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Report

to the Czech Government on the visit to the Czech Republic carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

from 2 to 11 October 2018

The Czech Government has requested the publication of this report.

Strasbourg, 4 July 2019

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EXECUTIVE SUMMARY

In the course of the 2018 periodic visit, the CPT's delegation reviewed the treatment of and legal safeguards offered to persons deprived of their liberty by the police and examined the treatment of inmates at České Budějovice Remand Prison and Mírov Prison. It also carried out a targeted visit to Prague-Ruzyně Remand Prison to interview newly admitted remand prisoners and a targeted follow-up visit to the juvenile unit at Všehrdy Prison to assess the treatment of juveniles by staff. In addition, the delegation visited Jihlava Psychiatric Hospital and Vejprty Social Care Establishment.

The co-operation received by the delegation throughout the visit, from both the national authorities and staff at the establishments visited, was excellent.

Police

The vast majority of persons interviewed by the delegation made no allegations of ill-treatment by the police. However, the delegation received a few allegations of excessive use of force (e.g. kicks, baton blows and unduly tight handcuffing) in the context of apprehension, as well as of verbal abuse (including of a racist/xenophobic nature) by police officers. The CPT recommends that police officers throughout the Czech Republic be reminded that any form of ill-treatment of detained persons is unprofessional and illegal and will be punished accordingly.

As regards the fundamental safeguards against ill-treatment (i.e. the right of notification of custody and the rights of access to a lawyer and doctor), the right of access to a lawyer appeared to be generally respected.

Although the right of access to a doctor did not pose major difficulties, the CPT once again stresses that the systematic presence of police officers during medical examinations of detained persons could discourage detainees from disclosing ill-treatment. The Committee calls upon the Czech authorities to ensure that all medical examinations of persons in police custody take place out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of police officers.

The delegation also heard a number of allegations that requests by detained persons to notify a third person had not been granted by police officers. The CPT reiterates its recommendation that the Czech authorities ensure that all detained persons (including foreign nationals) effectively benefit from the right of notification of custody from the very outset of their deprivation of liberty. It also recommends once again that a fully-fledged and properly funded system of free legal aid be put in place for all detained criminal suspects who are not in a position to pay for a lawyer.

Material conditions in the police custody cells seen by the delegation were on the whole satisfactory. However, recommendations are made concerning access to natural light, ventilation and state of cleanliness, as well as the provision of hygiene items and access to open air in certain police establishments.

The CPT notes that the relevant legislation continues to allow detained persons to be handcuffed to fixed objects in certain circumstances. To this end, stools in virtually all police custody cells visited by its delegation were equipped with metal loops which were used in practice, albeit very rarely and for short periods of time. The CPT once again calls upon the authorities to stamp out completely the practice of persons held by the police being attached to fixed objects.

Promising developments were observed by the delegation regarding resort to strip-searches in the context of police custody. Several detained persons confirmed that they were not strip-searched by the police or that they were allowed to keep on their underwear throughout the search. However, the majority of those interviewed still stated that they were required to strip fully naked and to perform squats. The CPT recommends that a strip-search should always be based on an individual risk assessment.

Prisons

At České Budějovice Remand Prison and Mírov Prison, the vast majority of prisoners made no allegations of ill-treatment by staff. It is noteworthy that no allegations of physical ill-treatment of juveniles by staff were heard in the juvenile unit at Všehrdy Prison, which is a positive development in comparison with the findings of the previous visit. However, at Mírov, the delegation received a few isolated allegations of prisoners being slapped and punched by prison officers. Further, as regards České Budějovice, the report describes one particular case of alleged ill-treatment by staff and the action subsequently taken by the authorities. The CPT recommends that custodial staff at České Budějovice Remand Prison and Mírov Prison receive the clear message that physical ill-treatment of inmates is not acceptable and that no more force than strictly necessary and proportionate should be used to bring an agitated and/or violent prisoner under control.

Inter-prisoner violence did not seem to pose a major problem in any of the prisons visited.

In several respects, material conditions were satisfactory at České Budějovice Remand Prison and Mírov Prison. However, in both establishments, conditions were crowded in a number of cells, and the CPT recommends that the authorities ensure that all prisoners are afforded at least 4m² of living space per person in a multiple-occupancy cell and 6m² of living space in a single-occupancy cell (not counting the areas taken up by in-cell sanitary annexes).

As regards the regime, it is positive that a number of sentenced prisoners at České Budějovice and Mírov Prisons had paid work. At Mírov Prison, the delegation gained a generally positive impression of the structured programme of activities offered to sentenced prisoners accommodated in the unit for inmates with mental and behavioural issues. The CPT also welcomes the fact that, at Mírov, life-sentenced prisoners were integrated in the general prison population.

However, the regime for the rest of the sentenced prisoners and remand prisoners was rather impoverished. The regime applied to juvenile remand prisoners held at České Budějovice was only slightly more developed than that applied to adults. Reference is also made in the report to the situation of the prisoners held in the high-security unit at Mírov who spent up to 23 hours a day locked up in their cells. The CPT recommends that the Czech authorities improve the regime of activities for prisoners at České Budějovice Remand Prison and Mírov Prison, and, where appropriate, in other prisons in the country, in the light of several precepts set out in the report.

Concerning the provision of health care, the CPT expresses its misgivings about the fact that, at České Budějovice and Mírov, health-care staff devote a considerable amount of their working time looking after the health-care needs of prison staff. Such a dual responsibility significantly decreases their capacity to treat prisoners and may also lead to a conflict of interests. Further, the Committee recommends that the psychiatric and psychological care needs of prisoners be reviewed in both prisons and that the attendance of a psychiatrist and a clinical psychologist be arranged accordingly. Recommendations are also made regarding the recording of injuries and reporting of injuries indicative of ill-treatment to the relevant authorities, as well as the confidentiality of medical examinations.

In the report, remarks and recommendations are also made regarding various other issues, including staff, security-related issues, discipline and contact with the outside world. In particular, the CPT expresses serious concern about the fact that, at České Budějovice, agitated and/or violent prisoners were on occasion placed in a padded "crisis cell" naked. After the visit, the Czech authorities informed the Committee that the procedures for placement in the crisis cell had been reviewed and that in the event of a risk of self-harm or suicide, the prisoner concerned would henceforth be provided with a single-use hygienic suit and a single-use blanket/pillow.

Further, the CPT has serious misgivings about the frequent practice of applying hand- and ankle-cuffs to prisoners during medical consultations in outside health-care facilities, and it recommends that this practice be stopped immediately throughout the prison system. Moreover, given the potentially very damaging effects of solitary confinement, the CPT recommends that this type of measure be abolished in respect of juvenile prisoners and that the maximum period of solitary confinement as a punishment for adult prisoners be limited to 14 days and preferably less.

Psychiatric establishments

During its visit to Jihlava Psychiatric Hospital, the delegation received no allegations of physical ill-treatment of patients by staff.

Living conditions at the hospital were generally very good. That said, the Committee is critical of the fact that many patients were still accommodated in dormitories with up to ten beds. It therefore welcomes the management's plans to gradually reduce the number of patients per room in the very near future. Further, the Committee trusts that, in the context of the planned reform of psychiatric care, the use of dormitory-type accommodation for psychiatric patients will be abolished.

Patients were free to move about their wards and had access to communal areas. However, a number of patients did not have the possibility for daily outdoor access at all, *inter alia* at the beginning of their hospitalisation and when they were considered at risk of absconding. Some patients had not been outside for several weeks. The CPT therefore welcomes the information received from the Czech authorities after the visit, that the internal regulations of the hospital had been amended in order for the patients to have daily access to the open air (unless there were medical contraindications) and that a control mechanism had been established with the aim of ensuring that walks in the open air were indeed offered to the patients.

Health-care staffing levels at the hospital appeared to be generally sufficient, but the Committee recommends that at least one psychiatrist be present in the hospital at all times, and preferably another medical doctor as well.

Whilst acknowledging the range of treatment activities on offer for patients, the CPT expresses its concern that for many patients no individual treatment plans had been prepared. It is further critical of the frequent prescriptions of psychopharmacological treatment as PRN medication (*pro re nata* – "as needed"), including for the administration of pharmacological medication by intramuscular injection and against the patient's will, for up to several months. It also recommends that a doctor always be informed without delay whenever psychotropic medication is administered on the basis of a PRN prescription.

As regards means of restraint, the CPT reiterates its view that the use of net-beds is not acceptable and urges the Czech authorities to implement without further delay the Committee's long-standing recommendation to withdraw from service all net-beds in psychiatric hospitals in the Czech Republic. In respect of mechanical restraint and seclusion, it recommends amongst other things that the duration of the use of mechanical restraint and seclusion be for the shortest possible time (usually minutes rather than hours) and that every patient who is subjected to mechanical restraint or seclusion benefit from continuous supervision by a qualified member of the health-care staff.

PRN prescriptions were apparently also used for the application of chemical restraint. The CPT considers that the administration by nursing staff of rapid tranquillisers under a "conditional" PRN prescription is only justified in exceptional situations and formulates a number of specific safeguards that should apply in such cases.

Civil involuntary placement in a psychiatric establishment is surrounded by a number of safeguards provided for by the Czech legislation. That said, the delegation met several "voluntary" patients who had signed a consent form to their hospitalisation upon admission but who apparently were later prevented by staff from leaving the hospital. Further, patients without full legal capacity who were opposed to their admission to the hospital were in practice nevertheless considered "voluntary" if their guardians had agreed to the hospitalisation. When such patients expressed a wish to leave the hospital they were not allowed to do so. Thus, they were *de facto* deprived of their liberty without benefiting from appropriate legal safeguards. The CPT recommends that in both situations described above, the civil involuntary placement procedure be applied if continued hospitalisation is considered necessary.

As for consent to treatment, the Committee is concerned that, despite its previous recommendation, patients under the court-imposed measure of protective treatment were still not allowed to refuse treatment connected with this measure. In the CPT's view, any derogation from the principle of free and informed consent to treatment should be based upon law and only relate to clearly and strictly defined exceptional circumstances and should be accompanied by appropriate safeguards.

Finally, the Committee recommends that an information brochure setting out the hospital's routine and patients' rights be drawn up and given to patients and their families at Jihlava Psychiatric Hospital and, as appropriate, in other psychiatric establishments in the Czech Republic.

Social care institutions

The delegation visited, for the first time, Vejprty Social Care Home where it focused on the establishment's two closed units, the "special regime homes" *Krakonoš* and *Dukla*. None of the residents interviewed made any allegation of ill-treatment by staff. Some instances of violence between residents occurred but staff appeared to react appropriately and in a timely manner.

Material conditions at the two closed units were very good.

However, there was a permanent lack of health-care staff. The Committee recommends that steps be taken by the Ministry of Labour and Social Affairs, in co-operation with the Ministry of Health, to reinforce the presence of health-care staff at the establishment. In particular, a psychiatrist should be present in each of the "special regime homes" for several days per month, and at least one nurse should be present in each home at any time, including at night.

Concerning treatment, it is a matter of serious concern for the Committee that some of the residents received large doses of highly sedating medication entailing a high risk of severe side-effects and that resort was also made to poly-pharmacy. The CPT therefore recommends that the pharmacotherapy at both "special regime homes" be the subject of a thorough review, aimed at bringing medication in line with modern medical standards and preventing potential overmedication and poly-pharmacy.

The CPT further expresses serious misgivings that psychiatric treatment was primarily based on pharmacotherapy and that there was a clear lack of therapeutic activities at both homes. The Committee recommends developing programmes of psychosocial rehabilitative activities, based on comprehensive individual treatment/care plans, aimed at preparing residents for a more autonomous life or return to their families. To this end, the regular presence in both "special regime homes" of at least one psychologist and several occupational therapists should be ensured.

The delegation was assured by the director and staff that no means of restraint were applied at the establishment and found no evidence to the contrary.

As regards the procedure for involuntary placement in social care establishments, the CPT acknowledges that, following recent amendments, the Social Services Act now defines the exceptional conditions under which a person may be placed in a social care establishment against his/her will and stipulates that the serious opposition of a person to his/her placement in a social care establishment – irrespective of any consent given by a guardian or municipal authority – must be reported to a court within 24 hours in order to assess the admissibility of the placement. However, the CPT regrets that, once the court has approved the involuntary placement of a person in a social care establishment, no regular automatic reviews of the lawfulness of such placement are provided for by law. It recommends that the relevant legislation be amended accordingly.

Surgical castration of sex offenders

The CPT notes the significant decrease in the resort to surgical castration in the context of treatment of sex offenders. However, this in itself cannot remove its fundamental objections to the intervention which could easily be considered as amounting to degrading treatment. Consequently, the Committee once again urges the Czech authorities to put a definitive end to the use of surgical castration as a means of treatment of sex offenders and to amend the relevant legal provisions accordingly.

I. INTRODUCTION

A. The visit, the report and follow-up

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to the Czech Republic from 2 to 11 October 2018. The visit formed part of the CPT's programme of periodic visits for 2018 and was the Committee's sixth periodic visit to the Czech Republic.[1]

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

- Hans Wolff (Head of the delegation)
- Dagmar Breznoščáková
- Vincent Delbos
- Arta Mandro
- Esther Marogg
- Ilvija Pūce.

They were supported by Petr Hnátík and Almut Schröder of the Committee's Secretariat and assisted by:

- Pétur Hauksson, former Head of the Psychiatric Department at Reykjalundur Rehabilitation Centre, Iceland (expert)
- Dalila Graffová (interpreter)
- Zdeněk Hofman (interpreter)
- Regina Hofmanová (interpreter)
- Tomáš Opočenský (interpreter)
- Helena Rejholcová (interpreter).

3. The list of police, prison and social welfare establishments visited by the CPT's delegation can be found in Appendix I.

4. The report on the visit was adopted by the CPT at its 98th meeting, held from 4 to 8 March 2019, and transmitted to the Czech authorities on 9 April 2019. The various recommendations, comments and requests for information made by the CPT are set out in bold type in the present report. The CPT requests the Czech authorities to provide within six months a response containing a full account of action taken by them to implement the Committee's recommendations and replies to the comments and requests for information formulated in this report. As regards the request for information in paragraph 65, the Committee wishes to receive a response within one month.

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[1] The CPT has previously carried out five periodic visits (in 1997, 2002, 2006, 2010 and 2014) and two ad hoc visits (in 2008 and 2009) to the Czech Republic. All visit reports and related Government responses have been made public and are available on the CPT's website: https://www.coe.int/en/web/cpt/czech-republic.

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

5. In the course of the visit, the delegation held consultations with Vladimír Zimmel, Deputy Minister of Justice, Helena Rögnerová, Deputy Minister of Health, Alena Šteflová, Deputy Minister of Health, Jiří Vaňásek, Acting Deputy Minister of Labour and Social Affairs, Martin Vondrášek, First Deputy Police President, and other senior officials from the aforementioned ministries and services.

The delegation also met Anna Šabatová, Public Defender of Rights (Ombudsperson) and Ondřej Vala, Head of the National Preventive Mechanism Department of the Public Defender's Office. In addition, meetings were held with representatives of the Office of the United Nations High Commissioner for Refugees (UNHCR) in the Czech Republic and non-governmental organisations active in areas of concern to the CPT.

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

6. The co-operation received by the delegation throughout the visit, from both the national authorities and staff at the establishments visited, was excellent. The delegation enjoyed rapid access to all the establishments it wished to visit (including those which had not been notified in advance), was able to interview in private persons deprived of their liberty and was provided with the information it needed to accomplish its task.

C. National Preventive Mechanism

7. The Czech Republic ratified the Optional Protocol to the United Nations Convention against Torture (OPCAT) in July 2006 and designated the Public Defender of Rights (Ombudsperson) as the National Preventive Mechanism (NPM). The Ombudsman Act,[2] as amended in this connection, authorises the Ombudsman to carry out visits to places where persons are or may be deprived of their liberty by a public authority or as a result of their dependence on the care being provided. A separate department, responsible for the NPM function, has been established within the Ombudsman's Office.[3]

The NPM may carry out visits at its own initiative, without prior notification, and has the right to interview in private persons deprived of their liberty.

8. As regards working methods, the CPT's delegation was informed that the NPM usually carries out, in addition to ad hoc visits to various establishments as necessary, a series of 10 to 15 visits to a particular type of establishment and then issues a summary report. Most recently, the NPM focused on the situation of residents in social care homes. **In due course, the CPT would appreciate receiving the NPM's summary report on visits to social care establishments.**

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2 Law no. 349/1999.

3 At the time of the 2018 visit, the department had 13 full-time posts.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Police

1. Preliminary remarks

9. The basic legal framework governing the deprivation of liberty by the police remained unchanged since the last visit.

It should be recalled that persons who are detained by the police on suspicion of having committed a criminal offence must be brought before a judge within 48 hours and then remanded in custody by the judge within 24 hours or released. In total, the persons concerned may be held for up to 72 hours in police detention facilities. Persons who are arrested under an arrest warrant must be brought before a court within 24 hours, and the judge must take a decision on remand detention (or release) within 24 hours.

