to reduce overcrowding in building I with a view to meeting the official norm of 4.5 m² of living space per patient. Efforts should also be made to complete the refurbishment of building III and to ensure adequate access to natural light in all rooms.

Further, **the Committee invites the Hungarian authorities to transform the large-capacity dormitories into accommodation structures based on smaller groups.** This is a crucial factor in preserving patients' dignity, as well as a key element of any policy for the psychological and social rehabilitation of patients. Structures of this type can also facilitate the allocation of patients to relevant categories for therapeutic purposes.

134. In building II, which was accommodating different categories of prisoners undergoing observation or treatment, rooms measuring 13 m² contained 3 beds, while rooms measuring some 48 m² had 10 beds. In addition to beds, lockers and tables, the rooms were equipped with fully partitioned toilet annexes. The security arrangements in building II were the strictest of the whole establishment, bedroom doors being locked throughout the day. Several rooms had closed circuit TV coverage; however, there was no call system installed to enable prisoners to attract the attention of staff when necessary.

The material environment in the building was austere and impersonal, which contributed to the creation of a distinct penitentiary feel. **The CPT recommends that the Hungarian authorities make efforts to provide more congenial and personalised surroundings for patients in building II. Further, a call system should be installed in all rooms.**

135. Patients could use the communal shower facilities on each ward at any time on weekdays. Further, a variety of personal hygiene items were provided to them and bed linen was changed once a week. **However, the state of repair and cleanliness of the shower facilities left something to be desired.**

136. The delegation received practically no complaints about the food provided at the establishment. In buildings I and III, meals were served in a communal area, whereas persons accommodated in building II ate in their rooms.

137. During the day, patients undergoing compulsory treatment wore brown uniforms, while those in building II wore blue uniforms (as in prison establishments) or pyjamas. The establishment's management and medical staff were generally of the opinion that this practice was not conducive to the treatment and well-being of patients¹⁶. The CPT agree with this; indeed, individualisation of clothing should form part of the therapeutic process. **The Committee recommends that steps be taken to enable IMEI patients to wear their own clothes during the day, irrespective of their legal status. If necessary, the relevant legislation should be changed.**

¹⁶ However, the wearing of uniforms was imposed by law (cf. Section 84 (3) of the Rules on the Execution of Punishments and related Measures).

d. treatment and activities

138. The treatment provided to patients was based mainly on pharmacotherapy. The levels of medication appeared appropriate. During the initial assessment period, newly-admitted patients were fully examined by a multi-disciplinary team (including a psychiatrist, a psychologist and a general practitioner) and individual treatment plans were drawn up. The treatment was subsequently reviewed once a year.

139. As regards non-pharmacotherapeutic treatments, patients in buildings I and III had access to individual and group psychotherapy, psycho-pedagogical therapy and various types of other therapeutic rehabilitative activities (art, drama, music, etc.). Some 120 patients were said to have work which consisted mainly of cleaning and maintenance tasks. In addition, vocational training courses (e.g. pottery, weaving, gardening, leather work) were periodically organised for groups of up to 20 patients. Patients also had access to a library containing some 2,500 books. However, there was clearly scope for involving more patients in the available activities.

As regards persons accommodated in building II, they were not involved in any therapeutic activities, education or work. A psychologist apparently provided weekly psychotherapy sessions to a limited number of patients who presented a suicide risk or were undergoing treatment for alcohol problems. As for persons undergoing forensic assessment, the environment in building II was not conducive to an accurate psychiatric assessment. Such an assessment can only be properly conducted if there is a good level of interaction between skilled staff and the patients, and the latter are relatively stress-free; the existing living conditions and regime do not enable these requirements to be met. In this connection, the provision of therapeutic and recreational activities to persons undergoing observation would not interfere with the assessment process; on the contrary, they could facilitate the gathering of valuable information for that purpose.

The CPT recommends that efforts be made to involve more patients in therapeutic and recreational activities. With respect to building II, the development of therapeutic activities should be accompanied by a move away from the current policy of holding patients locked in their rooms.

140. Patients in buildings I and III were entitled to one hour of outdoor exercise per day which took place in a yard adjacent to each building. As for building II, only a small number of patients were allowed to take outdoor exercise; moreover, the one-hour rule was apparently not always observed. In addition, the exercise yard attached to building II was too small (some 50 m²) and of an oppressive design. **The CPT recommends that the Hungarian authorities take immediate steps to ensure that all patients in building II have access to one hour of outdoor exercise per day (unless medically inappropriate). Further, the exercise area of building II should be enlarged.**

e. staff

141. At the time of the visit, 168 staff members were employed by the IMEI. There were ten full-time psychiatrists, two internal medicine specialists and five part-time doctors (including a psychiatrist and a neuro-surgeon). A variety of other medical specialists regularly visited the establishment and transfers could be organised to Tököl Prison Hospital. As for dental care, it was provided by a dentist working at Budapest Prison.

As regards staff qualified to provide psychotherapeutic activities, there were 7 clinical psychologists (four of them working full-time) and 6 pedagogues. Further, there was one social worker.

There were 76 posts for qualified nurses, 74 of which were filled. The nurses were assisted by 12 auxiliary nurses with lower qualifications. Two or three nurses were present on each ward during day shifts and two at night.

In addition, there were 15 security officers working in building II. The delegation learned that, until January 2005, sentenced prisoners from Budapest Prison had been employed as auxiliary staff to supervise patients in this building. The CPT is pleased to note that this practice has been discontinued.

142. The psychiatrist/patient ratio at the time of the visit can be considered as adequate. However, the current nursing staff resources are not sufficient to meet the needs of an establishment which can cater for 311 patients. **The CPT recommends that the Hungarian authorities take measures to reinforce the nursing staff resources at the IMEI.** This should make it possible to increase the number of qualified nurses present on the wards and will be conducive to establishing a therapeutic relationship with patients.

The Committee would also like to receive information on specific training offered to security staff working at the IMEI.

f. means of restraint and seclusion

143. For patients subject to compulsory treatment, the authorised means of restraint consisted of manual control, the use of leather straps to fix the patient to a bed and the application of an injection (chemical restraint), as provided for by the Health Care Act¹⁷. Instances of physical and chemical restraint were recorded in detail on a specific form established for this purpose (as well as in the patients' files).

144. In addition, prisoners held in building II could be the subject of further restraint measures in accordance with the Act on the Prison Administration¹⁸ (e.g. handcuffs and body-belts). The decision to apply such measures was taken by security officers. In this respect, the delegation noted that patients classified as Grade 4 prisoners, as well as some remand prisoners were routinely handcuffed and body-belted when they left their room for any purpose (including medical examinations and outdoor exercise).

¹⁷ Cf. Act No. CLIV of 1997.

¹⁸ Cf. Act CVII of 1995.

In the CPT's opinion, the systematic application of handcuffs and body belts may well have a negative impact on the observation/assessment process of the patients concerned. The Committee must stress once again that handcuffs and body-belts should always be applied on the basis of individual risk assessment. In this context, **reference is made to the recommendation in paragraph 66.**

145. In building II, the delegation saw a seclusion room in which patients who may cause harm to others or to themselves could be placed upon authorisation of the IMEI director. The room was equipped with a bed, shower, wash basin and flushing toilet. A video surveillance system had been installed, but there was no call system. Further, there were some ligature points in the room; consequently, it would only be safe if there were effectively a 24-hour video surveillance. Moreover, there was no special register recording the use of the seclusion room.

The CPT recommends that every placement of a patient in the seclusion room be recorded in a special form/register established for that purpose (in addition to the patient's file), which is used for monitoring recourse to seclusion. The Committee also invites the Hungarian authorities to review the equipment in the seclusion room in order to improve its safety for patients presenting a suicide risk.

g. safeguards

146. Patients found to be criminally irresponsible for their acts were placed in IMEI in accordance with a court decision. A judicial review was carried out after an initial six-month period and subsequently once a year on the basis of an opinion issued by an IMEI team as well as an independent expert opinion when requested by the court.

