CPT/Inf (2019) 34

Response

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

from 2 to 11 October 2018

The Czech Government has requested the publication of this response. The CPT's report on the October 2018 visit to the Czech Republic is set out in CPT/Inf (2019) 23.

Strasbourg, 6 December 2019

Response of the Czech Government to the Report 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

A. Police

Response to paragraphs 10, 14 and 15

The Czech Police Act provides basic legal safeguards for persons deprived of liberty. Section 24 of the Act clearly states that persons apprehended by a police officer may not be subjected to torture or cruel, inhuman or degrading treatment, and may not be treated in a manner that does not respect human dignity. A police officer who is a witness to such treatment is required to adopt measures to prevent it and notify his/her superior without delay. On a similar note, the Act requires that information on apprehension be provided, on the given person's request, to a close person or some other person of his/her choice, and lays down exceptions when such a notice may be postponed.

From the very beginning of their service, police officers are regularly trained in matters of treating persons deprived of liberty, exercise of these persons' rights and also proportionality of steps taken against them, including the use of coercive means and a clear prohibition of any form of ill-treatment (physical, verbal or mental). The police will continue taking these measures, both at the level of basic professional preparation intended for new police officers and within regular training of police officers who are already in service. The police will also continue to explain and check compliance with the rules of informing third parties that their close persons have been deprived of liberty.

Response to paragraph 16

The Czech Police Act continues to allow a person detained in a police cell to make use of legal advice provided by a lawyer or some other person, regardless of whether or not the detainee is requested to provide an explanation within criminal proceedings. Mandatory co-operation of members of the Police of the Czech Republic will continue to be subject to inspection and education.

Since 1 July 2018, the system of access to legal aid has been extended so that persons with low income can ask the Czech Bar Association to appoint a lawyer for them. Legislative changes are now being adopted to ensure that such legal aid can also be used in cases where a person is detained in a police cell.

The rules described in the previous responses of the Czech Republic, including necessary defence and the possibility of appointing a defence counsel at the expense of the State, continue to apply to persons against whom criminal proceedings are being conducted.[1]

[1] See CPT/Inf (2014) 4, pp. 12 – 16.

Response to paragraph 17

According to the Youth Justice Act, criminal proceedings are not pursued against children under 15 years of age because they are not criminally liable. Once it is found in criminal proceedings that a criminal offence might have been committed by a child under 15 years of age, the proceedings are discontinued immediately and the public prosecutor files an application with a youth court to impose a remedial measure. In the subsequent court proceedings, the child must be represented by a guardian – a lawyer appointed to protect the child's interests. In the case of a juvenile between 15 and 18 years of age, who already is criminally liable, the procedure is as described in the report, i.e. the juvenile must be represented by a lawyer from the beginning of the criminal proceedings, or rather from the time when the first acts in the proceedings are performed. New legislation has also been in effect since 1 September 2019, which further improves the position of juveniles in court proceedings, extends their rights, specifies in which cases it is necessary to advise the juvenile of his/her rights, and extends necessary defence of a juvenile up to the age of 21 years if the court or the public prosecutor considers it appropriate.

Pursuant to the Code of Criminal Procedure and internal regulations of the Police of the Czech Republic, legal representatives or guardians of juveniles have to be notified in advance of the fact that a juvenile is to provide an explanation to the police unless such an explanation is urgent. These persons may then also be present to the provision of the explanation unless this would jeopardise its objective (e.g. in the case of proceedings on a criminal offence committed by a parent against a child). Even juveniles have the right to legal aid from a lawyer when they are to provide an explanation to the police; their lawyer is then naturally also present when the explanation is provided.

Response to paragraphs 19 and 20

Regarding access of persons deprived of liberty to a physician and to a certain method of treatment, it can be stated that, according to Section 24 (5) of the Police Act, a person deprived of liberty has the right to be examined or treated by a physician of his/her choice, and the police will allow access by a physician to the given person for the purpose of his/her treatment or examination. A police officer may not refuse access to a physician at any time during detention. Therefore, a police officer should grant such a request to a detainee unless – of course – the person's conduct unambiguously indicates that medical examination is requested clearly without any reason. Police officers will continue to be trained in these procedures.