Persons deprived of their liberty by the police for other reasons (e.g. if they fail to appear at a police station after having been summoned to provide an "explanation"; to establish their identity; if they are posing a threat to their own life or the life or health of others or to property; if they are caught in the act of committing a minor offence) may be held for up to 24 hours.[4]

The findings of the visit indicate that these statutory time-limits for the deprivation of liberty by the police are respected in practice.

2. Ill-treatment

10. The vast majority of persons interviewed by the CPT's delegation who were – or recently had been – in police custody made no allegations of ill-treatment by the police. On the contrary, several of them made positive comments about the manner in which they had been treated by police officers.

However, the delegation did receive a few allegations of excessive use of force, such as slaps, kicks and baton blows, during the actual apprehension (even if the person concerned did not resist or after he/she had been brought under control). Further, some persons met by the delegation complained about unduly tight and painful handcuffing after their apprehension. The delegation also heard a few allegations of verbal abuse, including of a racist/xenophobic nature, of detained persons by police officers at the time of the apprehension or during police questioning.

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4 See Sections 26, 61 and 64 of the Police Act (Law no. 273/2008).

The CPT reiterates its recommendation that police officers throughout the Czech Republic be reminded that any form of ill-treatment (including threats, verbal abuse and racist/xenophobic remarks) of detained persons is unprofessional and illegal and will be punished accordingly. Further, **it should be made clear to police officers, in particular through ongoing training, that no more force than is strictly necessary should be used when effecting an apprehension and that there can be no justification for striking apprehended persons once they have been brought under control. Where it is deemed essential to handcuff a person at the time of apprehension or at a later stage, the handcuffs should under no circumstances be excessively tight[5] and should be applied only for as long as is strictly necessary.**

3. Safeguards against ill-treatment

a. introduction

11. By virtue of Section 24 of the Police Act, the fundamental safeguards against ill-treatment of persons deprived of their liberty advocated by the CPT, namely the right of detained persons to have the fact of their detention notified to a close relative or third party of their choice and the rights of access to a lawyer and a doctor (including of one's own choice), apply, in principle, from the very outset of their deprivation of liberty by the police.

b. notification of custody

12. Several persons interviewed by the delegation confirmed that they had been given the possibility to inform a third person of the fact of their detention shortly after their apprehension by the police.

However, the delegation heard a number of allegations that requests by detained persons that a third person be contacted and informed of their situation had not been granted by police officers. Allegedly, in some cases, the detained persons had either been advised to repeat the request to the criminal police investigator during the initial questioning, or police officers had simply denied it without providing any explanation. In a few cases, police detainees had been told to wait until the morning (if apprehended late in the evening or at night) or told that they may only contact a lawyer who would then inform the family. Several foreign nationals met by the delegation stated that their request had not been granted by police officers if the person to be contacted lived abroad.

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[5] It should be noted that excessively tight handcuffing can have serious health-related consequences (for example, sometimes causing a severe and permanent impairment of the hand(s)).

13. The CPT notes that Section 24 (3) of the Police Act provides for a possibility for police officers to delay the notification to a third person if the notification constitutes a threat to an important action to be carried out in the context of the investigation or if it is associated with disproportionate difficulties. If this exception is applied in a given case, the competent prosecutor must be informed in writing and the third person must be notified once the reasons for the application of the exception ceases to exist. Moreover, according to the response of the Czech government to the report on the CPT's 2010 visit to the country,[6] if the exception is applied, a reasoned written record should be kept in the person's file.

However, all persons who were interviewed by the delegation during the 2018 visit and who claimed that their request to notify a third person had not been granted by the police, stated that they had neither been informed whether the above-mentioned exception was being applied to them, nor when the notification would be allowed. Moreover, when examining individual files of detained persons and detention records, the CPT's delegation did not come across any such record or a copy of the notification of the exception to a public prosecutor.

14. In the light of these findings, **the CPT reiterates its recommendation that the Czech authorities take the necessary steps to ensure that all detained persons (including foreign nationals) effectively benefit from the right of notification of custody from the very outset of their deprivation of liberty. Any exception to this right should be clearly defined by law, duly recorded and applied for as short a time as possible. Further, the application of any exception in a given case should be notified to the detained person concerned.**

c. access to a lawyer

15. As was the case during previous visits, the right of access to a lawyer for persons deprived of their liberty by the police, guaranteed by the relevant legislation, appeared to be generally respected in practice. Virtually all persons interviewed during the visit confirmed that their request to meet a lawyer (including the right to consult with him/her in private) was granted shortly after apprehension.

That said, a few allegations were received that access to a lawyer was delayed until the moment of the initial questioning by a criminal police investigator which took place several hours after the actual apprehension or that, despite the requests made by the detained person, a lawyer was not present at all during the police questioning or even during the ensuing court hearing at which the person was remanded in custody.

The CPT reiterates that the right of access to a lawyer must be enjoyed by anyone who is under a legal obligation to attend – and stay at – a police establishment, irrespective of his/her precise legal status, as from the outset of the deprivation of liberty.[7] **The CPT recommends once again that this precept be fully implemented in practice in all police establishments.**

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6 See CPT/Inf (2014) 4, pages 11-12.

7 See also the European Union Directive 2013/48/EU on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty.

16. At the time of the CPT's 2014 visit, detained persons could not benefit from free legal aid from the beginning of their deprivation of liberty by the police but only once they had been formally declared "accused" (which could take place several hours after the moment of the deprivation of liberty by the police and prior to which the person concerned could be subjected to police questioning). The CPT recommended that the right to free legal aid for persons who are not in a position to pay for a lawyer should be applicable as from the very outset of their deprivation of liberty by the police.

In their response, the Czech authorities indicated that the recommendation would be implemented as part of the bill on state-guaranteed free legal aid. However, according to the information available to the CPT, no such bill has so far been passed.

As repeatedly underlined in the past, the exercise of the right of access to a lawyer can only be considered to be an effective *safeguard against ill-treatment* if persons in police custody who are not in a position to pay for a lawyer benefit from a fully-fledged system of legal aid. If this is not the case, the right of access to a lawyer will remain, in many cases, purely theoretical. In the CPT's experience, it is during the period immediately following the apprehension that the risk of intimidation and ill-treatment is at its greatest. Consequently, the possibility for persons taken into police custody to have access to a lawyer during that period is a fundamental safeguard against ill-treatment.

The CPT recommends once again that the Czech authorities put in place a fully-fledged and properly funded system of free legal aid for all detained criminal suspects who are not in a position to pay for a lawyer. The system should be applicable as from the very outset of their deprivation of liberty, irrespective of whether the person concerned has formally been declared "accused".

17. As regards the situation of juveniles *aged 15 to 18*, the information gathered during the visit indicates that a lawyer was appointed for them promptly after their apprehension by the police and was present, usually together with a parent, during any police questioning.

However, the delegation could not obtain a clear picture as to whether the obligatory presence of a lawyer also applies to juveniles *below the age of 15*. While they are not criminally liable, the CPT notes that the proceedings may have important legal implications for them and that they may be subjected to measures under the Juvenile Justice Act, including the imposition of "protective education" and "protective treatment" in a closed institution.

In the CPT's opinion, juveniles (i.e. persons under the age of 18) should never be subjected to police questioning or requested to make any statement or to sign any document concerning the offence(s) they are suspected of having committed without the presence of a lawyer and, in principle, a trusted adult person. **The CPT would like to receive clarification on this issue from the Czech authorities.**

d. access to a doctor

18. The situation as regards access to a doctor remained similar to that observed during the previous visit. If a person in police custody needed medical assistance, displayed visible injuries or requested to see a doctor, police officers ensured that he/she was examined by a medical doctor who decided whether the person was fit to be placed in a police cell or whether there was a need for hospitalisation. Further, in line with Section 31 of the Police Act, persons who were visibly under the influence of an addictive substance were examined by a medical doctor before placement in a police cell.

19. However, the delegation met one person in police custody who had been in distress and suffered from chest pain and who was requesting medical assistance. His request had apparently been repeatedly postponed by police officers because, on the previous day, he had been examined by a doctor who had certified him fit to be placed in a cell. Later, the emergency service was called only following the intervention of the delegation and upon examination by the emergency services doctor, the person concerned was found to have an abnormal electrocardiograph with signs of an acute myocardial infarction and was immediately taken to a hospital.

The CPT considers that the issuing of a medical certificate at the initial stage of police custody should not preclude access to a doctor at a later stage. A request by a detained person to see a doctor should always be granted; it is not for police officers to filter such requests. **The CPT recommends that these precepts be effectively implemented in all police establishments in the Czech Republic.**

20. Another person had been receiving opioid agonist therapy (buprenorphine) before his apprehension by the police and, when interviewed by the delegation's medical doctor in a police custody cell, was suffering from withdrawal symptoms.[8] The record of medical examination carried out before his placement in a police cell noted the use of buprenorphine, however, no substitution therapy was prescribed for him for the time of police custody. Instead, the medical doctor prescribed clonazepam and tramadol and recommended his transfer to a psychiatric hospital "if withdrawal symptoms become more severe (vomiting, cramps, diarrhoea, restlessness)".

The CPT considers that the practice of stopping abruptly opioid agonist therapy is neither humane nor good medical practice. **The CPT recommends that the Czech authorities take the necessary steps to ensure that persons placed in police custody are able to continue opioid agonist therapy that has already been started unless there are clear clinical contraindications.**

21. In a few cases examined by the delegation, the "admission report" ("*příjmový list*") drawn up by a police officer and included in the administrative file of a detained person stated that the person displayed bruises on his body. However, the medical record drawn up before the placement of that person in a police custody cell did not make reference to any injuries.

As emphasised already in the past, health-care services can make a significant contribution to the prevention of ill-treatment of persons deprived of their liberty, through the systematic recording of injuries and, when appropriate, the provision of information to the relevant authorities.

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[8] Psycho-motor restlessness, abdominal pain, irritability and piloerection.

The record drawn up by a doctor after a thorough medical examination of a person in police custody should contain:

(i) an account of statements made by the person concerned which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment),

(ii) a full account of objective medical findings based on a thorough examination, and

(iii) the doctor's observations in the light of (i) and (ii), indicating the consistency between any allegations made and the objective medical findings.

Moreover, the results of every examination, including the above-mentioned statements and the doctor's opinions/observations, should be made available to the detained person and, upon request, to his/her lawyer.

Recording of the medical examination in cases of traumatic injuries should be made on a special form provided for this purpose, with body charts for marking traumatic injuries that will be kept in the medical file of the prisoner. Further, it would be desirable for photographs to be taken of the injuries, and the photographs should also be placed in the medical file.

The CPT reiterates its recommendation that the Czech authorities take the necessary steps to ensure that the current practice is brought in line with the above-mentioned requirements.

22. As regards reporting of injuries, in their response to the previous report, the government indicated that the relevant legislation concerning medical confidentiality[9] would be amended to enable medical doctors to report injuries indicative of ill-treatment regardless of the wishes of the person concerned.[10] However, it became clear during the 2018 visit that no such amendments have yet been adopted.

The CPT wishes to reiterate that whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by the detained person (or which, even in the absence of the allegations, are indicative of ill-treatment), the record should be immediately and systematically brought to the attention of the relevant authorities, regardless of the wishes of the person concerned. The health-care staff should advise the detained person of the existence of the reporting obligation and that the forwarding of the report to the relevant authorities is not a substitute for the lodging of a formal complaint.

The CPT recommends once again that the Czech authorities take the necessary steps, including at legislative level, to ensure that these precepts are effectively implemented in practice.

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9 Section 52 of the Health Care Act (Law no. 372/2011).

10 See CPT/Inf (2015) 29, page 3.

23. The relevant legislation[11] continues to require that a police officer (of the same sex) remains in visual contact with the detained person whenever the latter is examined by a doctor. The findings of the visit indicate that, as was the case in the past, police officers remain systematically present during medical examinations of detained persons.

The CPT must stress once again that the presence of police officers during medical examinations of detained persons could discourage a detained person who has been the subject of ill-treatment from speaking out. **The CPT calls upon the Czech authorities to take the necessary steps to ensure that all medical examinations of persons in police custody take place out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of police officers. The relevant legal provisions should be amended accordingly.**

e. information on rights

24. Several persons interviewed by the delegation during the visit confirmed that they were informed of their rights orally upon apprehension and/or in writing upon arrival at a police station.

However, a number of persons stated that they were not informed of their rights at all until the moment of placement in a police custody cell or the initial questioning by the police (which was several hours after their deprivation of liberty and sometimes took place only at a second police station to which the person concerned was taken).

Further, as confirmed by police officers, while detained persons were always asked to attest by signing the information sheet that they had been informed of their rights in writing, in some police stations, they were not allowed to keep a copy of the information sheet once they were placed in a police cell.

The CPT wishes to reiterate that all persons detained by the police, for whatever reason, should be fully informed of their fundamental rights as from the very outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with the police). This should be ensured by provision of clear verbal information at the very outset, to be supplemented at the earliest opportunity (that is, immediately upon their arrival at police premises) by provision of a written form setting out their rights in a straightforward manner. Detained persons should be allowed to keep a copy of the information sheet.

The CPT recommends once again that the Czech authorities take steps to ensure that these precepts are effectively implemented in practice in all police establishments.

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[11] Section 12 (2) of the Binding Guidelines on Escorts, Surveillance of Persons and on Police Cells (no. 159/2009).

25. In the police stations visited, an information sheet on the rights of detained persons was available in several languages. However, a few foreign nationals interviewed by the delegation who had recently been in police custody claimed that they were not provided with written information on their rights in a language they understood (namely Russian and Hungarian) but that the contents of the sheet were merely orally translated to them.

The CPT recommends that the Czech authorities ensure that an information sheet on the rights of persons deprived of their liberty by the police is available in an appropriate range of languages in all police establishments and is given to detained persons in a language they can understand.

4. Conditions of detention

26. As was the case in the past, material conditions in the police custody cells seen by the delegation were on the whole satisfactory in terms of their size, state of repair and cleanliness, as well as access to artificial lighting and ventilation. Further, the cells were adequately equipped with beds/plinths, mattresses, blankets, tables and stools, usually toilets and sinks, as well as call bells. Most of the cells had some access to natural light.

However, the five cells (all double-occupancy) at Chomutov Police Department (patrol unit) were dirty and poorly ventilated. **This deficiency should be remedied.**

27. The CPT's delegation was informed that in the context of the planned reconstruction of the detention area at Prague-Kongresová Regional Police Headquarters, the currently poor access to natural light and ventilation in the cells would be improved. **The CPT welcomes these plans and would like to receive more details on the planned reconstruction.** Further, **the Committee recommends that during the reconstruction, in-cell sanitary facilities in all the double-occupancy cells be partitioned from the rest of the cell (preferably to the ceiling).**

28. All police establishments visited had a stock of personal hygiene items which could be provided to detained persons. However, in some of them, hygiene items were only provided to detained persons on request. Moreover, the delegation heard several complaints from detained persons that they were not allowed to keep hygiene items in their cells and had to request them whenever they needed to use them (including toilet paper and soap). Further, in some establishments visited, there was no possibility for detained persons to take a shower.

The CPT recommends that persons held in police custody for more than 24 hours (or overnight) be systematically provided with personal hygiene items. Further, **detained persons should be offered adequate washing facilities.**

29. It continues to be the case that persons are offered no access to the open air throughout the duration of the police custody. **The CPT recommends that all persons held in police custody for 24 hours or more be as far as possible offered one hour of outdoor exercise every day, preferably in facilities of adequate size and possessing the necessary equipment (such as a shelter against inclement weather and a means of rest). This requirement should be taken into account in particular when the (re-)construction of a police establishment is being planned. More particularly, the CPT trusts that this requirement will be borne in mind in the context of the above-mentioned reconstruction of the detention area at Prague-Kongresová Regional Police Headquarters, the largest police detention facility in the country.**

30. In the course of the visit, the delegation received no allegations that persons deprived of their liberty by the police were handcuffed to a bench/wall fixture located in the corridor while waiting, e.g. for questioning (as it was the case during previous visits). This is a welcome development.

However, the relevant legislation[12] continues to allow detained persons to be handcuffed to fixed objects for up to two hours at a time if they physically attack police officers or other persons, endanger their own life, damage property or attempt to escape. To this end, stools in virtually all police custody cells visited by the delegation were equipped with a metal loop and the information gathered during the visit (including from police officers at the establishments visited) indicates that this possibility was used, albeit very rarely and for short periods of time (e.g. for 20 minutes). Moreover, according to the information provided by the authorities, several police establishments are still equipped with benches, usually located in the corridor, to which detained persons may be handcuffed.

In the light of these findings, **the CPT once again calls upon the Czech authorities to stamp out completely the practice of persons held by the police being attached to fixed objects. Every police facility where persons may be deprived of their liberty should be equipped with one or more rooms designated for detention purposes and offering appropriate security arrangements. Corridors should not be used as *ad hoc* detention facilities.**

In the event of a person in custody acting in a violent manner, the use of handcuffs may be justified. However, the person concerned should not be shackled to fixed objects but instead be kept under close supervision in a secure setting and, if necessary, medical assistance should be sought.