The IMEI opinion was apparently explained to patients, but a copy of it was not given to them. **The CPT recommends that the IMEI opinion, as well as any other independent opinion, be systematically given to patients (in addition to their lawyers and families). Naturally, these opinions should also be explained to patients in the most accurate and intelligible terms.**

Most patients met by the delegation confirmed that they were present during court hearings and a large number of them were represented by a lawyer. However, patients apparently rarely had an opportunity to meet their lawyers, except during court hearings. **The CPT would like to know if there is a formal requirement in law for patients subject to compulsory treatment to be represented by a lawyer, as well as whether this requirement includes free legal assistance for those who are not in a position to pay for a lawyer themselves.**

147. As regards patients admitted for the purpose of forensic psychiatric assessment, the documentary evidence indicated that, in some cases, the competent court had delayed the issue of a decision for several months after the assessment had been completed by the IMEI. As a result, patients placed for forensic assessment on occasion stayed at the establishment beyond the time-limit provided for by law (i.e. 60 days). **The CPT would like to receive the Hungarian authorities' comments on this issue.**

148. Upon arrival, patients accommodated in buildings I and III were generally provided with oral and written information on their rights and duties as well as on the house rules. Further, such information was posted on the walls of each ward.

However, some patients met by the delegation in building II had apparently not received any written information. **The CPT invites the Hungarian authorities to verify that information on rights and a copy of the house rules is systematically provided to every patient on admission, as well as to their families and lawyers.**

149. As for patients' informed consent to treatment, the delegation's interviews with patients bore out that some of them did not have a clear idea of their diagnosis and lacked information on their treatment and its possible side-effects. Since January 2005, an informed consent form had been introduced at the establishment. Patients certified by their signature that they had been informed of their treatment needs, the healthcare risks if they did not receive treatment, the planned examinations, interventions and risks involved, the expected results and possible side-effects. The CPT welcomes the introduction of such a form. **It would like to know whether there is a formal requirement to use the procedure for consent to treatment in respect of all categories of patients at the IMEI.**

150. In respect of contact with the outside world, patients subject to compulsory treatment were allowed to receive visits once a week for two hours. Visits took place in a spacious and well-decorated visiting room. As for persons held in building II, they had the same visiting entitlement as prisoners in general (i.e. at least once a month).

Patients were also entitled to one telephone call per week and could send/receive correspondence. Telephone calls and correspondence (except for contacts with lawyers and complaints bodies) were monitored by staff as a matter of routine for "therapeutic purposes". The CPT must stress that any monitoring of patients' calls and correspondence should be based on an individual needs and risk assessment. **The CPT invites the Hungarian authorities to take steps to review the current excessive oversight of patients' contact with the outside world.**

151. The delegation was informed that a special committee (composed of several of the establishment's doctors, a case officer and the patient's representative) could grant "adaptation leave" enabling patients to go home for one month (which could be prolonged by an additional month)¹⁹. Only one patient was on such leave at the time of the CPT's visit and the number of applications for leave granted appeared to be rather low (for instance, only 3 patients had benefited from it in 2003). **The CPT would like to receive information on the decision-making process leading to the granting of "adaptation leave".**

¹⁹ Cf. Section 84/A of the Rules on the Execution of Punishments and related Measures. Pursuant to Section 23 of Ministry of Justice Decree 36/2003 (X.3.), such leave cannot be granted to "re-classified" prisoners.

152. Turning to complaints procedures, boxes were installed on each ward in order to ensure patients' confidential access to the IMEI director. Further, patients could have confidential meetings upon request with the Patients' Representative who visited the establishment twice a week, as well as being able to send confidential complaints to him. However, as far as the delegation understood, the Patients' Representative was employed by the establishment itself, unlike such representatives in civilian psychiatric establishments. **The CPT invites the Hungarian authorities to strengthen the independence of the IMEI Patients' Representative.**

153. As regards external supervision, the IMEI was visited regularly by public prosecutors and periodically by representatives of the Ministries of Justice and Health and the public health authority. The establishment had also received some visits by NGOs in recent years. **The CPT encourages the Hungarian authorities to continue the practice of regular visits by independent outside bodies to the IMEI. Such bodies should be authorised, in particular, to talk privately with patients, receive directly any complaints which they might have and make any necessary recommendations.**

154. The delegation was informed that a number of patients for whom it had been decided that compulsory treatment was no longer necessary remained in the IMEI due to the lack of external facilities. They were generally placed on waiting lists for social care homes for psychiatric patients. For persons to remain in a secure hospital setting as a result of the absence of appropriate external facilities is a highly questionable state of affairs. **The CPT would like to receive the Hungarian authorities' comments on this matter.**

C. Establishments under the authority of the Ministry of Youth, Family, Social Affairs and Equal Opportunities

1. Preliminary remarks

155. The CPT's delegation visited one establishment falling under the authority of the Ministry of Youth, Family, Social Affairs and Equal Opportunities: the Bacs-Kiskun County Home for Persons with Psychiatric Disorders and Mental Disabilities. The Home is located in an extensive compound on the outskirts of the town of Kiskunhalas, in former army barracks which it has occupied since 1993. With an official capacity of 355, at the time of the visit it was accommodating 353 residents, both men and women, ranging in age from 18 to 92 years. According to information provided by the Home's management, 227 of the residents were psychiatric patients (123 men and 104 women) and 126 were mentally disabled (76 men and 50 women).

156. From the outset, it should be stressed that the delegation received no allegations of ill-treatment of residents by staff. The atmosphere at the establishment was relaxed and the delegation witnessed that staff had caring and respectful attitudes towards residents and observed their privacy. The CPT wishes to put on record the professionalism and commitment demonstrated by the Home's staff.

157. Unfortunately, the lack of programmes for the de-institutionalisation of psychiatric home residents - such as setting up sheltered accommodation and day-care centres - undermines the excellent work performed by staff at the Kiskunhalas home. The delegation was informed that at least 20 to 25 residents were fit for a more independent life, but there were no facilities available. As a result, many residents stayed at the Home for up to 20 years. At the same time, there were currently 100 candidates on the waiting list for accommodation at the Home, some 65 of whom had been assessed as urgently requiring admission.

It should also be noted that the very size of the establishment (355 places) was too high and contained in itself the potential for institutionalisation. In this respect, the delegation was informed of a recent decision by the Ministry of Youth, Family, Social Affairs and Equal Opportunities to limit the capacity of social care homes to 100 places.

The CPT would like to receive information on plans to reorganise the system of homes for persons with psychiatric disorders and mental disabilities and, in particular, to set up facilities enabling the de-institutionalisation of such persons.

2. Living conditions

158. Residents were distributed among nine wards, in accordance with the nature of their mental illness/handicap and their degree of autonomy. Wards 1 to 6, which were single gender, were located in building No. 1, a thoroughly refurbished construction dating back to the 1950s. Wards 1 and 2 were reserved for the most dependent, bedridden and incontinent residents (33 -34 on each ward, respectively men and women). Wards 3 and 4 accommodated respectively 44 men and 44 women with mental disabilities, and wards 5 and 6, similar numbers of men and women with psychiatric disorders.

The wards in building No. 1 had an almost identical layout, each comprising some thirteen bedrooms, a spacious common room and a bathroom. Most of the residents' rooms had 3 to 4 beds and were of a good size (15-18 m²). The rooms had large windows and were painted in attractive colours. The furnishings included beds, lockers, tables and chairs. In addition to what was provided by the Home, residents were allowed to buy their own furniture and create a more homely atmosphere. The rooms and communal areas were nicely decorated and personalised, with pictures, photographs and plants.

Further, both general hygiene and residents' personal hygiene were of a high standard. Residents had unlimited access to the shower rooms available on each ward and could change their underwear every day. The establishment's central laundry was a good facility and in addition, there were washing machines on each ward.

However, the delegation noted the lack of equipment to facilitate the bathing of bedridden residents in wards 1 and 2 (who nevertheless were bathed every day, despite the fact that nursing cover was rather low (cf. paragraph 163)).