As to recommendations concerning continuation of existing methods of treatment or medication for persons deprived of liberty, it must be noted that it is not the police, but rather always the specific examining physician who decides on a specific method of treatment and medication provided. It is up to that physician what treatment he/she will opt for and the police cannot influence this in any way. In the given case, the physician apparently chose the described method of treatment based on the patient's medical indications. In general, the police also in no way prevent necessary treatment of detained persons and take steps to ensure that such treatment is in no way disrupted by their presence in a police cell.

Response to paragraphs 21 and 22

The Ministry of Health is currently working on an amendment to the Healthcare Services Act based on which a healthcare worker will no longer be in breach of confidentiality if he/she provides prosecuting bodies or the police with data or other facts indicating that a person deprived of liberty could have been subjected to ill-treatment. At the same time, the Ministry will

also create guidelines for healthcare professionals regarding the form of reporting signs of ill-treatment of persons deprived of liberty in accordance with CPT standards, which will be issued in the Journal of the Ministry of Health. The Ministry of Health will submit a draft amendment to the Act to the Government and will create the related methodological materials by 30 June 2020.

Response to paragraph 23

Internal measures currently regulate the entry by a police officer accompanying a physician called to perform medical examination into a police cell in that the police officer remains outside of the cell but maintains visual contact and enters the cell only on request of the healthcare worker or if there are justified concerns that the life or health of persons who have entered the cell might be in danger, or if their life or health is already endangered.

In accordance with the CPT standards, the Ministry of the Interior will introduce, by 30 June 2020 at the latest, principles according to which it will be possible to carry out medical examination in a secured area beyond earshot and sight of the police officers unless the physician explicitly asks for supervision. Indeed, in view of the technical equipment and safeguarding of these premises, it is possible to leave the patient alone with the physician, while the patient cannot, e.g., attempt to escape or harm him/herself. Secured premises will be established in emergency and escort departments with more than one cell, and at workplaces of police doctors who provide services directly in police buildings. An internal regulation will be adopted regarding the procedure of police officers in conformity with the CPT recommendation.

On the other hand, in cases where healthcare services are provided on unsecured premises, such as normal hospitals, general practitioners' surgeries, etc., it will be necessary to assess the risk of leaving the patient out of sight and beyond earshot *ad hoc* in each individual case. If considered necessary, a member of the security corps will remain permanently in sight, but out of earshot. However, even during such constant supervision, the officer will proceed so as to interfere with the confidential relationship between the physician and the patient as little as possible.

Response to paragraphs 24 and 25

The Police Act and further legal regulations lay down the duty of each police officer to advise detained persons of their rights and obligations – the duty to advise detained persons of their rights is the subject of lifelong learning of police officers. These duties of police officers are also consistently enforced and adequate measures are always taken if any deficiency is found. Oral advice is currently used as a primary means of providing information; however, a written information sheet is available at police stations for persons deprived of liberty in more than thirty language versions. They have the right to keep this information sheet at all times during their detention.[2] In the future, anyone deprived of liberty should already be provided with such written information upon apprehension.

[2] The actual written information sheet for persons deprived of liberty is currently available at police stations in 27 language versions: Albanian, English, Arabic, Bulgarian, Czech, Chinese, French, Croatian, Italian, Kurdish, Hungarian, Macedonian, Moldavan, Mongolian, German, Pashtu, Persian-Farsi, Polish, Romanian, Russian, Slovak, Serbian, Spanish, Turkish, Ukrainian, Uzbek and Vietnamese. Advice in Russian has been available since 2009, and advice in Hungarian since 2015.

Response to paragraph 26

A remedy has already been achieved in the mentioned cells of the Chomutov district police department.

Response to paragraphs 27, 28 and 29

The police strives to follow the recommendations concerning the conditions in facilities for persons deprived of liberty and to gradually refurbish the police cells. Since 2015, cells have been gradually modified to prevent unjustified violation of privacy or dignity of persons deprived of liberty (visually separated toilets and sanitary facilities, etc.). However, the rate of changes depends on the financial resources available to the police.