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[12] See Section 25 of the Police Act and Section 3 (c) of Appendix no. 1, Section 3 of Appendix no. 2 and Section 3 of Appendix no. 3 to the Binding Guidelines on Escorts, Surveillance of Persons and on Police Cells.

5. Other issues

31. In the previous visit report, the CPT was critical of the practice of detained persons being routinely subjected to a strip-search before their placement in a police cell.

According to the information provided by the authorities at the beginning of the 2018 visit, a methodological guideline was issued by the Internal Supervision Department of the Police Presidium at the beginning of 2018, which, *inter alia*, underlines that a strip-search should be carried out on the basis of an individual risk assessment.

In the course of the visit, the delegation observed certain promising developments. More particularly, several persons who were – or recently had been – in police custody confirmed that they were not strip-searched by the police or that they were allowed to keep on their underwear throughout the search. A few persons indicated that they were allowed to remove clothing above the waist and get dressed before removing further clothing.

However, the majority of those interviewed still stated that they were required to strip fully naked and usually to perform one to three squats. The routine of subjecting detained persons to a full strip-search (including the obligation to squat) was confirmed to the delegation by staff in several of the police establishments visited. The findings of the visit thus indicate that whether or not a person is subjected to a strip-search (and the precise procedure followed) depends on the practice in the given police establishment, rather than on an individual risk assessment carried out in a given case.

The CPT recommends that the Czech authorities build on the aforementioned positive developments and take further steps to ensure that resort to a strip-search is always based on an individual risk assessment. Detained persons who are searched should not normally be required to remove all their clothes at the same time, e.g. a person should be allowed to remove clothing above the waist and get dressed before removing further clothing.

B. Prisons

1. Preliminary remarks

32. The CPT's delegation carried out full visits to České Budějovice Remand Prison and Mírov Prison, as well as a targeted follow-up visit to Všehrdy Prison which focused on the treatment by staff of inmates in the unit for juveniles. It also briefly visited Prague-Ruzyně Remand Prison to interview newly-admitted remand prisoners.

České Budějovice Remand Prison, visited for the first time by the CPT, is located together with the regional court in the premises of a former justice palace built in 1905 in the centre of the town. With an official capacity of 265 places (105 for remand and 160 for sentenced prisoners), the prison was accommodating 250 prisoners: 78 on remand (including 10 women) and 172 sentenced (including 12 women). One female sentenced prisoner and two male remand prisoners were juveniles. All the sentenced prisoners were placed by the court in a prison with surveillance and were internally classified as low, medium or high security prisoners (see paragraph 34 for the description of the security classification system).

Mírov Prison[13] is located in a 12th century castle adjoining the village of Mírov which lies some 50 kilometres north-west of the town of Olomouc. For an official capacity of 385 places, it was accommodating 385 adult male sentenced prisoners (including four life-sentenced prisoners[14]). The prison held either prisoners placed in a prison with increased surveillance or prisoners placed in a prison with surveillance and internally classified as medium or high security prisoners.

Prague-Ruzyně Remand Prison[15] has an official capacity of 871 places (270 for remand and 601 for sentenced prisoners).[16] At the time of the visit, it was accommodating 227 remand prisoners (including 17 adult women and three male juveniles) and 543 sentenced prisoners.

The juvenile unit of *Všehrdy Prison* has an official capacity of 61 places and was holding 21 male inmates of which six were juveniles aged 15 to 18 and 15 were young adults aged 19. In addition, the delegation also met three young adults placed in the separation unit of the prison and one newly-admitted juvenile placed in the admission unit.

33. According to the information provided by the authorities, following several years of continuous growth,[17] the overall prison population dropped by 353 prisoners between January and October 2018. At the time of the visit, the prison estate was accommodating 21,806 prisoners (1,762 on remand, 19,957 sentenced and 87 in security detention), for an official capacity of 21,065 places[18] (overall occupancy level of some 104%).

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13 The prison has been visited twice by the CPT in the past – a full visit was carried out in 1997 and a visit focused on the situation of life-sentenced prisoners in 2006.

14 At the time of the visit, there were 48 life-sentenced prisoners held in the Czech prison system. In principle, life-sentenced prisoners may be eligible for early release after having served at least 20 years of imprisonment (see Sections 54 and 88 of the Criminal Code (Law no. 40/2009)).

15 The establishment was previously visited by the CPT in 2002, 2006 and 2010.

16 Including separate units for sentenced women in Řepy and Velké Přílepy.

17 It should be recalled that following a presidential amnesty pronounced in January 2013, more than 6,000 inmates were released from prison.

18 This official capacity was counted on the basis of the requirement of 4 m² of living space per prisoner.

The authorities considered that the decrease was in particular due to the attention paid to the re-integration of prisoners into society and better interconnection between penitentiary and post-penitentiary care, including cooperation between the Prison Service and the Probation and Mediation Service, NGOs and social workers.

Furthermore, shortly before the visit, electronic tagging of persons under house arrest (both remand and sentenced) started to be implemented and it was expected that courts would be more inclined to impose this type of sentence/measure.[19]

While the CPT welcomes these developments, in some cells in the prisons visited, its delegation still observed crowded conditions. Reference is made in this context to paragraph 39.

34. In October 2017, the system of security classification of sentenced prisoners[20] whereby prisoners had been placed by the court in one of four categories of prison, was fundamentally revised.[21] There are now two categories of prison ("with surveillance" and "with increased surveillance") placement in which is decided by the court at the stage of sentencing ("external differentiation").[22] Inmates placed in a prison with surveillance are further internally classified as low, medium and high security prisoners. This "internal differentiation" is decided by the governor of the prison, on the basis of a recommendation made by a multi-disciplinary team (composed of a deputy governor, a psychologist, an educator, a social worker, the head of the department of the execution of sentences, etc.). After having served a quarter of the sentence (but at least six months) and 10 years in the case of life-sentenced prisoners, the prisoner may apply to the court to be transferred from a prison with increased surveillance to a prison with surveillance.

According to the authorities, the main purpose of the new classification system is to enable the setting up of treatment programmes for sentenced prisoners which will be more individualised to meet the specific needs presented by individual inmates. After the first year of the implementation of the new system, the number of inmates classified as low security prisoners (i.e. now the lowest security classification) has increased by 50%.

As far as the delegation could ascertain during the visit, in practice, the classification of a prisoner into one of the aforementioned categories determined the possibility for the prisoner to work at a workplace located outside the premises of a prison, the lock-up times in cells and consequently the possibility to associate with other inmates.

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19 Previously, persons under house arrest were monitored through visits by the Probation and Mediation Service.

20 Remand prisoners continue to be held either under the standard or mitigated regime (for further details, see paragraph 45).

21 See Sections 56-57 of the Criminal Code and Sections 12a and 12b of the Law on the Execution of Imprisonment (as amended by Law no. 58/2017).

22 For example, the following sentenced prisoners should be placed, as a general rule, in a prison with increased surveillance: prisoners sentenced to life imprisonment, those sentenced for organised crime and those sentenced to at least eight years of imprisonment for a very serious crime.

The CPT considers that this development is a step in the right direction. However, the Committee considers that determining security and regime requirements should be the responsibility of the penitentiary administration in the light of the behaviour of each individual prisoner, and not be made part of the catalogue of criminal sanctions to be imposed by courts. Further, progression from one regime level to another should be based on the prisoner's attitude, behaviour, participation in activities (educational, vocational, or work-related), and in general adherence to reasonable pre-established targets set out in the sentence plan. In this context, it is difficult to justify a prisoner being required to serve a minimum part of the prison sentence in a specific regime level. **The CPT would like to receive the comments of the Czech authorities on this matter.**

2. Ill-treatment

35. At *České Budějovice Remand Prison* and *Mírov Prison*, the vast majority of prisoners made no allegations of ill-treatment by staff. On the contrary, several of them made positive comments about the way in which staff interacted with them and treated them.

However, at *Mírov*, the delegation received a few isolated allegations of prisoners being slapped and punched by prison officers, including escort staff, following instances of inter-prisoner violence or in response to disobedient behaviour by prisoners. These cases were said to have taken place in areas not covered by CCTV cameras, such as staircases.

Further, at *České Budějovice*, the delegation heard one allegation that, on 30 August 2018, a particularly challenging (female) prisoner with a history of mental health problems had been slapped twice by a male prison officer and then punched to the face and kicked on the left ear by another male officer after she had refused to get up from her bed, had sworn at prison officers, pushed one of the officers and started kicking them. As a result, one of her teeth had reportedly been broken. Following the incident, she had been examined by a general practitioner and a dentist and the case had been reported by the management of the prison to the General Inspection of Security Forces and the Regional Public Prosecutor's Office. At the time of the visit, the case was still pending.

By letter of 27 February 2019, the Czech authorities informed the CPT that the General Inspection of Security Forces had concluded that no criminal offence had been committed by the staff. Further, an internal investigation carried out in the prison had come to the conclusion that an administrative offence had not been committed either.

The CPT takes note of the information provided by the Czech authorities concerning the aforementioned case and would like to receive a copy of the final decision of the General Inspection of Security Forces taken in that case and any possible subsequent decision taken by the competent prosecutor.

Notwithstanding the outcome of the investigations into the above-mentioned case, **the Committee recommends that the management of České Budějovice Remand Prison and Mírov Prison deliver to custodial staff, including escort staff, the clear message that physical ill-treatment of inmates is not acceptable and will be punished accordingly.** Further, **custodial staff should be reminded that no more force than strictly necessary and proportionate should be used to bring an agitated and/or violent prisoner under control.**

The Committee also recommends that, in the context of the induction and on-going training of custodial staff, increased attention be given to managing particularly challenging prisoners, including those with a history of mental health problems.

36. As regards the juvenile unit at *Všehrdy Prison*, during the previous visit, the CPT's delegation had received consistent and numerous allegations of physical ill-treatment of juveniles by prison officers. Following the visit, the Czech authorities had carried out an investigation into the allegations and had taken steps to prevent any reoccurrence of ill-treatment. In particular, the management of the establishment had been changed, 18 members of staff had been transferred to other duties where they were not in direct contact with juveniles and several juveniles had been transferred to other establishments.[23]

It is a positive development that, in a sharp contrast with the findings of the previous visit, the delegation received no allegations of physical ill-treatment of juveniles by staff in the juvenile unit at Všehrdy Prison during the 2018 visit.

According to the information provided by the Czech authorities at the beginning of the visit, several of the aforementioned investigations into the previous allegations of ill-treatment were still pending. **The CPT would like to be informed of the outcome of the above-mentioned investigations and of the criminal/disciplinary sanctions imposed on the prison staff concerned.**

37. Inter-prisoner violence did not seem to pose a major problem in either *České Budějovice Remand Prison* or *Mírov Prison.*

According to the registers and to the information gathered through interviews with prisoners, as well as staff, instances of inter-prisoner violence did not happen frequently[24] and staff reacted promptly and appropriately; if staff witnessed or otherwise became aware of a violent episode, the inmates concerned were physically separated, examined by a medical doctor and accommodated separately. The incident was duly registered, the prisoners concerned and witnesses were heard and if there was any suspicion of a criminal offence having been committed, the case was transferred to the competent prosecutor. Further, the same procedure was followed, even in the absence of express complaints, if prison staff came across injuries indicative of inter-prisoner violence.

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23 For further details, see CPT/Inf (2015) 18, paragraphs 48 to 52.

24 E.g., at *České Budějovice*, there were three cases in the first half of 2018, the same number of cases in 2017 and six cases in 2016. At *Mírov*, there were nine cases in the first six months of 2018 and 23 cases in 2017.

3. Conditions of detention

a. material conditions

38. In several respects, material conditions were satisfactory at *České Budějovice Remand Prison* and *Mírov Prison*. All the premises seen by the delegation were clean and efforts were being made to keep them in a good state of repair. Cells/dormitories were adequately equipped (beds/bunk-beds with mattresses and bedding, tables and chairs, lockers and shelves, as well as call bells) and generally had good access to natural light, artificial lighting and ventilation.

39. The cells varied in size but usually provided sufficient living space for the number of inmates they were holding at the time of the visit.[25]

However, despite the developments described in paragraph 33, in a number of cells in both establishments, prisoners only benefited from some 3m² of living space per person (or even slightly less) and the conditions were crowded. For example, at *České Budějovice*, cells measuring some 14m² (excluding the in-cell sanitary facility) were holding five persons and cells of 28m² were accommodating nine. At *Mírov*, cells measuring 17.5m² were accommodating six persons and large dormitories (50m²) were holding 16 inmates.

The CPT notes that, according to the national legislation,[26] as a general rule, prisoners (both remand and sentenced) should be provided with at least 4m² in multiple-occupancy cells (and 6m² in single-occupancy cells). However, the minimum living space to be provided may be decreased to 3m² if the overall number of sentenced prisoners being held in the prison estate (or the number of remand prisoners being held within the jurisdiction of the competent High Court) exceeds the capacity calculated on the basis of the requirement of 4m² per prisoner. According to the information provided in the establishments visited, this exception was being applied at the time of the visit by a decision of the Directorate General of the Prison Service.

The CPT recommends that the Czech authorities pursue their efforts to decrease the occupancy level of the prison estate with a view to ensuring that all prisoners are afforded at least 4m² of living space per person in a multiple-occupancy cell and 6m² of living space in a single-occupancy cell (not counting the areas taken up by in-cell sanitary annexes).[27]

40. In most cells at *Mírov*, the in-cell sanitary facilities (a toilet and a sink) were fully partitioned from the rest of the cell.

However, in-cell sanitary facilities in the majority of the cells (double- and multiple-occupancy) at *České Budějovice* and in the three double-occupancy cells of the admission unit at *Mírov*[28] were only partially partitioned.

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25 For example, at *České Budějovice*, cells measuring 13.5m² were holding three prisoners and those measuring 26m² were holding six. At *Mírov*, cells measuring 7.5m² were used for single-occupancy, cells measuring between 8 to 10m² were holding two inmates and a large dormitory (59m²) was accommodating 14 persons.

26 See Section 15 of the Decree of the Ministry of Justice no. 109/1994, on the Execution of Remand Detention, and Section 17 (6) of the Decree of the Ministry of Justice no. 345/1999, on the Execution of Imprisonment.

27 See also "Living space per prisoner in prison establishments: CPT standards" (doc. CPT/Inf (2015) 44).

28 At the time of the visit, only one of the cells was used for a newly-admitted prisoner while the other two cells were used as ordinary accommodation cells (see also paragraph 46).

The CPT recommends that sanitary facilities in all double- and multi-occupancy cells at *České Budějovice Remand Prison* and *Mírov Prison* be equipped with a full partition (i.e. from floor to ceiling).

41. At *Mírov Prison*, a significant number of prisoners were accommodated in large-capacity dormitories (some of them crowded) which could accommodate up to 23 inmates and measured up to some 72m².[29]

The CPT wishes to point out that for many years it has voiced its objection in principle to prisoners being held in large-capacity dormitories which will inevitably imply a lack of privacy for prisoners in their everyday lives. Moreover, the risk of intimidation and violence is high and these conditions can render proper staff control extremely difficult, if not impossible; more specifically, in the case of prison disturbances, outside interventions involving the use of considerable force are difficult to avoid. With such accommodation, the appropriate allocation of individual prisoners, based on a case by case risk and needs assessment, also becomes an almost impossible exercise.

The CPT encourages the Czech authorities to phase out the accommodation of prisoners in large-capacity dormitories; these dormitories should be replaced by smaller living units. Reference is made in this context to Rule 18.5 of the European Prison Rules which states that "Prisoners shall normally be accommodated during the night in individual cells except where it is preferable for them to share sleeping accommodation."

42. All prisoners in both establishments visited were offered at least one hour of outdoor exercise every day. The two outdoor exercise yards at *Mírov* (a smaller one for inmates held in the high-security unit and a large one for the rest) and the large yard for sentenced prisoners at *České Budějovice* were equipped with benches and some sports equipment. However, the large yards did not have a shelter against inclement weather. Moreover, the delegation heard allegations that while the smaller yard at *Mírov* was equipped with basketball hoops, the prisoners were not provided with a ball. **These deficiencies should be remedied.**

43. Moreover, eight outdoor exercise yards for remand prisoners at *České Budějovice* of various sizes, located on the rooftop, were enclosed and separated from each other by high concrete walls and were covered with a wire mesh. They offered no horizontal view and lacked any sports equipment.[30] In particular the smaller ones (measuring approximately 13m²) were too small for genuine physical exertion.

The CPT recommends that the Czech authorities take the necessary steps to ensure that the outdoor exercise yards for remand prisoners at *České Budějovice Remand Prison* are equipped with some basic sports equipment. Further, **the Committee recommends that the authorities consider enlarging the yards (e.g., by merging two adjacent yards) and ensuring that there is a horizontal view from them (e.g., by installing windows in the concrete walls).**

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29 At *České Budějovice*, the capacity of the cells ranged between single-occupancy and nine places.