159. Building No. 2, which was purpose-built in 1997, contained the mixed-gender wards 7, 8 and 9. Ward 7, located on the ground floor, accommodated the most demanding psychiatric patients (33 in total). Wards 8 and 9 housed residents who were relatively independent and undergoing rehabilitation (42 residents each). Women and men were accommodated in different rooms (except for four couples living together in ward 9) and had access to separate toilet and bathroom facilities on each ward.

Once again, living conditions were of a good standard. The rooms were designed for 2 to 4 persons each and had a personalised feel. Each ward had a spacious and nicely decorated dining room which was used also for communal activities. There was also a well-equipped kitchen on ward 9, used for training in cooking and domestic skills.

160. The delegation was impressed by the efforts made to strengthen the residents' sense of independence: for example, they had keys to their bedrooms and personal lockers, and could do their own shopping in a mini-market on the Home's premises. Further, the delegation noted that residents had access to several rooms for intimate contacts.

161. Most residents took their meals in a large and pleasantly decorated dining room, and those who were less mobile or bedridden ate in dining rooms on the wards. No complaints were heard about the food provided. The establishment had its own dietician and different diets were provided to residents according to their needs.

162. To sum up, the delegation gained an overall positive impression of material conditions at the Kiskunhalas Home.

Nevertheless, **the CPT recommends that steps be taken to provide appropriate equipment in order to facilitate the bathing of bedridden residents.**

3. Staff and care of residents

163. The Home employed a total of 223 staff members, 141 of whom were directly involved in residents' care. As regards staff working full time, there were 2 psychiatrists, helped by 2 nursing assistants, 12 staff members providing therapeutic and leisure activities (with different qualifications, e.g. special-needs education, psychopaedagogy, occupational therapy, etc.), 3 social workers and 104 nurses working on the wards. Further, the Home was attended on a weekly basis by a dentist and a specialist in internal medicine, and there were periodic visits by an ophthalmologist and a dermatologist. Transfers to outside hospital facilities were said not to present a problem.

There were two nurses present on wards 3 to 9 during day and night shifts, and three on wards 1 and 2. The nursing cover could not be considered as sufficient to cater for residents' needs, in particular on wards 1 and 2, where most of the residents required a lot of care. **The CPT recommends that steps be taken to increase the number of nurses assigned to wards 1 and 2. Consideration should also be given to increasing the number of nurses present during the day shift on the remainder of the wards.**

With respect to staff responsible for the provision of therapeutic and leisure activities, given the importance of such activities for residents' rehabilitation, **the CPT invites the Hungarian authorities to increase the number of such staff.**

164. As regards the treatment provided to residents, each of them had an individual care plan drawn up within 30 days of arrival. Residents were involved in the drawing up of these plans, which contained an assessment of the resident's needs, abilities, adaptability, socialisation, co-operation, etc. The individual plans were periodically reviewed (internally twice a year and externally on an annual basis).

The majority of patients received psycho-pharmacological medication. The levels of medication appeared to be appropriate and there was a good supply of drugs. Further, all residents were somatically examined once a year. As for the medical documentation kept in respect of each resident, it was of a good quality and its confidentiality was respected.

In addition, individual development plans were drawn up by the staff team providing therapeutic and leisure activities. Most residents (some 270 at the time of the visit) were involved in such activities (dance, music, drama, arts, gymnastics, embroidery, cooking, games, etc.). Residents were also taken on excursions and visits to the cinema, exhibitions, etc. (the Home had two minibuses for such purposes). Separate sessions were organised for residents with mental disabilities, the aim of which was to develop their capacity to fulfil their everyday needs (personal hygiene, communication, housework, literacy, etc.).

Another positive feature of the establishment was that residents were given an opportunity to work; 76 of them were employed in a workshop located on the Home's premises (producing stuffed toys and cushions for a private company), working two to eight hours a day, depending on their condition.

165. The home had an extensive outdoor area which was being used for various sporting activities (horse riding, games) or simply walking around. However, the sports equipment was scarce. Further, in building No. 2, there was a small gym equipped with a few exercise machines, which was clearly insufficient for the size of the establishment.

The CPT invites the Hungarian authorities to provide additional sports facilities for residents, both outdoors and indoors.

4. Means of restraint

166. The means of restraint used at the Home included manual control, immobilisation with the use of straps, placement in an isolation room and an injection of a psychotropic drug. A new form for the recording of instances of restraining residents had been introduced in 2004; it recorded all relevant details, in particular the time at which the measure was applied, the doctor who ordered it, the reasons and the monitoring involved. The delegation noted that means of restraint were used rarely and not abusively.

167. There was one isolation room on ward 7 used for the placement of agitated/aggressive residents for the period necessary for them to calm down after medication had been administered (usually one to three hours). It did not differ from an ordinary bedroom in terms of equipment, and the delegation was informed that a nurse would stay in the room whenever a resident was placed there. Placements in this room were also recorded on a special form and reported to the Residents' Rights representative (cf. paragraph 174).

168. The delegation was informed that the Home had once had nine net-beds (one on each ward); in 2003, this number had been reduced to three, and at the beginning of 2005, all net-beds had been removed, as provided for by the new regulations. The CPT welcomes this development.

5. Safeguards

169. The legal framework for placement in homes for persons with psychiatric disorders and/or mental disabilities is provided by the Social Care Act (No. III/1993, amended in 1999).

The procedure for placement in the Kiskunhalas Home was similar to the one described in the report on the 1999 visit (cf. paragraph 169 of CPT/Inf (2001) 2). Residents were admitted on their own application or that of their guardian through the Social Committee of the municipality. Once an application had been made, the prospective resident was assessed by an admissions committee and given a priority rating. It was also possible for a person to be referred by a court as requiring compulsory treatment, but there were no residents of this category at the time of the visit and rarely had been.

An annual review of each resident was carried out by the County Local Government, and every two years there was a completely independent review of each psychiatric case by an external expert who reported to the hospital, the resident and the guardian.

170. Some 90% of residents had been placed under full or limited guardianship. The guardian in either case could be a family member or an official guardian appointed by the office of guardianship under the control of the County Local Government, which owned and operated the Home. There was no judicial involvement in the guardianship procedure.

171. The CPT considers that persons placed in homes for persons with psychiatric disorders and/or mental disabilities following an application by their guardians should have the right to bring proceedings by which the lawfulness of their placement is speedily decided by a court. From the information gathered during the 2005 visit, it would appear that no such right currently exists. **The CPT recommends that steps be taken to introduce such a right. Further, persons placed in such homes should be immediately informed of that right.**

172. The delegation was impressed by the steps taken at the Kiskunhalas Home to protect residents' civil rights and encourage their independence. An information leaflet describing residents' rights was issued to them on admission. The leaflet indicated, inter alia, their right of access to medical records and all avenues of complaint open to them.

173. The arrangements for residents' contact with the outside world seemed fully appropriate. Visits were allowed from 8 a.m. to 4 p.m. every day and took place in a visiting room, on the wards or in the garden surrounding the Home. Further, residents could correspond and use the telephone without limitations; a pay-phone was installed in the hall of the institution.

174. As regards complaints procedures, the Home had a complaints box to which the Director of the Home and the Head nurse had access. Further, since the start of 2005, residents had access to a Residents' Rights representative (an ombudsman figure). There was also a part-time attorney available to residents who could take up issues for them.

The Home also had a representative council which could resolve complaints. It consisted of three residents, elected by the other residents, a guardian and a nurse, and had a variety of functions.

175. There were no fully independent inspections of the Home, though regular visits were made by County officials. Of particular concern to the Director was the lack of involvement of NGOs: there appeared to be none with an interest in the Home's activities in the area.

The CPT suggests that steps be taken to encourage independent outside bodies to visit the Kiskunhalas Home on a regular basis.