Based on binding instruction of the Police President No. 159/2009 on escorts, guarding of persons and on police cells, hygiene items form a part of the material equipment of a police department where a multi-hour cell is established, and should thus always be available to persons deprived of liberty. The police will provide advice in this respect to all departments where multi-hour cells are established.

Our previous response still holds true regarding access of detained persons to open air.[3] We do not consider it crucial to ensure that detained persons have access to open air in "short-term cells", because of the short duration of their detention. In respect of "long-term cells", however, the CPT's recommendations will be taken into account when new cells are built; in the case of existing cells, efforts will be made to create conditions for the detained persons to spend some time outside where technically possible.

In the reconstruction of police cells at the Regional Police Directorate of the Capital City of Prague – Kongresová, the comments presented by inspection bodies (including the CPT) were partially taken into account where this was feasible in view of the finances and capacities available. Thus, screens were adapted to ensure human dignity in the use of sanitary facilities (separation of toilets and washbasins from the remaining area of the cell); the rooms for the performance of body searches were enlarged and fitted with newer equipment (new shower, furniture, plasters, lights, ventilation, floor); the lighting of cells was improved, where the unsatisfactory window panes ("glass bricks") were replaced by a more transparent material, and LED lights with day and night regimes were installed; ventilation of the cells was comprehensively modified and all the equipment was refurbished (safety stainless toilets and washbasins, replacement of tables and chairs). Equipment was also installed in the cells to enable communication between the detainees and the guards.

Response to paragraph 30

In response to the recommendation concerning shackling of persons to fixed objects, it can be stated that pursuant to Section 25 of the Police Act, a police officer may restrict free movement of a person who physically attacks a police officer or another person, endangers his/her own life, harms property or attempts to escape, usually by shackling the person to a suitable object, especially by handcuffs. The application of this authority affects not only persons deprived of liberty in police cells, but it may also be used at other places if the relevant statutory grounds exist in this respect.

Police internal regulations lay down that persons detained in police cells must not be bound in any position that could be harmful to their health. The principle of exceptional use of handcuffs

[3] See CPT/Inf (2015) 29, p. 2 *et seq.*

as means of restraint in a secure environment was already laid down in January 2014, also based on the judgement of the European Court of Human Rights in case Kummer v the Czech Republic; this occurred through binding instruction of the Police President No. 159/2009, on escorts, guarding of persons and on police cells, and annexes attached thereto. A police officer is also obliged to make a record of binding a person in a police cell in the relevant documents related to the presence of the detained person in a police cell.

The Czech Republic will continue to deal with the issue of shackling detainees and will seek alternative solutions. In future reconstructions, police cells will be established or adapted so as to ensure security without the need to shackle detainees to fixed objects.

Response to paragraph 31

The issue of carrying out body searches (strip-searches) of persons deprived of liberty is dealt with in the current draft amendment to the Police Act, according to which body search (strip-search) means a search of a natural person performed by a person of the same sex with the use of direct physical contact or, if necessary, direct observation of the naked body of that person, where the police officer may ask the person to make a movement to find a weapon or some other thing capable of jeopardising life or health.

Since 2018, a methodical instruction has been in place, issued by the Internal Control Department of the Police Presidium of the Czech Republic, laying down the duty of individual risk assessment regarding a body search. The Police Presidium will methodically guide police officers to carry out such individual *ad hoc* assessments. The instruction also emphasises that a search is to be carried out in that the person being searched may strip only half way, and subsequently expose the other half of the body once the first half has been covered.