30 They were, however, equipped with a bench and a shelter.

b. regime

44. It is positive that at České Budějovice Remand Prison and Mírov Prison, the majority[31] of male sentenced prisoners had remunerated work, either in the internal operation of the prison (kitchen, laundry, cleaning, general maintenance) or for outside companies (production of furniture, food, automotive and electro-technical industry, waste disposal). At *Mírov*, a few prisoners attended vocational training courses (forklift driving, welding, computer training) and it was possible to obtain a diploma.

Further, at *Mírov*, the CPT's delegation gained a positive impression of the regime provided to sentenced prisoners accommodated in the unit for inmates with mental and behavioural issues (capacity of 22 places). These inmates were offered a structured programme of activities (four to five hours a day), including individual counselling and group therapies with psychologists and special educators, training on obtaining life-skills, access to a wood workshop and sports. Throughout the day, they benefited from an open-door policy and could associate freely with other inmates within their unit.

45. However, despite the efforts made by staff in both establishments to organise purposeful activities for the rest of the inmates, the regime offered to remand prisoners[32] and male sentenced prisoners who did not work (including prisoners temporarily placed at *České Budějovice*) was impoverished.

These inmates in principle only benefited (in addition to one hour of outdoor exercise) from one to two hours of organised activities a week (sports activities, darts, board games, language courses, aggression control, conflict resolution, beekeeping, etc.). Remand prisoners held under the "standard regime"[33] and prisoners temporarily placed at České Budějovice spent the rest of the time locked up in their cells (albeit in most cases with (an)other inmate(s)). The regime was slightly less restrictive for remand prisoners held under the "mitigated regime" and sentenced prisoners placed by the court in a prison with increased surveillance who were allowed free movement within their unit for two to three hours a day and could subscribe to some additional organised activities. In conclusion, these prisoners still spent 20 hours a day or more locked up in their cells, watching TV, playing cards, listening to a radio or reading being their only distraction.

The situation of sentenced prisoners placed in a prison with surveillance was better in that they benefited from an open-door regime within their unit throughout the day and could associate with other inmates.

46. Particular reference should be made to the situation of a sentenced prisoner placed for his own protection in the admission unit of *Mírov* as he had previously been repeatedly physically attacked by other inmates. For two months prior to the visit, he had been held in a single-occupancy cell and his only activity had been one hour of outdoor exercise a day, which he had taken alone. He had been provided with virtually no human contact and had thus been held in conditions akin to solitary confinement. This is unacceptable.

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31 Some 60% at *Mírov* and nearly all those capable of work (i.e. some 100 of 172 sentenced prisoners) at *České Budějovice* (approximately 50 sentenced prisoners did not work as they had been temporarily placed in the establishment during their transit, for example to attend a court hearing, and usually stayed for up to two weeks), and 12 women as they were "permanently incapable of work" (see paragraph 47).

32 None of the remand prisoners worked.

33 63 of the total number of 78 remand prisoners held at České Budějovice.

47. *České Budějovice* Prison had a separate unit for female sentenced prisoners who were placed in the establishment as they were "permanently incapable of work" due to their advanced age or health problems. These prisoners could move freely within their unit for three to five hours a day and had access to a communal room (equipped with a TV) where they could associate among themselves. However, they were only offered a limited number of organised activities (such as arts, handicrafts, access to a weaving mill and to two indoor bicycles) and their regime remained rather impoverished. Moreover, given their incapability to work, they had practically no perspective of any improvement in their regime in the establishment which was primarily intended for remand prisoners and for selected sentenced prisoners with a suitable profile which corresponded to work opportunities available in the establishment.

48. In previous visit reports, the CPT was critical of the impoverished regime to which juvenile remand prisoners were subjected in various establishments.[34] The findings of the 2018 visit suggest that the overall situation has not improved.

The regime applied to the two juvenile remand prisoners at *České Budějovice*,[35] both of whom were held under the standard regime, was only slightly more developed than that applied to adults.[36] These inmates could apply for one activity together with adult remand prisoners for one hour a day. One of the two juveniles had a TV in his cell (which he shared with an adult remand prisoner), the other one, accommodated in a single-occupancy cell, could watch TV with a group of adult remand prisoners for up to three hours either daily or every second day depending on available places. One of the juveniles was receiving study material from a special educator.[37] In conclusion, they usually spent more than 20 hours a day locked up in their cells.

49. It is a positive development that the four life-sentenced prisoners held at Mírov were integrated in the general prison population. Three of the lifers were accommodated in different multiple-occupancy cells together with other inmates; one lifer was accommodated in a single-occupancy cell at the time of the visit.

The regime applied to them was the same as that applied to other sentenced prisoners placed in a prison with increased surveillance and was thus satisfactory for the two of them who worked[38] but remained impoverished for the other two.

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34 See, most recently, the reports on the 2014 visit (CPT/Inf (2015) 18, paragraphs 59 to 60).

35 It should be noted that these findings also concern the situation of the only female juvenile sentenced prisoner who had been held on remand until shortly before the visit and was soon to be transferred to a juvenile prison for sentenced prisoners.

36 Both juvenile remand prisoners had been held in the establishment for some two months prior to the visit.

37 The other juvenile has finished his school education before his admission to the prison.

38 One had a paid job and the other was engaged in a "therapeutic activity" (sewing toys) for some six hours every working day.

50. At the time of the visit, the high-security unit at *Mírov Prison* (Unit 5d)[39] was accommodating four inmates considered to be particularly dangerous due to their behaviour in prison.[40]

As regards their regime,[41] none of those prisoners worked and they were only offered one hour of outdoor exercise a day (which they usually took with one or two other inmates from the same unit), one to two hours of an organised activity a week (such as watching documentaries) and occasional access to communal room to play cards and board games. For the rest of the time (i.e. up to 23 hours a day), they were locked up alone in their cells, the only distraction being reading, watching TV / listening to the radio (if they had one) and cooking.[42]

51. The CPT wishes to underline that a satisfactory programme of activities is of crucial importance for the well-being of prisoners, contributes to the establishment of a more secure environment within prisons and is an essential part of rehabilitation and resocialisation of sentenced prisoners. In the CPT's view, the aim should be to ensure that all prisoners (including those on remand) are able to spend a reasonable part of the day (i.e. eight hours or more) outside their cells engaged in purposeful activities of a varied nature: work, preferably with vocational value; education; sport; recreation/association, tailored to the needs of each category of prisoner (adult remand or sentenced prisoners, inmates serving life sentences, sentenced prisoners held in special conditions of high security or control, female prisoners, juveniles, etc.).

The Committee recognises that the provision of organised activities in remand prisons, where there is likely to be a high turnover of inmates, poses particular challenges. However, it is not acceptable to leave prisoners to their own devices for months at a time. The longer the period for which remand prisoners are detained, the more developed should be the regime offered to them.

As regards prisoners placed in a high-security unit, they should, within the confines of their detention unit, 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. Special efforts should be made to develop a good internal atmosphere within high-security units. The aim should be to build positive relations between staff and prisoners. This is in the interests not only of the humane treatment of the unit's occupants but also of the maintenance of effective control and security and of staff safety.

For life-sentenced prisoners, the programme should be designed so as to counteract the damaging effects of life imprisonment and to increase and improve the possibilities for the prisoners concerned to be successfully resettled in society to which almost all of them will eventually return.[43]

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39 "*Oddíl se zesíleným stavebně technickým zabezpečením*" in Czech. In the past, these premises were accommodating life-sentenced prisoners held at Mírov Prison.

40 In addition, there were 14 sentenced prisoner placed in the unit for capacity reasons. Their regime did not differ from that of other sentenced prisoners placed in other units.

41 See paragraph 71 concerning the placement procedure in the high-security unit.

42 The inmates could borrow an electric hotplate from the prison and cook their own food.

43 See also paragraph 2 of Recommendation Rec (2003) 23 of the Committee of Ministers of the Council of Europe on the management by prison administrations of life sentence and other long-term prisoners.

Further, the Committee recognises that it may, at times, be necessary to remove prisoners from the general prison population and place them in separate accommodation for their own protection. As a rule, such separation should be for as short a period as possible and all appropriate measures should be taken to facilitate the reintegration of the inmate into the general prison population. Moreover, there needs to be a proactive approach by the prison health-care service towards prisoners on protection, particularly as regards psychological and psychiatric care and efforts should be made to introduce a programme of suitable activities. Where a prisoner is segregated in a single-occupancy cell, special efforts should be made to identify other prisoners with whom the individual concerned might maintain contact in total safety, and situations where, in addition to daily outdoor exercise, they could be allowed out of their cell.

The CPT recommends once again that the Czech authorities improve the regime of activities for prisoners at České Budějovice Remand Prison and Mírov Prison, and, where appropriate, in other prisons in the country, in the light of the above-mentioned precepts. Particular attention should be paid in this context to the situation of juvenile remand prisoners, prisoners segregated from the rest of the prison population for their own protection and female sentenced prisoners at České Budějovice Remand Prison.

52. As repeatedly stressed in previous visit reports, given the inherent risks of domination and exploitation, juveniles who are exceptionally held in a prison for adults must always be accommodated separately from adult prisoners. In the case of there being only one or very few juvenile prisoners, they should be offered opportunities to participate in out-of-cell activities with suitably risk-assessed adults, under appropriate supervision by staff, and should not be left locked up alone in a cell for extended periods of time (and thus be placed *de facto* in solitary confinement).

The CPT once again recommends that the Czech authorities take steps to effectively implement these precepts at České Budějovice Remand Prison and, where appropriate, in other prisons in the Czech Republic.

53. The CPT has misgivings that at *České Budějovice*, prisoners could not access a fitness room unless they had their own sports clothes and shoes. For a number of them, this requirement effectively prevented them from participating in this activity. **The CPT recommends that appropriate measures be taken to remedy this situation.**

4. Health-care services

54. As regards staffing levels, at *České Budějovice Remand Prison*,[44] the health-care team consisted of one full-time general practitioner (GP), three part-time GPs (working the equivalent of one full-time post), a dentist who attended the establishment for six hours a week, four full-time nurses and an X-ray technician who visited as needed. To receive specialised care, prisoners were transferred to a public hospital. Female prisoners had regular access to a gynaecologist.

At *Mírov Prison*, there was one GP working full time (another post of a GP had been vacant for a year at the time of the visit), a dentist (three hours a day) and six full-time nurses. In addition, the prison contracted eleven specialist doctors.

Were there no vacant posts and were the resources fully at the disposal of inmates, these staffing levels could generally be regarded as sufficient. However, in both establishments, GPs devoted approximately half of their working time looking after the health-care needs of prison staff. Already in the report on the 2010 visit,[45] the CPT expressed its misgivings about such a dual responsibility. It not only significantly decreases the capacity of doctors to treat prisoners and could be to the detriment of the quality of care provided but it may also lead to a conflict of interest, which might ultimately compromise the perception of the professional independence of prison doctors.

The CPT recommends that the Czech authorities pursue their efforts to fill the vacant post of a general practitioner at Mírov Prison. Further, **the Committee once again encourages the Czech authorities to put an end to the practice of prison doctors treating both prisoners and prison staff in Czech prisons.**

55. Concerning psychiatric and psychological care, at the time of the visit, *České Budějovice Remand Prison* was not visited by a psychiatrist; it was expected, however, that a psychiatrist would be recruited shortly. The situation was only slightly better at *Mírov Prison* where a psychiatrist attended for three to four hours a week. Neither of the prisons visited employed a clinical psychologist.

The CPT recommends that the Czech authorities ensure that the psychiatric and psychological care needs presented by prisoners at České Budějovice Remand Prison and Mírov Prison are thoroughly reviewed and that the attendance of a psychiatrist and a clinical psychologist is arranged accordingly. Further, **the Committee would like to receive confirmation that a psychiatrist has now been recruited at České Budějovice Remand Prison and would like to be informed of his/her attendance at the establishment.**

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44 *České Budějovice* had a capacity of 265 places; *Mírov* had a capacity of 385 places.

45 See CPT/Inf (2014) 3, paragraph 51.

56. In both establishments visited, GPs and nurses worked between 7 a.m. and 3 p.m. on working days. Consequently, no member of the health-care team was present at night and during weekends. This is all the more worrying given that at *Mírov*, there was an infirmary with seven beds which served in particular for a short-term medical isolation of inmates in the case of a suspicion of an infectious disease.

The CPT recommends that the necessary steps be taken to ensure that a qualified nurse is present at České Budějovice Remand Prison and at Mírov Prison every day (including on weekends). Further, **someone competent to provide first aid should always be present in every prison establishment, including at night; preferably, this person should be a qualified nurse.**

57. Further, while medication was always prepared in an individualised form by a nurse, outside the aforementioned working hours, medication (including psychotropic medication) was distributed by custodial staff. **The CPT considers that prescription medication should preferably be distributed by qualified health-care staff. In any event, a list of medication to be distributed only by health-care staff (such as anti-psychotics, methadone and antiretroviral drugs) should be established.**

58. In both establishments, newly-arrived prisoners were systematically and promptly medically examined, usually by a nurse and a medical doctor. The medical screening included a dental examination and a chest X-ray, as well as testing for transmissible diseases (hepatitis B, C and syphilis).

However, neither screening for HIV, nor vaccination for hepatitis B were offered to inmates. **The CPT recommends that newly-arrived prisoners be systematically offered testing for HIV.** Further, **it would be desirable to offer prisoners vaccination against hepatitis B.**

59. Moreover, at *České Budějovice*, the admission screening for female prisoners did not address possible sexual abuse and other gender-based violence. **The CPT recommends that admission screening at *České Budějovice Remand Prison* and in other prisons accommodating female prisoners include a history of any sexual abuse and other gender-based violence and that this information be taken into account in the drawing up of a care plan for the women in question to provide appropriate care and avoid re-traumatisation.**

60. As regards recording of injuries, the examination of the relevant medical records showed that the description of traumatic injuries was generally incomplete (e.g. the exact size and colour were missing). Moreover, body charts to indicate the location of the injury on the body were not systematically filled out by health-care staff in either of the establishments visited. The statement of the prisoner concerned as to the origin of the injuries was often absent, as was *a fortiori* the doctor's conclusions as to the consistency of any such statement with injuries recorded.

As emphasised already in previous visit reports, health-care services can make a significant contribution to the prevention of ill-treatment of persons deprived of their liberty, through the systematic recording of injuries and, when appropriate, the provision of information to the relevant authorities.

The record drawn up by a doctor after a thorough (and confidential – see paragraph 62) medical examination of a prisoner – whether newly-arrived or following a violent incident in the prison – should contain:

(i) an account of statements made by the prisoner concerned which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment),

(ii) a full account of objective medical findings based on a thorough examination, and

(iii) the doctor's observations in the light of (i) and (ii), indicating the consistency between any allegations made and the objective medical findings.

Moreover, the results of every examination, including the above-mentioned statements and the doctor's opinions/observations, should be made available to the prisoner and, upon request, to his/her lawyer.

Recording of the medical examination in cases of traumatic injuries should be made on a special form provided for this purpose, with body charts for marking traumatic injuries that will be kept in the medical file of the prisoner. Further, it would be desirable for photographs to be taken of the injuries, and the photographs should also be placed in the medical file. In addition, documents should be compiled systematically in a special trauma register where all types of injuries should be recorded.

The CPT reiterates its recommendation that the Czech authorities take the necessary steps to ensure that the current practice is brought in line with the above requirements.[46]

61. As regards reporting of injuries, in their response to the previous report, the Czech authorities indicated that the relevant legislation would be amended to enable medical doctors to report injuries indicative of ill-treatment regardless of the wishes of the prisoner concerned.[47] However, it became clear during the 2018 visit that no such amendments have yet been adopted.

The CPT wishes to reiterate that whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by the prisoner (or which, even in the absence of the allegations, are indicative of ill-treatment), the record should be immediately and systematically brought to the attention of the relevant authorities, regardless of the wishes of the prisoner concerned. The health-care staff should advise prisoners of the existence of the reporting obligation and that the forwarding of the report to the relevant authorities is not a substitute for the lodging of a formal complaint.

The CPT recommends once again that the Czech authorities take the necessary steps, including at legislative level, to ensure that these precepts are effectively implemented in practice.

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46 Reference is also made to paragraph 21.

47 See CPT/Inf (2015) 29, page 12.

62. As regards medical confidentiality, in several previous visit reports, the CPT expressed its objection in principle to the routine presence of custodial staff during medical examinations of prisoners.