III. RECAPITULATION AND CONCLUSIONS

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

176. During the CPT's third periodic visit to Hungary, the majority of the persons met by the Committee's delegation who were, or had recently been, detained by the police, indicated that they had been correctly treated, both at the time of their apprehension and during questioning. Nevertheless, the delegation received a few allegations of physical ill-treatment at the time of apprehension (such as kicks, punches, tight handcuffing). Further, it was informed that the annual stocktaking of complaints of ill-treatment by police officers showed an upward trend in 2004.

In the light of all the information gathered during the visit, the CPT has recommended that the Hungarian authorities remind police officers that the ill-treatment of detained persons is not acceptable and will be the subject of severe sanctions. Police officers should also be reminded that no more force than is strictly necessary should be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can never be any justification for their being struck.

177. No allegations were received of ill-treatment by Border Guard staff in the detention facilities for aliens visited. However, one detained person alleged that he had been handcuffed to a radiator in an office at Rösztke Border Guard Station for 12 hours. In this context, the CPT has recommended that the Hungarian authorities take appropriate steps to ensure that detained persons are not left handcuffed to radiators or items of furniture and instead are accommodated in rooms/cells designed specifically for custodial purposes and offering appropriate security conditions.

178. The CPT has noted with interest the efforts which have been made to incorporate human rights concepts into initial and ongoing training, and to offer psychological support to police staff with a view to helping them to cope with highly stressful or violent situations.

At the same time, the Committee has expressed serious misgivings about the presence of police officers during medical examinations of detainees; this practice is detrimental to the establishment of a proper doctor-patient relationship and could discourage a detained person who has been ill-treated from saying so. Further, the Committee has recommended that the practice of taking statements from detained persons presenting injuries be reviewed so as to ensure that no undue pressure is put on them. If a detained person presents injuries and makes allegations of ill-treatment, he should be seen by an outside medical expert and the case referred to a prosecutor.

179. In previous visit reports, the CPT has stressed that formal safeguards against ill-treatment (e.g. the right to inform a third party of one's situation and to have access to a lawyer and a doctor) should be enjoyed by all categories of persons detained by the police and Border Guard, as from the very outset of their deprivation of liberty. It became clear during the 2005 visit that, in practice, it remained rare for persons to benefit from the presence of a lawyer at any stage of police custody. The Committee has recommended that steps be taken to ensure that persons in police custody benefit from an effective right of access to a lawyer, as from the very outset of their deprivation of liberty; this will involve putting into place a fully fledged and properly funded system of legal aid, which is applicable from the very outset of police custody.

Practically all detained persons interviewed stated that they had enjoyed the right to notify a third party of their situation. However, the CPT has called upon the Hungarian authorities to implement its long-standing recommendation that the possibility to delay the exercise of this right be clearly defined, made subject to appropriate safeguards and strictly limited in time. The Committee has also reiterated that detained persons should have the right to be examined, if they so wish, by an external doctor, in addition to any medical examination carried out by a police appointed doctor.

Most detained persons interviewed indicated that they had received information on their rights upon or soon after apprehension. However, foreign nationals detained under aliens legislation were not being systematically provided with written information about their rights in a language they understood; the CPT has recommended that steps be taken to remedy this situation.

180. Following the recent entry into force of legal amendments, both the number of persons held on remand in police detention facilities and the average length of their detention has fallen significantly. This is a welcome development. However, the CPT has stressed that the medium-term objective should be to end completely the practice of accommodating remand prisoners in police establishments. For as long as the present practice continues, the judicial control of the treatment of persons remanded in custody and held on police premises should be reinforced.

181. Conditions of detention in police holding facilities visited could generally be considered as acceptable for the duration of police custody (i.e. 72 hours maximum). However, they were not suitable for prolonged stays, as was the case for remand prisoners (i.e. up to 60 days). In particular, there were no activities available, except for one hour of outdoor exercise per day, which was taken in small and oppressive yards. The inadequacy of the regime was compounded by unsatisfactory arrangements for contact with the outside world. The quality of medical care provided to detained persons by police doctors also left something to be desired. The CPT has proposed a number of steps to address the shortcomings observed.

182. Material conditions of detention in the two holding facilities for aliens visited (in Kiskunhalas and Orosháza) were generally of a good standard. Further, at both establishments, detainees benefited from an open door regime within the detention area; this is a welcome approach. In spite of that, the offer of activities remained limited. The CPT has invited the Hungarian authorities to review the regime for foreign nationals detained under the Aliens Act, with a view to enlarging the offer of purposeful activities.

The provision of health care to foreign detainees could be considered as generally adequate, and no complaints were received from detained persons; nevertheless, steps should be taken to ensure the observance of medical confidentiality. The CPT has also stressed once again the importance of supervisory staff working in centres for foreign nationals receiving appropriate training.

B. Establishments under the authority of the Ministry of Justice

183. The majority of prisoners at *Kalocsa Prison* stated that staff treated them in a correct manner. However, the CPT's delegation heard several allegations of ill-treatment of female prisoners by guards (slaps, pulling by the hair, verbal abuse). The general atmosphere appeared to be rather tense, which was related to the fact that the establishment was grossly overcrowded and that staffing levels in the prisoner accommodation areas were low.

A few allegations of physical ill-treatment of prisoners by guards were received at *Szeged Prison*, as well as several allegations of threats and verbal abuse. Further, numerous prisoners reported incidents of inter-prisoner violence. The delegation observed that relations between prisoners and staff - as well as among prisoners themselves - were tense, a situation once again compounded by serious overcrowding and low staffing levels.

During its short visit to *Unit III of Budapest Remand Prison*, the delegation received an allegation of recent physical ill-treatment of a prisoner by guards, which had apparently occurred on the day of the inmate's arrival and involved truncheon blows whilst the prisoner was handcuffed.

The CPT has recommended that the management of *Kalocsa Prison*, *Szeged Prison* and *Budapest Remand Prison* deliver the clear message to custodial staff that physical ill-treatment and verbal abuse of inmates as well as other forms of disrespectful or provocative behaviour vis-à-vis prisoners are not acceptable and will be dealt with severely. Further, both the management and staff of *Szeged Prison* should exercise continuing vigilance and make use of all the means at their disposal to prevent inter-prisoner violence and intimidation. The Committee has also emphasized that an overall low staff complement will impede the development of positive staff-inmate relations and generate an insecure environment for staff and prisoners alike.

184. During the 2005 visit, close attention was given to the situation of prisoners placed under a special security regime. The CPT has welcomed the fact that the status of prisoners classified as *Grade 4* is now reviewed every three months; at the same time, it has called upon the Hungarian authorities to implement its previous recommendations concerning the provision to such prisoners of written information on the reasons for the measure as well as the opportunity to express their views on the matter. More generally, the Committee has recommended that the system of classifying prisoners as *Grade 4* be reviewed and refined, with a view to ensuring that this grade is only applied – and retained – vis-à-vis prisoners who genuinely require to be accorded such a status.

The policy as regards the application of means of restraint to *Grade 4* prisoners - already strongly criticised in the past by the CPT - remains unsatisfactory; the Committee has called upon the Hungarian authorities to review that policy without further delay.

Grade 4 prisoners in *Unit III* of *Budapest Remand Prison* were accommodated in generally good conditions. Conditions were less favourable at *Unit I* of *Szeged Prison*; the Committee has recommended that the shortcomings observed be remedied. Strenuous efforts should also be made to increase the offer of organised activities for *Grade 4* prisoners at *Szeged Prison* and *Unit III* of *Budapest Remand Prison*.

185. During the visit to Szeged Prison, the delegation paid particular attention to the situation of the so-called “*actual lifers*” (i.e. prisoners sentenced to life imprisonment who cannot be released except on compassionate grounds or by pardon). Their current situation calls for much improvement, by increasing out-of-cell time, allowing for more human contact, expanding the range of activities and alleviating the restraint measures. However, the CPT is concerned above all by plans to establish a separate unit for such prisoners. In this context, the Committee has stressed that it can see no justification for keeping “*actual lifers*” apart from other prisoners serving lengthy sentences. If a separate unit were to be opened, inmates should be placed in it on the basis of an individual risk/needs assessment and enjoy a relatively relaxed regime, by way of compensation for their severe custodial situation. The Committee has recommended that the Hungarian authorities take due account of its remarks when devising their policy on the treatment of “*actual lifers*”.