B. Prisons

Response to paragraph 34

According to the legal regulations applicable in the Czech Republic, the competent court decides on placement of a convict in one of two types of prison – standard and high security prisons ("with surveillance" and "with increased surveillance"). The distinction depends primarily on the type and length of the sentence imposed; however, it may also be changed by the court in view of the circumstances of the given case. As a rule, convicts are sent to a high security prison ("with increased surveillance") if they were given an extraordinary sentence, a prison sentence for a criminal offence committed for the benefit of an organised crime group, a sentence of at least 8 years in prison for an especially serious felony, or if they were convicted of an intentional criminal offence and escaped or attempted to escape while being on remand, serving a sentence or secure protective detention in the previous five years. A convict may also be placed in a prison of different type if the court, having regard of the gravity of the criminal offence and the degree and nature of the perpetrator's maladjustment, believes that the perpetrator could be best brought to lead an orderly life in a different type of prison.

Other convicts are placed by the courts in standard prisons ("with surveillance"). In a standard prison, the placement of convicts in individual blocks subject to different security regimes (high, medium and low security blocks) then depends on the degree of external and internal risks related to the given convict. During the service of imprisonment in a standard prison, the security regime may change depending on developments in the degree of external and internal risks

inherent for the prisoner. Indicators of possible changes in the degree of the convict's external and internal risks can also include factors indicated in the CPT report, i.e. 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 (rehabilitation) plan. Nevertheless, the Czech Republic will continue dealing with the recommendation.

Response to paragraph 35

It follows from the materials provided by the České Budějovice Remand Prison (hereinafter the "České Budějovice RP") that an accused juvenile reported on 3 September 2018 that, at about 8:00 a.m. on 30 August 2018, she had been attacked by a prison officer on duty in cell 19 located on the 2nd floor of the remand building of the České Budějovice RP. After entering the cell, the chief prison officer allegedly pulled a blanket off her and, following a quarrel, he allegedly first hit her several times with an open palm on the left cheek and ear. Subsequently, she was allegedly approached by another officer who hit her with a closed fist on the left side of her mouth, and allegedly broke her tooth. Finally, he allegedly kicked her in her left calf. On 4 September 2018, the matter was referred to the General Inspectorate of Security Forces. A copy of the file was also submitted to the Regional Public Prosecutor's Office. On 19 October 2018, the General Inspectorate of Security Forces delivered to the České Budějovice RP a report on the outcome of the investigation, according to which the said authority, after evaluating the file and the medical records, concluded that the case at hand did not warrant a suspicion of a criminal offence committed by members of the Prison Service of the Czech Republic (hereinafter the "Czech Prison Service"), but did not unambiguously rule out a possible infraction or some other administrative offence. In the report on its inquiry, České Budějovice RP states that the accused person already had the given tooth broken at the time when she had been undergoing her initial examination at the remand prison. As to the pain in her ear, the accused signed a waiver and refused to undergo examination at a specialised ORL department. Psychological assessment of the accused suggests that bruises on her body could be self-inflicted as she was previously found to self-inflict harm during her time in custody. In their explanation, the relevant officers of the Czech Prison Service stated identically that they had indeed entered cell No. 19 at the mentioned time, but they excluded any physical violence. No unlawful conduct on the part of the officers was proven in the inquiry by the České Budějovice RP. The inquiry in the above matter was thus duly closed.

When dealing with convicts, employees of the České Budějovice RP proceed in conformity with the main principles of service of imprisonment as laid down in Section 2 of the Act on the service of imprisonment and amendment to certain related laws (the "Service of Imprisonment Act"), and when dealing with accused persons, in compliance with the principles of remand in custody as specified in Section 2 of the Act on remand in custody, as amended (the "Remand in Custody Act"). Any suspicion of unlawful conduct on the part of these employees is referred via the Prevention and Complaints Department of the České Budějovice RP for investigation to the General Inspectorate of Security Forces based on the relevant provisions of the law. It can be stated that there were three suspicions of unlawful conduct by employees at the České Budějovice RP in 2018 (one is mentioned by the CPT); however, the allegations were not proven by the General Inspectorate of Security Forces in any of these cases. In one of the cases, criminal proceedings were even initiated against the relevant prisoner for a suspected misdemeanour of false accusation pursuant to Section 345 of the Criminal Code. No suspicion of unlawful conduct of employees of the České Budějovice RP has been recorded in 2019.