In their response to the report on the 2014 visit,[48] the Czech authorities stated, inter alia, the following:

> "… [S]ecurity during the provision of healthcare services is carried out as follows:
>
> - During healthcare services provided in prison healthcare facilities, a prison officer will be within sight only at the request of the doctor concerned, and by no means within earshot. Efforts will be made to ensure that prison doctors' offices are installed with surveillance cameras which will transmit images (but no sound) to a miniature screen in the adjacent room for monitoring by a prison officer. For this purpose, technology will be purchased in the second half of 2015 so that all offices of prison healthcare facilities are installed with a surveillance camera which will transmit images from the infirmary. Prison officers will not be within earshot or within sight. They will be outside of the doctor's office monitoring images transmitted by the surveillance camera in an image resolution displaying only the silhouettes of figures (without details), so that in the case of an assault of the doctor concerned or other misconduct of the prisoner, the prison officer will able to take immediate action. All prisons (or prison doctors) will also be informed (advised) of the option to examine patients out of sight of a prison officer (while the camera is turned off).
>
> - In out-of-prison healthcare facilities, with regard to the required level of security provided by escorts, an escort is present in the doctor's office within sight for security reasons but out of earshot, while respecting the medical confidentiality and the confidentiality of the doctor-patient relationship.
>
> If requested by the doctor concerned or if the life, health or safety of a medical professional or other specialist, or property, are under threat, medical examinations can be conducted within the sight and earshot of an escort provided it is in accordance with the law. However, each particular situation must be assessed. […]"

However, the findings of the 2018 visit clearly indicate that there is a major discrepancy between theory and practice. In both establishments visited, it continues to be the case that custodial staff (of the same sex) systematically remain physically present in the examination room, within the hearing and the sight of medical examinations, including intimate examinations (see also paragraph 76). This is all the more surprising given that the examination room at *Mírov* has been equipped with a CCTV camera, as indicated in the government response.

In the light of these findings, **the CPT once again calls upon the Czech authorities to take the necessary steps to ensure that, at České Budějovice Remand Prison and Mírov Prison as well as, where appropriate, in other prisons in the Czech Republic, all medical examinations of prisoners are conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of prison officers.**

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48 See CPT/Inf (2015) 29, pages 12-13.

63. Further, the CPT has serious reservations as regards the aforementioned use of CCTV cameras in the doctor's examination room at *Mírov*. Such arrangements are highly intrusive[49] and detrimental to the establishment of a doctor-patient relationship.

In the Committee's view, when it is exceptionally necessary, at the request of medical staff, to carry out a medical examination in the sight of custodial staff (of the same sex as the person who is being examined), other arrangements should be put in place to preserve as much as possible the confidentiality of the examination and the therapeutic doctor-patient relationship. For example, the door/wall of the examination room may be equipped with a window, with a blind that could be opened from inside the examination room by health-care staff.

More generally, the CPT considers that equipping health-care staff and/or the examination rooms with alarm devices which will allow security staff to intervene instantly if needed will in most cases be sufficient to reconcile legitimate security requirements with the principle of medical confidentiality.

The CPT recommends that the Czech authorities review the existing arrangements at *Mírov* and, where appropriate in other prisons in the Czech Republic, in the light of the preceding remarks.

64. On a positive note, the health-care facilities in both establishments visited were in a good state of hygiene and adequately equipped. Individual medical files examined by the delegation were well-kept and the range and quantity of the medication was generally satisfactory.

That said, unlike at Mírov, at *České Budějovice*, direct acting antivirals for the treatment of hepatitis C and opioid agonist therapy were not available. Reportedly, this was due to the exclusion of this treatment from a contract with an external company which was responsible for certain health-care services. **The CPT recommends that this shortcoming be remedied.**

65. At *Mírov*, the delegation met one prisoner who suffered from sleep apnoea and an external pneumologist had prescribed for him a continuous positive airway pressure (CPAP) machine. However, this equipment apparently could not be provided to the inmate in a prison setting. At the end of the visit to the establishment, the delegation raised this issue with the management of the prison and urged them to either provide the necessary equipment or place the prisoner in a prison hospital. **The CPT would like to receive, within one month, an account of the steps taken to ensure the provision of the necessary health care to this inmate.**

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[49] For example, it is impossible for any prisoner who is being examined to ascertain whether or not the camera is in use, whether it also transmits an audio track, who is monitoring the image/sound transmitted, whether the image/sound is recorded, and, if so, who has access to it.

66. It remains the case that the responsibility for health care in prisons lies primarily with the Ministry of Justice. In the previous visit report, the CPT noted that the policy trend in Europe has favoured prison health-care services being placed, either to a great extent, or entirely, under the responsibility of the Ministry of Health.[50] In principle, the CPT supports this trend. In particular, it is convinced that a greater participation of health ministries in this area (including as regards recruitment of health-care staff, their in-service training, evaluation of clinical practice, certification and inspection) will help to ensure optimum health care for prisoners, as well as implementation of the general principle of the equivalence of health care in prison with that in the wider community.

At the beginning of the 2018 visit, the Czech authorities informed the CPT's delegation that the issue had been considered at the national level but it had been concluded that the responsibility would remain with the Ministry of Justice.

In the CPT's view, the various shortcomings in the provision of health-care in prisons identified in this report beg the question whether the authorities should not reconsider their position concerning the responsibility for prison health care, in the light of the preceding remarks. **The CPT would like to receive the comments of the Czech authorities on this matter.**

67. As regards the role of health-care staff in security-related issues and disciplinary proceedings, reference is made to paragraphs 76 and 81, respectively.

5. Other issues

a. prison staff

68. At *České Budějovice*,[51] staff included 37 prison officers (of which seven were female officers), 14 educators, two social workers and two psychologists.[52] There were between five to eight prison officers present during the day on working days[53] and two during the day on weekends.[54] The night shift was composed of three officers only.

Mírov Prison employed 78 prison officers (one additional post was vacant at the time of the visit), 27 educators, two social workers and two psychologists. There were 21 officers present during the day and eight at night.

While these staffing levels did not appear grossly insufficient, the CPT considers that the presence of only three prison officers at night and two during the day on weekends at *České Budějovice* is relatively low and may render effective control difficult.[55] **The CPT would like to receive the comments of the Czech authorities on this issue.**

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50 See Rules 40.1 and 40.2 of the European Prison Rules and the Commentary to the aforementioned rules.

51 *České Budějovice* had a capacity of 265 places and *Mírov* of 385 places.

52 Who, however, were not clinical psychologists. This also applies to Mírov Prison.

53 Together with eight educators and one social worker in the morning shift and three educators in the afternoon shift.

54 Together with two educators and one social worker.

55 It is recalled that cells were holding up to nine inmates.

b. security-related issues

69. At the beginning of the visit, the Czech authorities informed the delegation that the relevant regulations had been amended to ensure that strip-searching of prisoner is carried out on the basis of an individual risk assessment and is used as a measure of last resort.[56] The CPT welcomes these developments.

However, the findings of the visit indicate that, in both establishments, prisoners are still systematically subjected to strip-searches before and after each visit, meeting with a lawyer, medical examination in an outside health-care facility and work outside the premises of the prison. Prisoners were obliged to strip fully naked and usually to perform three squats.

Moreover, it is a matter of serious concern that at *Mírov*, a few allegations were heard that strip-searches were sometimes ordered by prison officers as an informal punishment for disobedient behaviour by inmates. This would be unacceptable.

The CPT recommends that the Czech authorities continue their efforts to ensure that strip-searches are carried out on the basis of an individual risk assessment and that the amended regulations are thus fully implemented in practice. Prisoners who are searched should not normally be required to remove all their clothes at the same time, e.g. a person should be allowed to remove clothing above the waist and to get dressed before removing further clothing. Further, **a strip-search must under no circumstances be carried out as an informal punishment.**

70. According to the information gathered in both establishments, prisoners were often handcuffed and ankle-cuffed during medical examinations in outside health-care facilities.

As noted in the previous visit report, the use of handcuffs and ankle-cuffs during medical examinations/consultations is a practice that infringes upon the dignity of the prisoners concerned and, in addition, impedes the development of a proper doctor-patient relationship (and is possibly detrimental to the establishment of an objective medical finding). **The CPT reiterates its recommendation that the Czech authorities ensure that such practices are stopped immediately throughout the prison system.**

71. At *Mírov*, the decision to place a prisoner in the high-security unit was taken by the prison director (on the basis of a recommendation made by an expert commission which included an educator and a psychologist) and was valid, depending on the reasons for the placement, for a maximum period of 90 or 180 days. A copy of the decision was given to the prisoner concerned and contained information on the possibility to lodge an appeal with the Director General of the Prison Service.[57]

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[56] See, in particular, Section 89 of the Decree of the Director General of the Prison Service on Prison and Justice Guards (no. 23/2014).

[57] In addition, every three months, the prisoner concern may file a request with the prison director to be transferred from the high-security unit and may lodge an appeal with the Director General of the Prison Service against the decision taken.

However, it remained the case that decisions were taken without the prisoners concerned being able to express their views. **The CPT reiterates its recommendation that prisoners placed in high-security units be given the opportunity to express their views when a decision on their placement therein (or its extension) is being taken.**

72. Further, it is a matter of serious concern that, whenever it was deemed necessary by staff to restrain any prisoner placed in the high-security unit, prison officers used chains and padlocks, rather than ordinary handcuffs. **The CPT recommends that the use of chains and padlocks to restrain prisoners in the high-security unit of Mírov Prison be discontinued.** Reference is made in this context to Rule 68.1 of the European Prison Rules.[58]

73. At *České Budějovice*, agitated and/or violent prisoners (including those displaying suicidal behaviour) could be placed in a padded "crisis cell". The placement decision was taken by the head of the department for the execution of sentences, upon consultation with a psychologist and health-care staff. According to the register, there were ten placements in 2017 and 15 between January and October 2018, lasting for a maximum of three days but usually shorter. The state of the prisoner was monitored by custodial staff at least every half an hour and as necessary by a psychologist.[59]

However, throughout the duration of the measure, the prisoner was not visited by health-care staff.

The CPT recommends that steps be taken at České Budějovice Remand Prison and, where appropriate in other prisons in the Czech Republic to ensure that prisoners placed in crisis cells are visited at least once per day by health-care staff who can provide them with prompt medical assistance and treatment as required.

74. Further, it is a matter of serious concern that the delegation received several allegations, in interviews carried out separately, that when placed in the crisis cell, the prisoner was obliged to remove all his/her clothes and remained fully naked throughout the duration of the measure, in view of custodial staff (including of the opposite sex), also when eating food which was served in the crisis cell. No blanket was provided for him/her. This also concerned a female juvenile inmate. Such placement was perceived by the inmates as a punishment and as a humiliation. In the CPT's view, the practice of keeping a prisoner naked in a cell could easily be considered to amount to degrading treatment.

At the end of the visit, the delegation raised this issue with the Czech authorities and requested that they take the necessary steps to ensure in all prisons in the Czech Republic that inmates placed in a crisis cell are never kept there naked. Only when there is an evident suicide risk or case of self-harm should an inmate have to remove his or her clothes and, in such cases, the inmate should be provided with rip-proof clothing. The delegation requested to receive – within three months – information on the steps taken in this regard.

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58 The rule reads as follows: "The use of chains and irons shall be prohibited."

59 However, the psychologist was not a clinical psychologist (see paragraph 55).

75. By letter of 27 February 2019, the Czech authorities informed the CPT that an internal investigation carried out at *České Budějovice Remand Prison* had confirmed only one case in which a prisoner had been placed in the crisis cell naked, following a written order of a medical doctor, as the prisoner concerned had threatened to harm herself. The placement had lasted for some nine hours, following which period the prisoner had been transported to a psychiatric facility.

Nevertheless, according to the letter, precautionary measures have been taken as regards the placement of prisoners in the crisis cell. In particular, prisoners placed therein will now be more frequently supervised by staff (including health-care staff and psychologists) and the placement will last for a maximum of 24 hours. Further, if there is an obvious suicide risk or an act of self-harm, the prisoner will be undressed but will be provided with a single-use hygienic suit and a single-use hygienic blanket and pillow for the night. The use of the aforementioned items will be regulated from the central level for all prisons.

The CPT welcomes the steps taken by the Czech authorities (on the understanding that the suits to be provided to the inmates are suicide-proof).

76. In both establishments visited, health-care staff (who were the treating staff of the prisoners concerned) were routinely involved in urine testing for the presence of illicit substances. Moreover, at *Mírov*, the medical doctor was frequently tasked by the custodial staff with carrying out anal searches for illicit items. These searches took place in the presence of several prison officers and a nurse.

The CPT underlines that a prison doctor acts as a patient's personal doctor and that his/her involvement in security-related tasks can be harmful for the therapeutic doctor/patient relationship. The Committee recognises that in those exceptional cases when, on the basis of an individual risk assessment, the examination of body cavities cannot be avoided, it should be done by a person with appropriate medical training. However, in the interest of safeguarding the therapeutic relationship, this person should not be the doctor who treats the prisoner with respect to health-care issues. Further, for the same reasons, health-care staff should not be involved in the essentially non-medical task of collecting and testing of urine samples for repressive purposes (i.e. screening for drug use).

The CPT recommends that prison health-care staff who are the treating staff of the prisoners not be asked to carry out examinations for security purposes, including urine testing for the presence of illicit substances and searches of body cavities for hidden items.

c. discipline

77. The examination of disciplinary registers at *České Budějovice* and *Mírov* (which were very well-maintained in both establishments) revealed that the use of disciplinary sanctions was not excessive and that, as was the case in the past, resort to the most severe sanction of solitary confinement was very rare.[60]

However, despite the assurances provided by the Czech authorities that the relevant legislation would be amended, several shortcomings identified by the CPT during previous visits persist.

78. Firstly, it remains the case that the most severe disciplinary sanction for adult sentenced prisoners is solitary confinement for up to 20 days.[61] Juvenile remand prisoners may be sanctioned to solitary confinement for up to five days and juvenile sentenced inmates to 10 days.[62]

As noted in the past, the CPT considers that, given the potentially very damaging effects of solitary confinement, the maximum period for solitary confinement as a punishment for an adult prisoner should be no higher than 14 days for a given offence, and preferably lower. Further, there should be a prohibition of sequential disciplinary sentences resulting in an uninterrupted period of solitary confinement in excess of the maximum period. Any offences committed by a prisoner which might call for more severe sanctions should be dealt with through the criminal justice system.

As regards juveniles, the Committee observes an increasing trend at the international level to promote the abolition of solitary confinement as a disciplinary sanction in respect of juveniles. Particular reference should be made to the United Nations Standard Minimum Rules for the Treatment of Prisoners (*Nelson Mandela Rules*) which have been revised by a unanimous resolution of the General Assembly and which explicitly stipulate in Rule 45 (2) that solitary confinement shall not be imposed on juveniles.[63] The CPT fully endorses this approach.

The CPT recommends that the relevant legal provisions be amended in the light of the remarks set out in the preceding remarks.

79. It is noteworthy in this context that, during its brief targeted visit to the juvenile unit of *Všehrdy Prison*, the CPT's delegation noted the existence of a strict reward and punishment system which appeared to play an important role in the daily life and regime applied to the juveniles/young adults. As a consequence, even minor breaches of discipline were frequently punished with segregation from other inmates. In the case of juveniles/young adults who did not attend school, this resulted in a solitary-confinement-type regime for several days.

The CPT recommends that the reward and punishment system in the juvenile unit of Všehrdy Prison be reviewed, with a view to decreasing resort to disciplinary punishment, duly taking into account the remarks set out in paragraph 78.

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60 For example, at *České Budějovice*, solitary confinement was imposed in seven cases (for up to six days) in 2018; at *Mírov*, it was imposed twice in 2018 for seven days.

61 Adult remand prisoners may be placed in solitary confinement for up to 10 days (see Section 22(2)(e) of the Law on the Execution of Remand Detention (no. 293/1993)).

62 See Sections 46(3)(h) and 64(1)(g) of the Law on the Execution of Imprisonment (no. 169/1999), as well as Section 26(4) of the Law on the Execution of Remand Detention.

63 See also Rule 67 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (*Havana Rules*, General Assembly Resolution A/RES/45/113, Annex).

80. Secondly, remand prisoners subjected to the sanction of solitary confinement are still not allowed to receive visits (except from their lawyer) and remand and sentenced prisoners subjected to disciplinary solitary confinement are only allowed to have legal, educational and religious reading material during their stay in a disciplinary cell.

The CPT once again recommends that the Czech authorities take the necessary steps, including at the legislative level, to ensure that:

- **disciplinary punishment of prisoners does not involve a total prohibition of family contact and that any restrictions on family contact as a punishment are imposed only when the offence relates to such contact;**

- **all prisoners subjected to the sanction of solitary confinement are provided with a wider range of reading material during their stay in a disciplinary cell.**

81. Further, medical doctors are still required to perform a medical examination in order to assess whether the prisoner concerned is fit to sustain the punishment of disciplinary confinement.

The Committee wishes to stress once again that medical practitioners in prisons act as the personal doctors of prisoners, and ensuring that there is a positive doctor-patient relationship between them is a major factor in safeguarding the health and well-being of prisoners. Obliging prison doctors to certify that prisoners are fit to undergo punishment is scarcely likely to promote that relationship. As a matter of principle, the Committee considers that medical personnel should never participate in any part of the decision-making process resulting in any type of solitary confinement in a prison environment (except where the measure is applied for medical reasons).

On the other hand, health-care staff should be very attentive to the situation of prisoners placed under solitary confinement and should visit such prisoners immediately after placement and thereafter at least once per day, and provide them with prompt medical assistance and treatment as required (which was not the case in either establishment visited during the 2018 visit).