186. Material conditions at *Unit III of Budapest Remand Prison* were generally adequate. That said, despite the relative decrease in the prisoner population since the 2003 visit, the establishment remained overcrowded. The CPT has recommended that the Hungarian authorities continue their efforts to reduce cell occupancy rates in the Unit.

The considerable potential offered by the facilities for collective use remained in contrast to the paucity of the regime of activities actually delivered. In this context, the Committee has reiterated its previous recommendations concerning the development of activity programmes for inmates, in particular by means of allowing remand prisoners to participate in association periods outside their cells, increasing the use of the existing communal facilities and increasing and/or redeploying staff resources (custodial and specialist).

187. At the time of the visit, *Kalocsa Prison* was overcrowded at 150% in relation to the official envisaged capacity. Cells measuring some 8.5 m² were accommodating three to four prisoners each; the CPT has stressed that cells of such a size should never accommodate more than two prisoners and should preferably be used for single occupancy. Further, the cells displayed almost total lack of personalisation and in many of them access to natural lighting was insufficient. That said, material conditions in some parts of the establishment – the “transitional” cells, the therapeutic-educational unit and the drug-free cell – were of a better quality.

The prison offered a fair range of activities to inmates. However, for the majority of prisoners, the working hours at the establishment’s factory left little time for other aspects of a regime during the week. The Committee has recommended that further efforts be made to provide prisoners with a varied regime of activities.

188. The overcrowding observed at *Szeged Prison* had negative repercussions for all aspects of life in the establishment. The CPT has recommended that strenuous efforts be made to reduce the cell occupancy levels (the objective being to meet the norm of 4 m² of living space per prisoner) and to fit the sanitary annexes in all the cells with a full partition. Further, the lighting, ventilation and state of cleanliness and repair of the admission and transfer cells in the “Csillag” block should be improved; material conditions in these cells were particularly poor at the time of the visit.

Despite the efforts made by the prison administration to provide a range of purposeful activities for inmates, it remained the case that some 200 prisoners – many of whom serving long or life sentences – spent up to 23 hours a day confined to their cells, with little to occupy themselves. The Hungarian authorities must continue their efforts to ensure that all prisoners at Szeged Prison benefit from a developed programme of activities.

189. The CPT has also addressed a number of health care issues concerning prisons. The health-care resources at the three prisons visited appeared to be generally satisfactory. Further, the health-care facilities were adequate and there was a good supply of medication. However, the Committee has recommended that steps be taken to ensure that all medical examinations of prisoners are conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a particular case – out of the sight of non-medical prison staff.

190. As regards other issues related to the CPT's mandate, the Committee has recommended that the Hungarian authorities take steps to improve prison staffing levels, to increase substantially prisoners' visiting entitlement, and to incorporate preliminary segregation in the total length of any disciplinary sanction of segregation. Particular mention should also be made of the recommendation that the current rules concerning the use of means of restraint be reviewed so as to ensure that they are applied in a proportionate way.

191. No allegations were received at the Judicial and Observation Psychiatric Institute (IMEI) in Budapest of *ill-treatment* of patients by staff, and the CPT's delegation observed that medical personnel adopted a professional and caring attitude towards patients. However, the Committee has reservations about the very location of the Institute (which is effectively a psychiatric hospital) within the boundaries of a prison complex; it would be highly desirable for the IMEI to be re-located, which would help to ensure that a medical, rather than a penal, ethos prevails.

Measures should also be taken to reinforce the nursing *staff* resources at the IMEI, which were not sufficient at the time of the visit. In contrast, the psychiatrist/patient ratio was adequate.

192. Patients' *living conditions* were on the whole adequate. However, the Committee has recommended that steps be taken to reduce overcrowding in building I and to provide more congenial and personalised surroundings in building II. Steps should also be taken to enable IMEI patients to wear their own clothes during the day; individualisation of clothing is part of the therapeutic process.

193. The *treatment* provided to patients was based mainly on pharmacotherapy, and the levels of medication appeared appropriate. Patients in buildings I and III also had access to a variety of non-pharmacotherapeutic treatments, though there was scope for involving more patients in the activities concerned.

As for persons accommodated in building II, they were not involved in any therapeutic activities, education or work. The CPT has recommended that such activities be developed and that there be a move away from the current policy of holding patients locked in their rooms. As regards more particularly persons undergoing observation (one of the categories of patients in building II), the provision of activities will facilitate the gathering of information for the assessment process. Further, immediate steps should be taken to ensure that all patients in building II have access to one hour of outdoor exercise per day (unless this is medically inappropriate).

C. Establishments under the authority of the Ministry of Youth, Family, Social Affairs and Equal Opportunities

194. The CPT's delegation received no allegations of ill-treatment of residents by staff at the *Bacs-Kiskun County Home for persons with psychiatric disorders and mental disabilities*. The atmosphere at the establishment was relaxed and staff displayed caring and respectful attitudes towards residents and observed their privacy.

195. The delegation gained an overall positive impression of material conditions at the Home and of the treatment provided to its residents. Nevertheless, the CPT has recommended that steps be taken to provide appropriate equipment in order to facilitate the bathing of bedridden residents and to increase the number of nurses assigned to wards 1 and 2. Consideration should also be given to increasing the number of nurses present during the day shift on the remainder of the wards, as well as the number of staff responsible for the provision of therapeutic and leisure activities.

196. As regards safeguards, the CPT has recommended that persons with psychiatric disorders and/or mental disabilities following an application by their guardians be accorded the right to bring proceedings by which the lawfulness of their placement is speedily decided by a court.

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

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

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

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

APPENDIX I

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

A. Establishments under the authority of the Ministry of Interior

Preliminary remarks

comments

- the medium-term objective should be to end completely the practice of accommodating remand prisoners in police establishments. The return of remand prisoners to police custody (e.g. for further questioning) should only be sought and authorised when it is absolutely unavoidable. Further, for as long as the present practice continues, the judicial control of the treatment of persons remanded in custody and held on police premises should be reinforced; more specifically, such persons should be physically brought before a judge at regular intervals (paragraph 11).

Ill-treatment

recommendations

- the Hungarian authorities to remind police officers, through appropriate means and at regular intervals, that the ill-treatment of detained persons (whether of a physical or verbal nature) is not acceptable and will be the subject of severe sanctions. Police officers should also be reminded that no more force than is strictly necessary should be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can never be any justification for their being struck (paragraph 13);
- the Hungarian authorities to take appropriate steps to ensure that detained persons are not left handcuffed to radiators or items of furniture and are accommodated in rooms/cells designed specifically for custodial purposes and offering appropriate security conditions (paragraph 14);
- the Hungarian authorities to take immediate steps to ensure that practice as regards medical examinations of detained persons is brought in line with the considerations set out in paragraph 17 (paragraph 17);
- the practice of taking statements from detained persons presenting injuries to be reviewed so as to ensure that no undue pressure is put on them. If a detained person presents injuries and makes allegations of ill-treatment, he should be seen by an outside medical expert and the case referred to a prosecutor (paragraph 18).

comments

- the information contained in paragraph 13 underlines the need to intensify efforts in the area of training of law enforcement officials (paragraph 16);
- the Committee wishes to stress once again the desirability of routine control performed in police detention facilities by independent outside bodies, in addition to visits by public prosecutors (paragraph 20).

requests for information

- in respect of 2004 and 2005:
 - the number of complaints of ill-treatment made against police and Border Guard staff;
 - the number of criminal and disciplinary proceedings instituted as a result of these complaints;
 - an account of criminal and disciplinary sanctions imposed (paragraph 15).