The CPT reiterates its recommendation that the role of health-care staff in relation to disciplinary matters be reviewed, in the light of the above remarks. In so doing, regard should be had to the European Prison Rules (in particular, Rule 43.2) and the comments made by the Committee in its 21st General Report (see paragraphs 62 and 63 of CPT/Inf (2011) 28).

82. Disciplinary procedures were strictly followed in both establishments. In particular, prisoners facing disciplinary charges were heard by the person responsible for taking a decision, could be represented by a lawyer and, unlike in the past, were provided with a copy of the disciplinary decision which informed them of available legal remedies. The CPT welcomes this state of affairs.

83. Material conditions in the cells used for the execution of the disciplinary sanction of solitary confinement were on the whole adequate.

d. contact with the outside world

84. In both establishments visited, prisoners were able to send and receive letters and the confidentiality of correspondence with state institutions, international organisations and complaints bodies was apparently respected.

85. It remained the case that, in line with national legislation, adult sentenced prisoners could receive one visit of three hours per month and adult remand prisoners two visits of 90 minutes per month. Juvenile remand prisoners met at *České Budějovice* were allowed one two-hour visit every week. It is positive that visits usually took place under open conditions (with the exception of the prisoners placed in the high-security unit at *Mírov*).

However, it is regrettable that, despite the assurance given by the Czech authorities in their response to the 2014 report, the minimum visit entitlements for adult prisoners have not been increased, as repeatedly recommended by the Committee. **The CPT reiterates its recommendation that the Czech authorities take the necessary steps to ensure that all adult prisoners (whether sentenced or on remand) are entitled to receive visits for at least one hour every week.**

86. At *Mírov*, sentenced prisoners could be granted a five-hour unsupervised (conjugal) visit as a reward. However, such a possibility did not exist at *České Budějovice*, due to the lack of appropriate facilities. **The CPT invites the Czech authorities to make the necessary arrangements at České Budějovice Remand Prison and, where appropriate, in other prisons in the country, to ensure that prisoners are able to receive visits without supervision as envisaged by the relevant legislation.**

87. Arrangements concerning prisoners' access to a telephone were generally satisfactory. At *Mírov*, prisoners were allowed to make one ten-minute phone call five times a week, at *České Budějovice*, they had the possibility to use the phone for 20 minutes every day. The CPT also notes positively the information provided by the Czech authorities that prices of phone calls have been decreased since the last visit.

However, at *České Budějovice*, the delegation received several complaints that after admission, prisoners had to wait for several weeks before they could make a phone call, apparently until a list of authorised phone numbers had been approved. **Steps should be taken to remedy this deficiency.**

e. complaints and inspection procedures

88. At *České Budějovice* and *Mírov*, prisoners generally appeared to be aware of the possibility to lodge complaints and confidential complaints boxes, emptied daily by administrative staff, were available in the accommodation areas. Several prisoners interviewed by the delegation in both prisons explicitly stated that due attention had been paid to their complaints by the prison management. The CPT welcomes this state of affairs.

89. As regards inspections, in addition to visits carried out by the NPM (see paragraphs 7 *et seq.*), both establishments were regularly visited by supervising prosecutors. However, it would appear that the prosecutors did not systematically meet prisoners during their visits.

The CPT notes that in their response to the report on the visit carried out in 2014,[64] the Czech authorities stated that every time supervising prosecutors visit a prison, they inspect "whether […] prisoners are detained in accordance with the laws, and whether a particular establishment consistently procures documents and maintains files and other records. In the case of sentenced prisoners, it is also inspected whether they are placed in a prison category in accordance with the court decision. In the case of remand prisoners, it is inspected whether generally binding regulations and court orders or prosecutor orders regarding separate cellular placement are complied with. Other areas of the inspection are selected by public prosecutors depending on their knowledge of the situation in a particular establishment. Prisons are obliged to inform the public prosecutor if a remand prisoner or sentenced prisoner wishes to speak with the public prosecutor. Depending on the urgency of such a request, the public prosecutor carries out such contact with the prisoner."

As already noted in the previous visit report, **the CPT considers that supervising prosecutors should be proactive and take the initiative to visit the establishments' detention areas and to enter into direct contact with inmates, including by interviewing them in private.**

64 See CPT/Inf (2015) 29, page 19.

C. Psychiatric institutions

1. Preliminary remarks

90. At the outset of the visit, representatives of the Ministry of Health informed the CPT's delegation about the ongoing comprehensive reform in the field of psychiatric care, which focused on the de-institutionalisation of long-term psychiatric patients and the gradual downsizing of regional psychiatric hospitals. According to the Psychiatric Care Reform Strategy, the authorities intend to move away from the present system of institutional care in large psychiatric hospitals towards a system of community-based care centres providing health and social care for persons with mental disorders ("Mental Health Centres"). The aim is to establish around 100 community care centres, the first five of which were opened in September 2018, while 30 additional centres are to be created until 2020. Another component of the strategy is the development of acute psychiatric units in general hospitals and to improve the general quality of care (in line with the Quality Rights Tool Kit of the World Health Organisation[65]).

The CPT welcomes these efforts and would like to receive further information on the implementation of the above-mentioned reform. In this context, the Committee trusts that, while pursuing their de-institutionalisation policy, the Czech authorities will maintain adequate resources for the proper functioning of existing psychiatric hospitals.

91. In the course of the visit, the delegation visited, for the first time, Jihlava Psychiatric Hospital. The hospital complex, located in a large park and comprising seven accommodation buildings, was opened in 1935 as an extension of a smaller 'mental home' built in 1895. With an official capacity of 520 beds, the hospital was accommodating 474 patients at the time of the visit (265 male and 209 female). Of them, 125 had been involuntarily admitted under the civil law procedure and 38 were forensic patients (i.e. those under a court-ordered protective treatment measure[66]). Patients were accommodated in 18 different wards (including mainly admission and acute care, chronic diseases, internal medicine, addiction treatment, rehabilitation and geronto-psychiatric treatment), of which two were open and three were entirely closed departments.

92. The CPT is pleased to note that its delegation received no allegations, and found no other indications, of ill-treatment of patients by staff at Jihlava Psychiatric Hospital. On the contrary, many patients interviewed by the delegation stated that they were treated correctly by staff and appreciated their caring attitude.

Episodes of inter-patient violence occurred occasionally, but the delegation gained the impression that staff generally reacted promptly and in an appropriate manner.

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65 https://www.who.int/mental_health/publications/QualityRights_toolkit/en/

66 Usually patients with psychiatric disorders and or addiction problems. The hospital did not provide protective treatment for sex offenders, and there were no patients undergoing anti-androgen treatment.

2. Patients' living conditions

93. Material conditions in the hospital were generally very good. All premises were in a good state of repair, clean, well-lit and ventilated, and patients' rooms were well-equipped (with beds, bed-side tables and/or wardrobes). Further, patients were allowed to wear their own clothes and could usually keep some personal belongings.

Patients' rooms were generally sufficient in size. That said, it is regrettable that, except in some wards which had rooms with two to four beds, many patients were still accommodated in dormitories with up to ten beds. The delegation was informed by the management that there were plans to gradually reduce the number of patients per room. In particular, the renovation of Ward 4B (which comprised two of the three ten-bed dormitories) was about to start before the end of 2018, with the aim to transform the existing dormitories into rooms for a maximum of four patients each. This is a step in the right direction.

The CPT trusts that, in the context of the planned reform of psychiatric care, the Czech authorities will take the necessary steps to abolish the use of dormitory-type accommodation for patients in all psychiatric establishments throughout the country. Patients' rooms should not as a rule accommodate more than four patients.

94. As regards the regime, patients were free to move about their wards, and rooms/dormitories were never locked. Patients also had access to communal areas on their wards which were equipped with tables, chairs, television sets and some sports equipment (exercise bike and/or table football) and where they could associate with other patients.

Most of the patients were offered daily access to the open air (some of them only in supervised group walks with a nurse) for about one hour. However, a number of patients, both voluntary and involuntary, did not have the possibility for daily outdoor access at all, *inter alia* when being considered at risk of absconding. As confirmed by the hospital's management, some patients had not been outside for several weeks. Reportedly, newly-admitted patients were often only allowed to go outside after the first one or two weeks of their hospitalisation.[67]

In the CPT's view, all patients should benefit from unrestricted access to the open air during the day, unless there are clear medical contraindications or treatment activities require them to be present on the ward. Movement impaired patients should receive appropriate assistance when necessary. For patients considered at risk of absconding, a secure outdoor area could easily be created within the large park surrounding the hospital.

95. During the end-of-visit talks, the delegation called upon the Czech authorities to take urgent measures to ensure that all patients at Jihlava Psychiatric Hospital are offered access to the outdoor area on a daily basis.

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[67] For instance, at the time of the visit, nine out of the 24 patients in admission ward B1 did not have permission to go out, even with their visiting family members.

96. By letter of 27 February 2019, the Czech authorities informed the CPT that the internal regulations of Jihlava Psychiatric Hospital had been revised in order for the patients to have daily access to the open air unless there were medical contraindications and that a control mechanism had been established with the aim of ensuring that walks in the open air were indeed offered to the patients. It was further stated that the hospital would also appoint a quality manager for the supervision of the implementation of international standards of treatment in psychiatric care.

The CPT welcomes these steps taken by the Czech authorities.

3. Staff and treatment

97. Staffing levels at Jihlava Psychiatric Hospital[68] appeared to be generally sufficient for the number of patients and care required. The staff complement comprised 31 medical doctors (equivalent of 27.6 full-time posts), including 20 psychiatrists. In addition, there were eight clinical psychologists (equivalent of 7.4 full-time posts), 208 nurses (equivalent of 204.3 full-time posts), nine full-time care-workers, 75 orderlies, three nutritional therapists, three physiotherapists and eight social workers.

Nursing staff worked from 7 a.m. to 7 p.m. During day shifts, three nurses and at least two orderlies were present on each ward on weekdays and two nurses and one orderly at weekends. During night shifts (after 7 p.m.), two nurses were present on each ward and a male "emergency orderly" was on duty for the whole hospital to intervene in the case of an incident.

Medical doctors were present for 8 hours on weekdays. For the rest of the time, only one psychiatrist or a medical doctor with two years of experience in psychiatry who could, when necessary, consult a psychiatrist by phone, was on duty for the whole hospital. Given the size of the hospital and bearing in mind that patients may be admitted on an involuntary basis outside normal working hours, **the Committee recommends that at least one psychiatrist be present in the hospital at all times, and preferably in addition another medical doctor.**

98. The CPT is pleased to note that, in addition to pharmacological treatment, patients were offered a range of therapeutic, rehabilitative and recreational activities, such as psychotherapy, (including cognitive therapy), occupational and art therapy as well as hippo-therapy, canine therapy and access to a gym. The hospital further appeared to have a sufficient supply and variety of medication.

99. That said, from the consultation of numerous medical files, it transpired that, for many patients, no individual treatment plans had been prepared. The CPT considers that psychiatric treatment should always be based on an individualised approach, which implies the drawing up of a detailed written treatment plan for every patient which should be included in his/her medical file. This plan should indicate the goals of treatment, the therapeutic means to be used and the staff member responsible. The treatment plan should also contain the outcome of a regular review of the patient's mental health condition and a review of the patient's medication. Further, patients should be involved in the drafting of their individual treatment plans and their subsequent modifications, and be informed regarding their therapeutic progress.

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[68] With its capacity of 520 beds.

The CPT recommends that these precepts be effectively implemented in practice at Jihlava Psychiatric Hospital, as well as in all other psychiatric hospitals in the Czech Republic.

100. Electroconvulsive therapy (ECT) was administered to patients always with anaesthetics and muscle relaxants, in specifically designated and adequately equipped rooms and by specifically trained staff.[69] Patients received at least three ECT sessions and on average eight, and if necessary, "booster sessions" were administered at a later stage. During the sessions, an electroencephalogram (EEG) was used to verify the efficacy of the treatment. The use of ECT was regulated by a detailed written policy, patients were asked to sign a specific consent form which informed them of the intervention, and all applications of the therapy were recorded in a dedicated register.

101. On several wards, the delegation observed the frequent practice of prescribing psychopharmacological treatment as PRN medication (*pro re nata* – "as needed"), including for the administration of pharmacological medication by intramuscular injection. For instance, in one of the admission wards, more than half of the patients had PRN prescriptions, many of them for a number of different medicines, each valid for several months. Further, it appeared that PRN medication, including injections, could also be administered on an involuntary basis at the discretion of a nurse. Moreover, a doctor was apparently not always informed of the use of PRN medication. According to staff, only the use of "serious" PRN medication was usually reported to a doctor. In addition, there was no centralised register for the use of PRN medication.

The CPT considers that, while PRN prescriptions may be appropriate for selected patients over limited periods of time, such generalised use without systematic supervision by a doctor places too much responsibility on nurses and opens the door to abuse.

The Committee therefore recommends that steps be taken by the management at Jihlava Psychiatric Hospital and, where appropriate, in other psychiatric hospitals in the Czech Republic to ensure that:

- **the free and informed consent of the patient is sought for use of psychotropic PRN medication and that any administration of such medication on an involuntary basis is surrounded by the safeguards which apply in the context of involuntary treatment (see paragraph 116);**

- **a doctor is always informed without delay whenever psychotropic medication is administered on the basis of a PRN prescription and that the clinical effects of such medication are carefully monitored at sufficiently frequent intervals;**

- **every administration of psychotropic medication on the basis of a PRN prescription is recorded both in the patient's file and a dedicated PRN register;**

- **PRN prescriptions of psychotropic medications are reviewed by the treating doctor on a regular basis.**

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69 A psychiatrist, an anaesthesiologist, a nurse, and a staff member from the patient's ward were present at each session.

4. Means of restraint

102. According to Section 39 of the Law on Medical Services (LMS), violent patients may be subjected to the following means of restraint: physical restraint (manual control), mechanical restraint (straps), placement in a seclusion room, placement in a net-bed and forcible administration of psychotropic medication (chemical restraint).

Section 39 of the LMS further stipulates that the use of restraint must be ordered by a doctor or be brought to his/her attention (if ordered, in the case of emergency, by another member of the health-care staff) and that every instance of restraint (including chemical restraint) must be recorded in a central register.

Further, the management of Jihlava Psychiatric Hospital had issued detailed internal guidelines on the use of restraint measures. The guidelines provide further instructions concerning the use of mechanical belt restraint, placement in a net-bed and seclusion. Any of these restraint measures can only be applied "upon exhaustion of all non-restrictive measures available". A psychiatrist must assess the patient's health condition at least three times in 24 hours and decide on the continuation or termination of the restraint measure. When a patient is subject to mechanical restraint, each limb must be released for at least ten minutes every two hours. It is further stated that the application of any restraint measure must be limited to the time period absolutely necessary (until the patient's harmful behaviour ceases).

103. On every ward, restraint registers were maintained, and the hospital also had a central electronic restraint register. From the consultation of these records and patients' files, as well as from interviews with staff and patients, it transpired that decisions on the use of means of mechanical restraint and seclusion were always ordered by a psychiatrist. During longer periods of mechanical restraint or seclusion, the need for maintaining the measure was regularly re-assessed by medical staff. The period of restraint was often several hours and/or overnight and, on occasion, significantly longer. Instances of mechanical restraint were usually interrupted by frequent short releases from the straps/belts of one, more or all limbs. For instance, one patient had been restrained for 13 days, with 135 intermittent releases, i.e. an average of some ten releases per day (lasting a total of 46 hours).

In this regard, **the CPT recalls that the duration of the use of mechanical restraint and seclusion should be for the shortest possible time (usually minutes rather than hours), and should always be terminated when the underlying reasons for their use have ceased. Applying mechanical restraint for days on end cannot have any justification and could, in the CPT's view, amount to ill-treatment.**

104. Further, despite the specific recommendation repeatedly made after previous visits, it remained the case that no health-care staff member was usually present to directly observe patients subjected to mechanical restraint or seclusion. Instead, the patients concerned were monitored with video surveillance cameras (CCTV) and regularly checked by a nurse. Some patients in seclusion were allegedly only checked about three times a day. As the CPT has stressed in the past, such practices cannot be considered as a substitute for a continuous staff presence, and it is not acceptable that patients in need of assistance were compelled to shout to attract the attention of staff.

Moreover, it remained the case that patients did not benefit from a comprehensive debriefing with a member of the health-care staff after having been subjected to means of restraint or seclusion. In the Committee's view, such a debriefing is an occasion for the patient concerned to explain his/her emotions prior to the restraint, which may improve both the patient's own and the staff's understanding of his/her behaviour. For the doctor, this will provide an opportunity to explain the rationale behind the measure, and thus reduce the psychological stress of the experience, as well as restore the doctor-patient relationship.

The CPT reiterates its recommendation that the Czech authorities take the necessary steps to ensure that, at Jihlava Psychiatric Hospital, as well as in all other psychiatric establishments in the Czech Republic:

- **every patient who is subjected to mechanical restraint or seclusion benefits from continuous supervision by a qualified member of the health-care staff. In the case of mechanical restraint, the staff member should be permanently present in the room in order to maintain a therapeutic alliance with the patient and provide him/her with assistance. If patients are held in seclusion, the staff member may be outside the patient's room (or in an adjacent room with a connecting window), provided that the patient can fully see the staff member and the latter can continuously observe and hear the patient. Clearly, video surveillance cannot replace continuous staff presence;**

- **whenever a patient is subjected to mechanical restraint or seclusion, the nurse who supervises the patient maintains a log or journal, in which the condition of the patient is noted down at regular intervals (e.g. every 30 minutes);**

- **all patients subjected to mechanical restraint or seclusion are offered a debriefing by a member of the health-care staff once the measure has ended and the feedback of the patient is recorded in his/her medical file.**

105. The delegation was told by the hospital management that medication was administrated on an involuntary basis only as part of psychiatric treatment and that chemical restraint as such was never used.

That said, it appeared that, at least in some cases, rapid tranquillisers could be forcibly injected primarily for the purpose of controlling the behaviour of agitated and/or violent patients, apparently also on the basis of PRN prescriptions (see also paragraph 101).

The CPT wishes to underline that the injection of rapidly acting tranquillisers for the described purposes is chemical restraint and entails significant risks to the health of the patient. Their use therefore requires close medical supervision and adherence to strict protocols by all staff involved. The application of rapid tranquillisers on the basis of a PRN prescription without the explicit re-confirmation by a medical doctor might place too much responsibility on nurses as regards the assessment of the patient's mental state and the provision of an adequate response, in the absence of a medical doctor, to potential complications. It may also reduce the nursing team's motivation to attempt de-escalation of the situation by other means and consequently open the door for abuse.

In the Committee's opinion, in the event of a patient presenting a state of agitation which cannot be dealt with by the nursing staff, the patient's psychiatrist (or the duty psychiatrist) should be called immediately and intervene promptly to assess the state of the patient and issue instructions on the action to be taken. Only in exceptional situations, when a patient's agitation cannot be controlled by nursing staff and the intervention of a psychiatrist is not possible within minutes, may the administration by nursing staff of rapid tranquillisers under a "conditional" PRN prescription be justified, meaning that a medical doctor must be contacted (e.g. by phone) and must confirm the prescription prior to its use. Further, a medical doctor should arrive without delay to monitor the patient's response and deal with any complications.

Moreover, the use of a PRN prescription for rapid tranquillisers should only be valid for a limited time (i.e. weeks rather than months) and should be re-assessed each time it is used or where there is any change in the patient's medication.

Indeed, other more general safeguards accompanying any use of means of restraint in psychiatric settings (such as the existence of comprehensive policy on restraint, the use of restraint as a measure of last resort and the choice of the most proportionate method, as well as the recording of the event in the patient's medical file and in a central register of restraint measures and a debriefing of those involved) should also apply when rapid tranquillisers are administered on the basis of a PRN prescription.

The CPT recommends that these precepts be effectively implemented in practice at Jihlava Psychiatric Hospital and, where appropriate, in other psychiatric establishments in the Czech Republic.

106. Whilst acknowledging the fact that the number of net-beds had been reduced at Jihlava Psychiatric Hospital in recent years, the CPT has serious misgivings that four such beds were still regularly being used for restraining agitated/aggressive patients for periods of several hours, usually overnight. It is of all the more concern that there was usually no continuous, direct and personal supervision by staff. As in the context of mechanical restraint (see paragraph 104), neither video surveillance nor checks by staff of patients placed in net-beds carried out every few hours can replace continuous staff presence. Moreover, it is not acceptable that, on occasion, patients were placed in a net-bed in multiple-occupancy rooms in full view of other patients.

The hospital's director and health-care staff expressed the view that it was preferable to place agitated patients in a net-bed rather than strapping them down with belts or giving high dosages of psychotropic medication. In the light of its experiences in other countries, the CPT does not agree that the phasing-out of net beds invariably leads to an increased use of other means of restraint. Indeed, a number of accompanying measures may be needed to avoid a simple substitution of net-beds by other restraint measures. For example, staffing levels in facilities providing psychiatric care may need to be increased and staff may need to be provided with additional specialised training in de-escalation techniques and methods of safe manual control. Further, for patients who need protective measures, such as persons with impaired mobility or nocturnal disorders (e.g. disorientation/sleepwalking), more suitable protective means than net-beds may be found to ensure their safety (e.g. hospital beds which can be lowered and/or which are equipped with boards along the sides and enable the staff to assist the patient from both sides).

In their response to the report on the 2014 visit, the Czech authorities indicated that efforts would be made to find other protective means to replace net-beds, and, at the outset of the 2018 visit, representative of the Ministry of Health stated that discussions on this matter were still ongoing, while a nationwide ban on the use of net-beds in social care institutions had been introduced by the Ministry of Labour and Social Affairs several years ago.

The CPT urges the Czech authorities to take the necessary steps, including on legislative level, to implement without further delay the Committee's long-standing recommendation to withdraw from service all net-beds in psychiatric hospitals in the Czech Republic. To this end, staffing levels in all hospitals concerned should be reviewed.

5. Safeguards

a. placement and discharge procedures

107. According to Section 38 (1) of the LMS, patients may be subjected to civil involuntary placement in a psychiatric hospital if they pose an imminent and serious threat to themselves or their "surroundings" and show signs of or suffer from a mental disorder or are under the influence of an addictive substance and if the threat for the patient or his "surroundings" cannot be prevented by other means. Patients may also be hospitalised without their consent if their state of health requires the provision of "urgent care" (*neodkladná péče*) and renders them unable of giving their consent.

108. The placement procedure set out in the Law on Specific Court Proceedings (LSCP) and the Civil Code remained unchanged since the 2014 visit.[70] It is recalled that involuntary hospitalisation must be notified by the psychiatric institution to the court within 24 hours (unless the patient concerned has given his/her consent to hospitalisation in the meantime); the same rule applies in the event that a voluntary patient withdraws his/her consent and conditions for involuntary hospitalisation are met.

Within seven days, the court must hear the patient concerned[71] and take a decision as to the lawfulness of the involuntary placement. The court shall appoint a lawyer, if the patient does not choose a representative or if the appointment of a lawyer is considered necessary for the defence of the patient's interests.

If the court has declared the initial involuntary admission lawful, it starts additional judicial proceedings to examine the admissibility of the continuation of the patient's detention in the psychiatric institution. In the context of these continued proceedings, the court must appoint an independent medical expert to assess the mental state of the patient. In its decision, which has to be taken within three months, the court must determine the duration of the involuntary placement (for a maximum period of one year). After the expiry of this period, the involuntary placement may be extended by renewable periods of up to one year at a time. In such cases, the aforementioned procedure for continued detention must be followed.

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70 See Section 40 of the LMS, Section 105 (2) of the Civil Code and Sections 69(2) and 75 of the LSCP.

71 Unless, according to the treating doctor or an expert opinion, his/her presence at the hearing could seriously damage his/her state of health.

An appeal may be lodged by the patients against the decisions on placement and continued detention. The appellate court shall then take a decision on the case within one month.

Involuntary patients (as well as their representatives, guardians and close family members/trusted persons[72]) may further request a re-assessment of their mental state and discharge from the hospital. The court must take a decision on such a motion within two months. However, if improvement of the state of health of the patient cannot be expected and the court repeatedly dismisses the motion for release, it may decide that a new assessment will not be carried out before the expiry of the time for which hospitalisation has been approved.

109. The information gathered during the visit indicates that the procedural provisions described above were generally implemented in practice when the involuntary placement procedure was initiated. It is particularly positive that the hearing of the patient during the court's examination of the lawfulness of the initial hospitalisation took place at the establishment and if necessary even on the ward where the patient was placed (e.g. when the patient was bedridden). Further, patients received a copy of the decision on their involuntary hospitalisation which also included information on the appeal possibilities.

Patients were further always represented by a representative *ad litem.* However, the delegation found at the hearings it attended during the visit that the court-appointed lawyer was entirely passive (apart from confirming to the judge that he had no comments), and had had no contact whatsoever with the patients concerned before, during or after the hearing. His presence thus appeared to be a mere formality. **The CPT encourages the Czech authorities to take appropriate steps to ensure that representatives *ad litem* carry out their role effectively.**

110. The CPT has further misgivings that a number of patients were formally considered "voluntary" but were *de facto* deprived of their liberty without benefiting from the safeguards provided by the involuntary placement procedure.

In particular, the delegation met several "voluntary" patients who had signed a consent form to their hospitalisation upon admission but who apparently were later prevented by staff from leaving the hospital in spite of clearly expressing their wish to do so. The delegation was also informed that if formally voluntary patients absconded who were considered to present a danger to themselves or others, staff called the police to search for the patients and bring them back, but it remained unclear if an involuntary placement procedure was always initiated in such cases.

The CPT recommends that patients who had initially agreed to their hospitalisation should have the possibility to withdraw their consent subsequently at any time and be fully informed about this. For as long as they are formally voluntary, they should have the right to leave the hospital at any moment. In cases where it is considered necessary to continue in-patient care for a voluntary patient who wishes to leave the hospital, the involuntary civil placement procedure should always be applied.

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72 "*Osoba blízká*".

111. Further, patients without full legal capacity who were opposed to their admission to the hospital were apparently in practice nevertheless considered "voluntary" if their guardians had agreed to the hospitalisation. When such patients expressed a wish to leave the hospital they were not allowed to do so. Thus, they were *de facto* deprived of their liberty[73] without benefiting from appropriate legal safeguards.

The CPT recommends that the Czech authorities take the necessary steps, including at legislative level, to ensure that the involuntary civil placement procedure provided by the law is fully applied to all legally incapacitated patients, whether or not they have a guardian, from whose conduct it is obvious that they are opposed to their placement.

112. As described in the previous report,[74] the penal measure of protective treatment may be imposed by a criminal court upon a person who has committed an act which would otherwise be regarded as a criminal offence for which he/she is not criminally liable due to insanity or who has committed a criminal offence in a state of diminished sanity or in a state caused by a mental disorder and his/her remaining at liberty is dangerous, or upon a person who abuses an addictive substance and has committed a criminal offence under its influence or in connection with the abuse.[75]

It may be imposed for a maximum period of two years. If the measure has not been terminated before the expiration of that period, the measure may be prolonged by periods lasting a maximum of two years each, potentially indefinitely. A patient may be discharged from protective treatment only on the basis of a court decision, taken upon a motion lodged by the patient, a prosecutor or the psychiatric hospital. During the relevant proceedings, patients were usually represented by a lawyer.

113. In the report on the 2014 visit,[76] the CPT had expressed misgivings that, in the context of the biennial judicial review of protective treatment, commissioning of an expert opinion, who is independent from the establishment where the patient was placed, was left at the discretion of the court. In their response, the Czech authorities indicated that a Working Group on Protective Treatment established by the Ministry of Justice would examine this issue when preparing legislative changes regarding the procedures related to the possible extension of protective treatment.[77]

Regrettably, by the time of the 2018 visit, no progress had been made. Therefore, **the CPT recommends that the Czech authorities take the necessary steps, including at the legislative level, to ensure that, in the context of the biennial judicial review of protective treatment, the opinion of an expert independent of the hospital is as a rule requested by the competent court.**

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73 The CPT notes in this context that the ECtHR has concluded in several cases concerning the placement in a closed establishment of a legally incapacitated person under guardianship from whose conduct it was obvious that he or she did not consent to his or her placement that he/she must be regarded as being "deprived of his or her liberty" within the meaning of Article 5, paragraph 1, of the European Convention on Human Rights, despite the approval of the guardian (see, for example, the Grand Chamber judgment in the case of *Stanev v. Bulgaria*, no. 36760/06, § 132, 17 January 2012, and *Červenka v. the Czech Republic*, no. 62507/12, §§ 103-104, 13 October 2016).

74 CPT/Inf (2015) 18, paragraphs 174 to 176.

75 Section 99 of the Criminal Code.

76 CPT/Inf (2015) 18, paragraph 174.

77 CPT/Inf (2015) 29, page 27.

b. safeguards during placement

114. As regards consent to treatment, the law provides for a number of important safeguards. In particular, it states expressly that the court approval of involuntary hospitalisation does not exclude the patient's right to refuse a particular medical intervention.[78]

Without the consent of a fully capacitated patient, only "urgent care" (*neodkladná péče*) may be provided if his/her state of health does not allow the patient to express such consent, or in the case of a patient suffering from a serious mental disorder, if no treatment would in all probability result in a serious damage to his/her health.[79] If a person with limited legal capacity seriously objects to an intervention - regardless of whether his/her guardian consents to it - the intervention may only be performed with court approval. Further, the law provides that consent given may later be withdrawn even without strict formal requirements (i.e. consent which had to be granted in writing can be withdrawn verbally).

115. However, despite the CPT's previous recommendation to this end, patients under the court-imposed measure of protective treatment are still not allowed to refuse treatment connected with this measure. According to Section 88 of the Law on Special Medical Services, a patient under protective treatment is obliged to submit to an individual treatment process prescribed for protective treatment, including all medical interventions which are part thereof.[80]

116. The CPT is of the view that, as a matter of principle, all psychiatric patients should be placed in a position to give their free and informed consent to treatment. The admission of a person to a psychiatric establishment on an involuntary basis, including in the context of criminal proceedings, should not preclude seeking informed consent to treatment. Every patient - whether voluntary or involuntary and whether civil or forensic - should be fully informed about the intended treatment. Further, every patient capable of discernment should be given the opportunity to refuse treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances and should be accompanied by appropriate safeguards.

The relevant legislation should also require a second psychiatric opinion (i.e. from a psychiatrist not involved in the treatment of the patient concerned) in any case where a patient does not agree with the treatment proposed by the establishment's doctors (even if his/her guardian consents to the treatment); further, patients should be able to challenge a compulsory treatment decision before an independent outside authority and should be informed in writing of this right.

The CPT recommends that the Czech authorities take appropriate steps to ensure that the above-mentioned precepts are effectively implemented in all psychiatric establishments in the Czech Republic. To this end, the relevant legal provisions should be amended accordingly.

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78 Section 110 of the Civil Code.

79 Section 38 (3) of the LMS and similarly Section 99 of the Civil Code.

80 See also the response of the Czech authorities to the previous CPT report, CPT/Inf (2015) 29, page 24.

117. A number of information materials were displayed on the wards, including patients' rights, house rules and basic information about the involuntary hospitalisation procedure. However, only patients under protective treatment received information in writing upon their admission.

The CPT considers that an information brochure, setting out the hospital's routine and patients' rights – including information on legal assistance, review of placement (and the patient's right to challenge this), consent to treatment and complaints procedures (including with clearly designated outside bodies) – should be drawn up and issued to all patients on admission to a psychiatric establishment, as well as to their families. Patients unable to understand this brochure should receive appropriate assistance.

The CPT recommends that such an information brochure be drawn up and given to patients and their families at Jihlava Psychiatric Hospital and, as appropriate, in other psychiatric establishments in the Czech Republic.

118. Patients could submit internal complaints to the hospital management by email or by letter and confidential complaint boxes were available on the wards. They were generally aware of the complaints procedure, as information on it was displayed on the wards and also available on the hospital's internet site.

That said, many patients were not aware of the possibility to complain to external bodies, such as to the Public Defender of Rights (Ombudsperson). Further, the complaints received through/via the complaint boxes were only kept in the patient's personal files, but not recorded in the complaints register. In the CPT's view, a complaints register is an important management tool; for instance, it may show that many of the complaints relate to the same members of staff or to the same shortcoming, and thus may allow frequent problems to be addressed in a more systematic manner.

The CPT recommends that all written complaints received by the management be recorded in a special register. As regards information of patients on all complaint avenues, including to clearly designated external bodies, reference is made to paragraph 117.

119. The arrangements for patients' contact with the outside world were very good. Patients could receive visits and use public phones on their wards every day. Further, they were usually allowed to keep their mobile phones.

D. Social care institutions

1. Preliminary remarks

120. The basic legal framework governing the situation of residents in social care establishments in the Czech Republic is laid down by the 2006 Social Services Act (SSA).[81] The Act regulates, inter alia, the procedure for admission of a person to a social care establishment and the use of means of restraint in this type of establishment (see paragraphs 132 and 130, respectively).

During the visit, representatives of the Ministry for Labour and Social Affairs informed the delegation about a draft amendment to the Social Services Act which was aimed at improving human rights standards in social care establishments, e.g. by defining the minimum living space per patient and by providing a comprehensive complaints mechanism and a new standard on "residents' dignity". The Ministry planned to finalise the draft in the course of 2019. **The Committee would like to receive more detailed information on this matter.**

121. Vejprty Social Care Establishment, visited for the first time by the CPT, is located in the town of Vejprty, adjacent to the German border. It was established by the municipality of Vejprty in 1993. Unlike similar social care establishments, it is not financed by the region, but mainly by state funds, supported by municipal funds and external sources.

The establishment has a total capacity of 336 beds. It comprises eleven buildings dispersed over the town and accommodates residents with four different profiles: the elderly, persons requiring a "special regime" (mainly persons with chronic mental disorders, substance dependence or dementia),[82] persons who are physically disabled and persons in need of protected housing. According to the management, 90% of all residents suffer from a mental disorder (including dementia).