Safeguards against ill-treatment of persons detained by the police

recommendations

- the Hungarian authorities to take steps to ensure that the possibility to delay the exercise by detained persons of the right to inform a relative or third party of their situation be made subject to appropriate safeguards (e.g. any delay to be recorded in writing together with the reasons therefor and to require the approval of a public prosecutor) and strictly limited in time (paragraph 22);
- the Hungarian authorities to take steps to ensure that persons in police custody benefit from an effective right of access to a lawyer, as from the very outset of their deprivation of liberty (paragraph 23);
- a fully fledged and properly funded system of legal aid for persons in police custody who are not in a position to pay for a lawyer to be developed as a matter of urgency, and to be applicable from the very outset of police custody. If necessary, the relevant legislation should be amended (paragraph 23);
- the right of detained persons to be examined, if they so wish, by an external doctor to be formally guaranteed (it being understood that an examination by such a doctor may be carried out at the detainee's own expense) (paragraph 24);
- the Hungarian authorities to remedy the shortcomings observed at the police and Border Guard establishments visited as regards documenting the time spent in custody (paragraph 27);
- the Hungarian authorities to take measures to ensure that immigration detainees have an effective right of access to a lawyer/legal representative as from the very outset of their deprivation of liberty (i.e. from the moment when the persons concerned are obliged to remain with a law enforcement agency) (paragraph 28);

- steps to be taken to ensure that foreign nationals detained under the aliens' legislation and asylum seekers are systematically issued at the very outset of their deprivation of liberty with a form setting out in a straightforward manner their rights and the procedure applicable to them; the form should be available in different languages (paragraph 28).

comments

- the Hungarian authorities are invited to take further steps to ensure that the information sheet on the rights and obligations of detained persons is available in all police establishments in an appropriate range of languages and is systematically given to detained persons (paragraph 25).

requests for information

- clarification as to why it was considered necessary to include in the new Code of Criminal Procedure the leeway of 24 hours as regards the application of the right of notification of one's custody (paragraph 22);
- developments as regards the introduction of a code of conduct for police interrogations (paragraph 26);
- information on steps taken (e.g. training, setting up of internal and external monitoring mechanisms) to ensure the implementation of the guidelines adopted by the Ministries of Interior and Justice in July 2004 on the manner in which deportation orders are to be enforced (paragraph 29).

Conditions of detention in police establishments

recommendations

- decisive steps to be taken to address the shortcomings referred to in paragraphs 31 to 36 and, in particular, to:
 - remedy the deficiencies observed with regard to ventilation, artificial lighting and state of cleanliness of the cells at the Police Central Holding Facility in Budapest;
 - improve access to natural light and ventilation in the 3rd and 6th/7th District Police Stations in Budapest and the Csongrád County Main Police Directorate in Szeged;
 - improve the sleeping arrangements at the Csongrád County Main Police Directorate in Szeged;
 - provide some form of activity (including association, subject to an assessment of the security risk individual prisoners may represent and to the interests of the investigation) for remand prisoners for as long as they are being kept in police establishments;
 - improve remand prisoners' possibilities for contact with the outside world; in this context, the CPT must stress once again the need to reconsider the current procedure as regards family visits and correspondence. The objective should be to offer each remand prisoner at least one visit every week;

- provide foreign detainees with written information about their rights and the establishments' regulations in an appropriate range of languages;
- remedy the deficiencies observed with regard to the provision of health care described in paragraph 36 (paragraph 37).

comments

- it would be totally inadmissible for the investigator in charge of the case to listen to a remand prisoner's telephone conversations with his lawyer (paragraph 34).

Border Guard establishments

recommendations

- the Hungarian authorities to take appropriate measures to ensure that all medical examinations of detainees (whether on arrival or at a later stage) are conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of Border Guard staff (paragraph 44);
- the Hungarian authorities to:
 - review the training of Border Guard staff in the light of the remarks made in paragraph 45;
 - encourage greater interpersonal communication between staff and detainees (paragraph 45);
- steps to be taken to ensure that written information on detainees' rights, internal rules and applicable procedures is available in a variety of languages at the Orosháza holding facility and given to detainees upon admission (as well as at any other holding facility for aliens in Hungary where this is currently not the case) (paragraph 47);
- the Hungarian authorities to take steps to ensure that the right of foreign nationals to receive visits is not unreasonably restricted (paragraph 50);
- the Hungarian authorities to ensure that persons detained at the Border Guard establishments in Rösztke and Szeged (as well as at any other Border Guard premises where foreign nationals may be held following apprehension) are provided with mattresses and blankets for overnight stays and have access to food and drinking water (paragraph 53).

comments

- the Hungarian authorities are invited to review the food arrangements in the Kiskunhalas and Orosháza holding facilities for aliens in order to ensure that the dietary habits and needs of detained persons are being adequately catered for (paragraph 42);
- the Hungarian authorities are invited to review the regime for foreign nationals detained under the Aliens Act, with a view to enlarging the offer of purposeful activities (e.g. access to sport facilities, provision of books and recent newspapers/magazines in various foreign languages, games, etc.). The longer the period for which persons are detained, the more developed should be the activities which are offered to them (paragraph 43);
- the CPT considers that Border Guard staff should not carry truncheons, tear gas canisters and handcuffs as a matter of routine in detention areas; if it is deemed necessary for staff to be armed with such devices in specific and clearly defined circumstances, they should be hidden from view (paragraph 46);
- the Hungarian authorities are invited to seek ways to improve channels of communication between the Office of Immigration and Nationality (OIN) and the Border Guard, with a view to better informing detainees of their situation (paragraph 48);
- the Hungarian authorities are invited to review their policy on the use of means of restraint with respect to foreign nationals detained under the Aliens Act (paragraph 51).

requests for information

- clarification of the disciplinary regulations applicable to Border Guard holding facilities (paragraph 52).

B. Establishments under the authority of the Ministry of Justice

Preliminary remarks

comments

- the CPT trusts that the Hungarian authorities will continue their efforts to combat prison overcrowding and in so doing, will be guided by Recommendation Rec(99)22 of the Committee of Ministers of the Council of Europe concerning prison overcrowding and prison population inflation, as well as Recommendation Rec(2003)22 on conditional release (parole) (paragraph 55).

Ill-treatment

recommendations

- the management of Kalocsa Prison, Szeged Prison and Budapest Remand Prison to deliver the clear message to custodial staff that physical ill-treatment and verbal abuse of inmates as well as other forms of disrespectful or provocative behaviour vis-à-vis prisoners are not acceptable and will be dealt with severely (paragraph 59);

- the management and staff of Szeged Prison to exercise continuing vigilance and make use of all the means at their disposal to prevent inter-prisoner violence and intimidation (paragraph 59).

comments

- the management of Kalocsa and Szeged Prisons should make use of all means at their disposal to decrease tension at the establishments. In addition to investigating complaints made by prisoners, this will involve the regular presence of prison managers in the detention areas, their direct contact with prisoners, and the improvement of prison staff training (paragraph 59).

requests for information

- detailed information on the complaints and disciplinary procedures in respect of prison staff, including safeguards incorporated to ensure their objectivity, proper documentation, timely consideration and resolution (paragraph 61);
- for 2004 and 2005 in respect of all prisons in Hungary:
 - the number and type of complaints of ill-treatment lodged against prison staff;
 - an account of disciplinary and/or criminal sanctions imposed (paragraph 61).

Prisoners placed under a special security regime

recommendations

- the Hungarian authorities to take steps to implement the CPT's previous recommendations concerning the provision to prisoners placed in a Grade 4 regime of written information on the reasons for the measure and giving them an opportunity to express their views on the matter. It is equally important to provide such prisoners with written information on the possibilities to contest the decision (paragraph 64);
- the Hungarian authorities to review and refine the system of classifying prisoners as Grade 4 with a view to ensuring that this grade is only applied – and retained – vis-à-vis prisoners who genuinely require to be accorded such a status (paragraph 64);
- the Hungarian authorities to review without further delay their current policy with regard to the application of means of restraint to prisoners placed under a special security regime (Grade 4 prisoners) (paragraphs 66 and 144);
- steps to be taken to address the shortcomings observed in the cells for Grade 4 prisoners at Szeged Prison, in the light of the remarks made in paragraph 67. In particular, efforts should be made to reduce overcrowding, improve lighting and ventilation and equip in-cell sanitary annexes with full partitioning (paragraph 67);
- strenuous efforts to be made to increase the offer of organised activities for Grade 4 prisoners at Szeged Prison and Unit III of Budapest Remand Prison (paragraph 68);

- the Hungarian authorities to take due account of the remarks made in paragraph 71 when devising their policy on the treatment of “actual lifers” (paragraph 71).

comments

- steps should be taken to enable prisoners placed in the new unit for “actual lifers” at Szeged Prison to have access at regular and frequent intervals to proper sports facilities (paragraph 70).

Conditions of detention in the prisons visited

recommendations

- the Hungarian authorities to continue their efforts to reduce cell occupancy rates at Unit III of Budapest Remand Prison (paragraph 72);
- activity programmes for inmates to be developed at Unit III of Budapest Remand Prison, in particular by means of:
 - allowing remand prisoners to participate in association periods outside their cells (naturally, subject to an assessment of the security risk individual inmates may represent and to the interests of the investigation);
 - increasing the use of the existing communal facilities;
 - exploiting to the fullest the space available in the establishment;
 - increasing and/or redeploying staff resources (custodial and specialist) (paragraph 73);
- steps to be taken at Kalocsa Prison to:
 - substantially reduce the occupancy rate of the establishment, the objective being to provide a minimum of 4 m² of living space per prisoner;
 - improve access to natural light in the cells;
 - ensure that all in-cell sanitary facilities are fully partitioned off;
 - create a more personalised environment for prisoners (paragraph 81);
- further efforts to be made to provide prisoners at Kalocsa Prison with a varied regime of activities, and in particular to:
 - diversify the training courses available and encourage more prisoners to take part in them;
 - ensure that all prisoners can benefit from outdoor exercise and have access to sports facilities. This would involve improving the available facilities (paragraph 86);

- at Szeged Prison:
 - strenuous efforts to be made to reduce the cell occupancy levels, the objective being to meet the norm of 4 m² of living space per prisoner;
 - the lighting, ventilation and state of cleanliness and repair of the admission and transfer cells in the “Csillag” block to be improved;
 - the state of the bedding in all cells to be improved;
 - sanitary annexes in all the cells to be fitted with a full partition;
 - the shower facilities to be refurbished and maintained in a good state of cleanliness (paragraph 95);
- the Hungarian authorities to continue their efforts to ensure that all prisoners at Szeged Prison benefit from a developed programme of activities, taking into account the remarks made in paragraph 100 (paragraph 100).

comments

- cells measuring some 8.5 m² should never accommodate more than two prisoners and should preferably be used for single occupancy (paragraph 76);
- the Hungarian authorities are invited to re-consider the need for accommodating sentenced male prisoners at Kalocsa Prison (paragraph 76);
- the Hungarian authorities are invited to review at Kalocsa Prison the laundry arrangements for prisoners’ own clothes and ensure that food is distributed at normal meal times (paragraph 81);
- the Hungarian authorities are invited explore the possibility of changing the work schedule at Kalocsa Prison (paragraph 86);
- the Hungarian authorities are invited to verify the quantity of food served to prisoners at Szeged Prison (paragraph 95).

Health-care services in the prisons visited

recommendations

- steps to be taken to ensure that all medical examinations of prisoners (whether on arrival or at a later stage) are conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a particular case – out of the sight of non-medical prison staff (paragraph 104);
- steps to be taken to improve the recording of medical information at Szeged Prison, in the light of the remarks made in paragraph 105 (paragraph 105);

- the record drawn up by a prison doctor following a medical examination of a newly arrived prisoner to contain: (i) a full account of statements made by the person concerned which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment), (ii) a full account of objective medical findings based on a thorough examination, and (iii) the doctor's conclusions in the light of (i) and (ii), indicating the degree of consistency between any allegations made and the objective medical findings. The same approach should be followed whenever a prisoner is medically examined following a violent episode in prison. Further, whenever injuries are recorded which are consistent with allegations of ill-treatment made, the record should be systematically brought to the attention of the relevant authority. Moreover, the results of every examination should be made available to the detained person and his lawyer (paragraph 105).

requests for information

- comments of the Hungarian authorities on the complaints heard at Kalocsa Prison about delays in access to a doctor and the standard of treatment and care provided (paragraph 103);
- comments of the Hungarian authorities on the practice of transferring all HIV-positive prisoners to a special unit at Tököl Prison (paragraph 106).

Other issues of relevance to the CPT's mandate

recommendations

- the Hungarian authorities to take steps to improve prison staffing levels. This may to some extent be achieved by redeploying the existing staff within the prisons (paragraph 108 as well as paragraph 60);
- in the course of prison staff training, additional emphasis to be placed on the acquisition of interpersonal communication skills. Building positive relations with prisoners should be recognised as a key feature of a prison officer's vocation (paragraph 110);
- the Hungarian authorities to increase the visiting entitlement for prisoners substantially (paragraph 112);
- steps to be taken at Szeged Prison to review the visiting arrangements, in the light of the remarks made in paragraph 112 (paragraph 112);
- proper visiting facilities to be set up at Kalocsa Prison (paragraph 112);
- appropriate steps to be taken to prevent delays in the despatching of inmates' correspondence (paragraph 114);
- steps to be taken to incorporate preliminary segregation in the total length of any disciplinary sanction of segregation; if necessary, the relevant legislation on this matter should be amended. In this context, it must be stressed that preliminary segregation should not last any more than is absolutely necessary; if it exceeds 24 hours, there should be a preliminary hearing to assess whether there is any justification for its continuation pending the outcome of the disciplinary procedure (paragraph 118);
- steps to be taken to address the shortcomings observed in the disciplinary cells at Szeged Prison (paragraph 119);

- the regime applicable to disciplinary isolation to be reviewed so as to ensure that prisoners are able to take daily outdoor exercise at normal hours of the day (paragraph 120);
- the cells for temporary placement of agitated and/or aggressive prisoners (“padded cells”) seen at the three prisons visited to be taken out of service without delay and more suitable facilities to be found for holding such prisoners. The latter facilities should be of a reasonable size, properly lit and ventilated and equipped with a call system. The prisoner concerned should be kept under constant and adequate observation by custodial or medical staff, as the case requires (paragraph 121);
- the current rules concerning the use of means of restraint to be reviewed so as to ensure that they are applied in a proportionate way. Further, prison staff should be trained and encouraged to use other methods for controlling prisoners, such as verbal instruction and manual control techniques (paragraph 126).

comments

- the Hungarian authorities are invited to increase the number of female staff deployed in prisoner accommodation areas at Kalocsa Prison (paragraph 109);
- if it is considered necessary for prison officers to carry truncheons, they should be hidden from view (paragraph 111);
- the Hungarian authorities are invited to review the situation as regards the granting of prisoners’ home leave at Kalocsa Prison, in the light of the remarks made in paragraph 115 (paragraph 115).

requests for information

- clarification about the rules currently applicable to prisoners’ access to a telephone (including calls to lawyers) (paragraph 113);
- comments of the Hungarian authorities on the allegations heard at Kalocsa Prison of staff applying informal disciplinary punishments to prisoners (paragraph 117);
- comments of the Hungarian authorities on the lack of confidence in the complaints system expressed by prisoners (paragraph 122);
- comments of the Hungarian authorities on the criticism received from prisoners about the manner in which inspecting prosecutors carried out their duties (paragraph 123);
- a job description of police officers carrying out investigative activities inside prisons, as well as information about the rationale of that system (paragraph 125);
- comments of the Hungarian authorities on the issue raised in paragraph 125 (paragraph 125);
- detailed information on plans to introduce electric stun batons and body belts in prisons and police establishments and, in particular, on the training provided to staff, the concrete circumstances in which the use of this equipment is envisaged, and any instructions which have been issued in this respect (paragraph 127).