During this visit, the delegation focused on the establishment's two closed units, the "special regime homes" *Krakonoš* and *Dukla*. At the time of the visit, the *Krakonoš* Home was accommodating 59 adult men and women under the "special regime" (for an official capacity of 60 places) and the *Dukla* Home was accommodating 37 men and women under the "special regime" (for a capacity of 39 places for "special regime" residents). This home was also accommodating 35 elderly persons (who were not under the "special regime").[83]

The delegation was informed that the establishment regularly accommodated formally involuntary residents. At the time of the visit, however, none of the residents were formally involuntary.

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81 Law no. 108/2006.

82 See Section 50 of the SSA.

83 This category of resident was not included in the visit.

2. Ill-treatment

122. At the *Krakonoš* and *Dukla* Homes, the delegation received no allegations, and found no other indications, of ill-treatment of residents by staff. On the contrary, many residents praised the staff's caring attitude and the general atmosphere was relaxed and calm in both "special regime homes". Episodes of violence between residents occurred, but staff appeared to react appropriately to such incidents.

3. Living conditions

123. The material conditions in both homes were very good. The premises seen by the delegation were clean and in a good state of repair. Residents' rooms had sufficient access to natural light and artificial lighting, were appropriately heated and ventilated and were adequately equipped with furniture (beds with full bedding, bedside tables, wardrobes, shelves, tables and chairs/armchairs). Residents at both homes were allowed to keep a number of personal belongings (including furniture), to personalise their rooms.

The rooms accommodated between one and three and, in a few cases, four residents and provided sufficient living space. For example, single rooms measured between 10 and 13 m², several rooms accommodating two to three residents measured 14.5 m² and a room measuring 21 m² was accommodating three to four residents. The delegation was told by the director that it was planned to further reduce the number of residents per room.

Material conditions in the communal rooms and sanitary facilities were also good and do not call for particular comment.

124. Residents were never locked in their rooms and were free to move about their homes. The vast majority of residents had unrestricted access to the gardens surrounding their accommodation buildings and could associate freely with other residents. A number of them were also allowed to leave the establishment (alone or accompanied) for walking or shopping in town.

However, some residents at the *Dukla* Home alleged that they were not offered daily access to the outside area. **The Committee trusts that the Czech authorities will take steps to ensure that all residents at the *Krakonoš* and the *Dukla* Homes, health permitting, benefit from unrestricted access to the open air during the day, unless treatment activities require them to be present inside the building. Residents suffering from physical impairments should receive the necessary assistance.**

125. The arrangements for residents' contact with the outside world were very good in both homes. In particular, residents were allowed to keep their mobile phones and no limitations were imposed on visits. Visitors could go to the patients' rooms, communal areas and the gardens or stroll with the residents through the town. Residents could also leave the establishment to spend shorter or longer periods with their families at home.

4. Staff and treatment

126. As regards the staff directly providing care to the residents, at the *Krakonoš* Home, there were two nurses, one auxiliary nurse, 18 care assistants, one social worker and one activity manager. At the *Dukla* Home, the staff caring for both the elderly and the "special regime" residents included four nurses, 26 care assistants and one activity manager.

A general practitioner went every week for several hours to each of the homes, and a psychiatrist, responsible for the treatment of around 100 residents under the "special regime" in both homes, visited for one day once a month.

At the *Krakonoš* Home, four to five care assistants and one or two nurses were present during the day-shift (including on weekends) and one additional care assistant and the social worker on weekdays until 3 p.m. during office hours. Two care assistants were always present at night. At the *Dukla* Home, between seven and eleven care staff (care assistants and/or nurses) were usually present during the day-shift (including on weekends) and on week-days up to six additional care assistants until 3 p.m. During the night shifts, two care assistants were present.

The delegation was informed by the establishment's director that understaffing was a permanent problem of the institution, mainly due to the fact that many professionals found better paid employment in neighbouring Germany. The Committee appreciates the management's efforts to nevertheless ensure the necessary psychiatric care. However, given the very high number of residents receiving psychotropic medication,[84] the presence of one psychiatrist for only one day per month is clearly insufficient. It is another matter of concern that, at both "special regime" homes, nurses generally had no specialisation in psychiatry and that no nurse was present at night.

The CPT recommends that steps be taken by the Ministry of Labour and Social Affairs, in co-operation with the Ministry of Health, to reinforce the presence of health-care staff at both "special regime homes". In particular, a psychiatrist should be present in each of the homes for several days per month, and at least one nurse should be present in each home at any time, including at night. Further, the Committee encourages the Czech authorities to provide nurses working at these homes with specialised training in the field of psychiatry.

127. As regards psychiatric treatment, the delegation's findings, including data from the medical files, revealed that some of the residents, most of whom at the *Krakonoš* Home, received large doses of highly sedating medication entailing a high risk of severe side-effects. In some cases, resort was also made to poly-pharmacy (a combination of several medicines).[85] According to the delegation's doctors, a number of patients appeared to be heavily sedated.

The CPT recommends that the pharmacotherapy at both "special regime homes" be the subject of a thorough review, aimed at bringing medication in line with modern medical standards and preventing potential overmedication and poly-pharmacy.

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84 All the residents at the *Krakonoš* Home and 75% of the residents under the "special regime" at the *Dukla* Home were receiving psychotropic medication.

85 For instance, one patient received daily doses of 13.5mg of haloperidol, 200mg of levomepromazine and 20mg of olanzapine in addition to other psycho-pharmacological treatment with a heavily sedating effect. Another patient received every two weeks 100 mg of haloperidol decanoate depot injections, in addition to 25mg of levomepromazine, and 15mg of an antipsychotic (aripiprazole).

128. It is another matter of concern for the CPT that psychiatric treatment was primarily based on pharmacotherapy and that there was a clear lack of therapeutic activities at both homes.

Some occupational and recreational activities were offered to the residents at both homes (e.g. such as painting, handicrafts, board games or gardening) and several times a week up to ten residents could attend the establishment's leisure activity centre located in town. However, neither a psychologist nor other trained therapeutic staff attended to the residents. The delegation further gained the impression that in practice it was mainly the more autonomous residents who were able to take part in the activities on offer. Given the current mental state of many of the long-term residents (heavy sedation and symptoms of psychiatric disorder), there was also a need for increased activation of residents.

Individual care plans existed for each resident and included a comprehensive needs assessment and took into account the residents' own wishes. Once or several times a month, a care assistant commented in writing on the measures taken to meet these needs and wishes. However, given that most patients under the "special regime" were receiving psychotropic medication, it is regrettable that neither the care plans nor the personal medical files seen by the delegation mentioned treatment goals and the therapeutic means to meet these goals.

The CPT recommends that steps be taken to develop programmes of psychosocial rehabilitative activities, based on comprehensive individual treatment/care plans, preparing residents for a more autonomous life or return to their families. Occupational therapy should be an important part of a resident's treatment programme, providing for motivation, development of learning and relational skills, acquisition of specific competences and an improved self-image. To this end, the regular presence in both "special regime homes" of at least one psychologist and several occupational therapists should be ensured.

The individual treatment/care plans should comprise the goals of the treatment, the therapeutic means to be used and the staff member responsible. Residents should be involved in the drafting of their treatment/care plans and their subsequent reviews and should be regularly informed about their therapeutic progress. Every resident's development should further be assessed in regular multi-disciplinary team meetings.

129. The provision of somatic health care did not appear to pose a major difficulty. Residents were either examined and treated by the general practitioner during his weekly visits or taken to outside specialists or a nearby hospital. If necessary, emergency services could be called.

5. Means of restraint

130. The SSA stipulates that the provision of social care services shall not permit any use of means of restraint unless the life or health of a resident or other persons is directly endangered and only for the time necessary to remove the immediate danger. The admissible means of restraint in such cases are manual holding, placement in a safe room (seclusion) and application of medicines (chemical restraint). The application of means of mechanical restraint (e.g. belts) is not permitted. It is further required that any resort to means of restraint be recorded in a dedicated register.[86]

131. At Vejprty Social Care Establishments, the modalities for recourse to means of restraint were further defined by internal standards on the use of means of restraint. However, the delegation was assured by the director and staff that no means of restraint were applied at the establishment and found no evidence to the contrary. If a resident was very agitated, either the psychiatrist or an ambulance was called. It was underlined by the director that also in such cases, no injections of rapid-acting tranquillisers were used by the establishment's psychiatrist to calm down agitated residents.

6. Safeguards

132. By virtue of Sections 90 and 91 of the SSA, the admission of a person to a social care establishment is usually based on a contract signed by the future resident.

If the resident is considered unable to act on his/her own behalf, the contract may also be signed by the person's legal guardian or, if no guardian has been appointed, by the municipal authority of the person's place of residence. In this context, it is an important development that the recently introduced Section 91a of the SSA now defines the exceptional conditions under which a person can be placed in a social care establishment based on his/her guardian's or the respective municipality's consent, even against his/her will. Such placement is only possible if a failure to provide immediate assistance to the person would result in serious harm to him-/herself or to another person due to a weakening or loss of abilities caused by a mental disorder, and if no less restrictive measures are available.

The CPT further welcomes the introduction of Section 91b into the SSA, according to which the serious opposition of a person to his/her placement in a social care establishment – irrespective of any possible consent given by a guardian or municipal authority – must be reported to a court within 24 hours in order to assess the admissibility of the placement. This provision constitutes an important new safeguard for persons deprived of their liberty in social care establishments.

During the judicial admissibility proceedings,[87] the court shall hear the person concerned and his/her treating doctor. The court shall further appoint a lawyer as the patient's representative if the patient does not choose a representative him-/herself or if the appointment of a lawyer is considered necessary for the defence of the patient's interests. The court's approval of the placement is not limited in time. The person concerned may file an appeal requesting the court's approval of the placement which has to be processed by the court within one month. Regrettably, regular automatic court reviews of the lawfulness of the placement are not provided for by law.

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86 Section 89 of the SSA.

87 See Sections 84 to 84b of the Law on Special Court Proceedings (no. 292/2013).

The CPT recommends that the lawfulness of an involuntary resident's continued stay at a social care establishment be subject to regular automatic court reviews. The relevant legislation should be amended accordingly.

133. As mentioned above, none of the residents present at the time of the visit were formally involuntary residents whose placement had been approved by the court, and none of the residents interviewed by the delegation indicated that they had expressed opposition to their placement.

In practice, the two "special regime" homes were permanently locked to the outside, but a number of residents had keys and were permitted to go for walks into town. If any of the "special regime" homes' residents did not return to the home at night, the police would be notified to search for them and bring them back. However, the delegation was assured that if a resident seriously objected to his/her stay in the establishment, his/her relevant statements and/or behaviour were meticulously recorded (in order to assess the seriousness of the wish to leave) and if a continued stay was considered necessary, the court was informed in order to assess the admissibility of the resident's retention. Otherwise the resident would be free to leave.

134. Residents had the possibility to lodge internal complaints with the social worker, the house manager or the establishment's director. A comprehensive information brochure, comprising the house rules, informed residents about these avenues of complaint, and complaints boxes on each floor were used by the residents to this end. The delegation was impressed by the simplified pictogram version of the information brochure which was available for residents with reading difficulties.

In addition to internal complaints, complaints could also be filed to the Ministry of Labour and Social Affairs. That said, it was brought to the CPT's attention that the Ombudsman – while being mandated to deal with individual complaints from prisoners and from patients held in a psychiatric hospital under the court-imposed criminal measure of protective treatment – had no authority to deal with individual complaints lodged by residents of social care establishments and that there was no other clearly designated independent body to do so. In this respect, the delegation was informed by representatives of the Ministry that a more comprehensive independent complaints mechanism, including precise procedural provisions and deadlines, was currently being elaborated in co-operation with the Ombudsman's Office. The new mechanism would be part of the previously mentioned draft amendments to the SSA (see paragraph 120) and entailed the creation of a specific complaints department within the Ministry. This is a positive development. **In this context, reference is made to the CPT's request for further information in paragraph 120.**

E. The use of surgical castration in the context of the treatment of sex offenders

135. In previous visit reports,[88] the CPT expressed its fundamental objections to the use of surgical castration as a means of treatment of sex offenders, since it is a mutilating, irreversible intervention which could not be seen as a medical necessity in this context, and could therefore easily be considered as amounting to degrading treatment. Therefore, the Committee urged the Czech authorities to put a definitive end to the use of surgical castration in the context of the treatment of sex offenders and to amend the relevant legal provisions accordingly.[89]

136. During the 2018 visit, the Czech authorities informed the delegation that, since 2014, two requests for surgical castrations of persons deprived of their liberty had been approved by the Central Commission within the Ministry of Health. Regrettably, according to the information available to the Committee, in at least one case, the surgical castration has actually been carried out, shortly after the CPT's 2018 visit.

The Committee notes the significant decrease of resort to surgical castration in recent years.[90] However, **it once again urges the Czech authorities to put a definitive end to the use of surgical castration as a means of treatment of sex offenders, including by amending the relevant legal provisions.**

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88 See, most recently, the report on the 2014 visit (CPT/Inf (2015) 8, paragraphs 181–184) and the related Government response (CPT/Inf (2015) 29, pages 27-29).

89 It is recalled that, according to the 2012 amendments to the Law on Specific Medical Services, surgical castration can no longer be carried out on prisoners (whether sentenced or on remand) or on persons deprived of their legal capacity. However, it may still be carried out on patients subject to a court-ordered measure of in-patient protective treatment as well as on inmates in security detention.

90 In comparison, the information available to the CPT indicates that some 70 surgical castrations of sex offenders were carried out in the period of 2000-2006 and 13 between 2007 and 2011.

APPENDIX I:

List of the establishments visited by the CPT's delegation

Establishments under the Ministry of the Interior

- Březno u Chomutova District Police Department
- Chomutov Police Department (patrolling unit)
- České Budějovice Regional Police Headquarters (Emergency and Escort Unit)
- České Budějovice District Police Department
- Jihlava District Police Department
- Jihlava Regional Police Headquarters (Emergency and Escort Unit)
- Kadaň District Police Department
- Olomouc 1 District Police Department
- Olomouc 3 District Police Department
- Prague – Kongresová Regional Police Headquarters (Emergency and Escort Unit)
- Telč District Police Department
- Třešť District Police Department

Establishments under the Ministry of Justice

- České Budějovice Remand Prison
- Mírov Prison
- Všehrdy Prison (unit for juveniles)
- Prague-Ruzyně Remand Prison

Establishments under the Ministry of Health

- Jihlava Psychiatric Hospital

Establishment under the Ministry of Labour, Social Affairs and Family

- Vejprty Social Care Establishment.

APPENDIX II:

List of the national authorities, other bodies, international and non-governmental organisations met by the CPT's delegation

A. National authorities

Ministry of Justice

Vladimír Zimmel	Deputy Minister
Michal Špejra	Director, Department of Prisons, Criminal Policy and Probation and Mediation
Kamil Nedvědický	Head of Unit of Coordination, Analysis and Criminal Policy
Iva Günzlová	Head of Unit of Complaints and Inspections

Directorate General of the Prison Service of the Czech Republic

Simon Michailidis	Deputy Director General
Pavel Hadrava	Deputy Director General
Pavel Horák	Director, Department of the Execution of Remand Detention and Imprisonment
Michal Řeháček	Director, Unit for the Execution of Remand Detention and Imprisonment

Ministry of the Interior

David Chovanec	Director, Security Policy Department
Pavel Bacík	Director, Administration of Refugee Facilities
Lubomír Janků	Security Policy Department
Veronika Votočková	Asylum and Migration Policy Department

Presidium of the Police

Martin Vondrášek	First Deputy Police President
Martin Hrinko	Director, Directorate of Uniformed Police

Kateřina Hlaváčová	Internal Supervision Department
Michal Tipovský	Internal Supervision Department
Jiří Sedliský	Directorate of Uniformed Police
Soňa Szelesová	Directorate of Alien Police
Michaela Hýbnerová	Human Resources Department

Ministry of Health

Helena Rögnerová	Deputy Minister
Alena Šteflová	Deputy Minister
Jan Michálek	Director, Department of Organisations Directed by the Ministry
Jan Bačina	Director, Legal Department
Dita Protopopová	Conceptions and Strategies Unit

Ministry of Labour and Social Affairs

Jiří Vaňásek	Acting Deputy Minister
David Pospíšil	Director, Department of Social Services, Social Work and Social Living
Jan Vrbický	Deputy Director, Department of Social Services, Social Work and Social Living
Markéta K. Holečková	Senior Counsellor, Department of Social Services, Social Work and Social Living

Office of the Government of the Czech Republic

Dominika Otrošinová	Counsellor
Radim Hueber	Counsellor

B. Other bodies

Public Defender of Rights (Ombudsperson)

Anna Šabatová	Public Defender of Rights
Ondřej Vala	Head of the National Preventive Mechanism (NPM) Department
Barbora Matějková	Counsellor

C. International Organisations

UNHCR Office in the Czech Republic

D. Non-governmental organisations

Counselling Centre for Citizenship, Civil and Human Rights

Czech Helsinki Committee