Judicial and Observation Psychiatric Institute (IMEI)

recommendations

- the Hungarian authorities to take steps to reduce overcrowding in building I with a view to meeting the official norm of 4.5 m² of living space per patient. Efforts should also be made to complete the refurbishment of building III and to ensure adequate access to natural light in all rooms (paragraph 133);
- the Hungarian authorities to make efforts to provide more congenial and personalised surroundings for patients in building II. Further, a call system should be installed in all rooms (paragraph 134);
- steps to be taken to enable IMEI patients to wear their own clothes during the day, irrespective of their legal status. If necessary, the relevant legislation should be changed (paragraph 137);
- efforts to be made to involve more patients in therapeutic and recreational activities. With respect to building II, the development of therapeutic activities should be accompanied by a move away from the current policy of holding patients locked in their rooms (paragraph 139);
- the Hungarian authorities to take immediate steps to ensure that all patients in building II have access to one hour of outdoor exercise per day (unless medically inappropriate). Further, the exercise area of building II should be enlarged (paragraph 140);
- the Hungarian authorities to take measures to reinforce the nursing staff resources at the IMEI (paragraph 142);
- every placement of a patient in the seclusion room to be recorded in a special form/register established for that purpose (in addition to the patient's file), which is used for monitoring recourse to seclusion (paragraph 145);
- the opinion issued by the IMEI in the context of the judicial review of the placement of patients found to be criminally irresponsible, as well as any other independent opinion, to be systematically given to patients (in addition to their lawyers and families). Naturally, these opinions should also be explained to patients in the most accurate and intelligible terms (paragraph 146).

comments

- it would be highly desirable for the IMEI to be re-located; this would help to ensure that a medical, rather than a penal, ethos prevails (paragraph 130);
- the Hungarian authorities are invited to take appropriate action to prevent inter-patient violence or intimidation (paragraph 132);
- the Hungarian authorities are invited to transform the large-capacity dormitories into accommodation structures based on smaller groups (paragraph 133);

- the state of repair and cleanliness of the shower facilities left something to be desired (paragraph 135);
- the Hungarian authorities are invited to review the equipment of the seclusion room in order to improve its safety for patients presenting a suicide risks (paragraph 145);
- the Hungarian authorities are invited to verify that information on rights and a copy of the house rules is systematically provided to every patient on admission, as well as to their families and lawyers (paragraph 148);
- the Hungarian authorities are invited to take steps to review the current excessive oversight of patients' contact with the outside world (paragraph 150);
- the Hungarian authorities are invited to strengthen the independence of the IMEI Patients' Representative (paragraph 152);
- the Hungarian authorities are encouraged to continue the practice of regular visits by independent outside bodies to the IMEI. Such bodies should be authorised, in particular, to talk privately with patients, receive directly any complaints which they might have and make any necessary recommendations (paragraph 153).

requests for information

- whether the Hungarian authorities have considered the possibility of transferring responsibility for the running of the IMEI to the Ministry of Health (paragraph 130);
- specific training offered to security staff working at the IMEI (paragraph 142);
- whether there is a formal requirement in law for patients subject to compulsory treatment to be represented by a lawyer, as well as whether this requirement includes free legal assistance for those who are not in a position to pay for a lawyer themselves (paragraph 146);
- comments of the Hungarian authorities on the fact that patients placed at the IMEI for forensic assessment on occasion stayed at the establishment beyond the time-limit provided for by law (i.e. 60 days) (paragraph 147);
- whether there is a formal requirement to use the procedure for consent to treatment in respect of all categories of patients at the IMEI (paragraph 149);
- the decision-making process leading to the granting of "adaptation leave" (paragraph 151);
- comments of the Hungarian authorities on the fact that a number of patients for whom it had been decided that compulsory treatment was no longer necessary remained in the IMEI due to the lack of external facilities (paragraph 154).

C. Establishments under the authority of the Ministry of Youth, Family, Social Affairs and Equal Opportunities

Preliminary remarks

requests for information

- plans to reorganise the system of homes for persons with psychiatric disorders and mental disabilities and, in particular, to set up facilities enabling the de-institutionalisation of such persons (paragraph 157).

Living conditions

recommendations

- steps to be taken to provide appropriate equipment in order to facilitate the bathing of bedridden residents at the Bacs-Kiskun County Home for Persons with Psychiatric Disorders and Mental Disabilities (the Kiskunhalas Home) (paragraph 162).

Staff and care of residents

recommendations

- steps to be taken to increase the number of nurses assigned to wards 1 and 2 at the Kiskunhalas Home. Consideration should also be given to increasing the number of nurses present during the day shift on the remainder of the wards (paragraph 163).

comments

- the Hungarian authorities are invited to increase the number of staff responsible for the provision of therapeutic and leisure activities at the Kiskunhalas Home (paragraph 163);
- the Hungarian authorities are invited to provide additional sports facilities for residents at the Kiskunhalas Home, both outside and indoors (paragraph 165).

Safeguards

recommendations

- steps to be taken to introduce a right for persons placed in homes for persons with psychiatric disorders and/or mental disabilities, following an application by their guardians, to bring proceedings by which the lawfulness of their placement is speedily decided by a court. Further, persons placed in such homes should be immediately informed of that right (paragraph 171).

comments

- the CPT suggests that steps be taken to encourage independent outside bodies to visit the Kiskunhalas Home on a regular basis (paragraph 175).

APPENDIX II

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

A. National authorities

Ministry of the Interior

Mr Gábor JUHÁSZ	State Secretary
Mr László FERENCZI	Under Secretary of State
Mr Ferenc BÁLINT	Director General of the Public Order Department
Mr Endre KOMÁROMI	Head of the Public Order Department at the National Police Headquarters (NPH)
Mr György ULLMANN	Head of the Police Investigation Section, NPH
Mr Tamás CSATAI	Chief Medical Officer, NPH
Ms Györgyi MENDEGE	Head of Section, NPH
Mr József HORVÁTH	Counsellor General, NPH
Mr Péter BUZÁSI	Head of Sub-Section, Budapest Police Headquarters
Mr Attila KISS	Director of the Immigration and Nationality Office
Mr László TÓTH	Financial Director of the National Boarder Guard Headquarters
Mr László BALÁZS	Head of Department at the Office of the National Boarder Guard Headquarters

Ministry of Justice

Mr József PETRÉTEI	Minister
Mr Lipót HÖLTZL	Under Secretary of State
Ms Katonáné Katalan BORKA	Under Secretary of State
Mr István ILLÉSY	Deputy Head of the Minister's Private Office
Mr István BÖKÖNYI	Head of the Prison Service
Mr András CSÓTI	Deputy Head of the Prison Service
Ms Katalin HEYLMANN	Head of the Health-care Department of the Prison Service

Ministry of Health

Mr Jenő RÁCZ	Minister
Ms Éva KERESZTY	Under Secretary of State

Ministry of Youth, Family, Social Affairs and Equal Opportunities

Ms Kinga GÖNCZ

Minister

Ms Éva BÓDI

Counsellor General

Prosecutor General's Office

Mr Péter POLT

Prosecutor General

Mr György VÓKÓ

Director General, Liaison Officer of the CPT

Mr László LANG

Director General

Mr József PACSEK

Deputy Director General

Ms Éva HORVÁTH

Public Prosecutor, Deputy Liaison Officer of the CPT

Mr András SZÜCS

Public Prosecutor

Office of the Parliamentary Commissioner for Civil Rights

Mr Albert TAKÁCS

General Deputy Parliamentary Commissioner for Civil Rights

B. Non-Governmental Organisations

Hungarian Helsinki Committee

Hungarian Civil Liberties Union

European Roma Rights Centre

Mental Disability Advocacy Centre

Mental Health Interest Forum

C. International Organisations

UNHCR Representation in Hungary