Within the meetings of the heads of departments, all officers of the České Budějovice RP are trained annually in respect of the legal conditions governing the use of coercive means under

Section 17 of the Act on the Prison Service and Judicial Guard of the Czech Republic. Their knowledge of these conditions is also regularly tested within the supervision performed by their superiors. No use of coercive means by members of the České Budějovice RP was recorded in 2018 and a single case recorded in 2019 has been found legitimate, conforming to the law. All employees and officers of the remand and prison sentence departments of the České Budějovice RP are also annually trained by the prison's psychologist, within meetings of the department heads, in communication with prisoners.

In the Mírov Prison, the prison management will discuss the CPT Report regarding ill-treatment at meetings of the prison guard department and of the prison sentence department, and will point out especially that physical maltreatment of convicts is inadmissible and every reported case of such conduct will be duly investigated and any misconduct of an employee will be dealt with accordingly.

The Ministry of Justice adds that the Academy of the Prison Service of the Czech Republic includes the topic of handling especially problematic prisoners in basic professional preparation (hereinafter the "BPP") of type A for officers of the Czech Prison Service, and of type B2 for civic employees – specialists of the departments of remand in custody, service of imprisonment and exercise of secure preventive detention. This topic is included in the following teaching courses:

a) BPP A for officers

Penology – Activities in specialised departments, remand in custody and service of imprisonment for specific groups of accused persons and convicts (6 teaching hours).

Psychology – Introduction to psychopathology, personality disorders, their manifestations and causes. Communication with persons with a personality disorder (2 teaching hours).

Pedagogy – Comprehensive care for persons with behavioural disorders (4 teaching hours).

Professional ethics – Professionalism and authority. Expertise, personal growth of an employee, pedagogical approach and dealing with conflicts (2 teaching hours).

b) BPP B2 for employees of the remand and prison sentence departments (educators, special teachers, psychologists and social workers)

Penitentiary pedagogy – Introduction to special education of children with behavioural disorders, pedagogical classification of behavioural disorders (2 teaching hours). Special educational activities and teaching procedures in treatment of prisoners, especially specific groups of convicts (2 teaching hours).

Penitentiary science – Basic principles of treating specific groups of accused persons and convicts (possible objects of violence, persons with low weight, persons with low mental capacity, potential perpetrators of violent acts, possible objects of violence, other selected persons; 4 teaching hours).

Forensic and penitentiary psychology – introduction to psychopathology – Special personality disorders with regard to penitentiary practice (2 teaching hours). Adaptation problems related to imprisonment, imprisonment crisis, crisis intervention (2 teaching hours). Issue of aggressive and violent behaviour in the penitentiary environment, typology of a violent person (2 teaching hours). Anomalous behaviour in service of imprisonment, protest and purpose-driven behaviour, role of a psychologist in work with specific groups of imprisoned persons (2 teaching hours).

Along with basic professional preparation courses for individual professional groups of employees, the Academy of the Prison Service of the Czech Republic organises lifelong learning courses in the area of work with specific groups of imprisoned persons, which are included in the

plan of educational activities based on requirements of organisational units or tasks imposed by officials of the General Directorate of the Prison Service.

Title of the course:	**Number of allocated hours:**
Course for the staff of an institution for secure preventive detention	48 teaching hours
Managing crisis situations for prison officers	24 teaching hours
Manging crisis situations for educators	24 teaching hours
Creative resolution of conflicts for educators and prison officers	16 teaching hours
Social pathological phenomena in present society and their prevention	16 teaching hours
Identification of radicalisation symptoms in the environment of prisons of the Czech Republic (in co-operation with the Prague Police Academy)	24 teaching hours

In the future, the Czech Republic will pay more attention to staff training in the area of dynamic security. A programme will be created to specifically address this topic and the existing courses will focus more on the topic.

Response to paragraph 36

It follows from the materials provided by the prison that on 10 September 2014, the supervising public prosecutor issued an order to the director of the Všehrdy Prison pursuant to Section 78 (1) and (2)(e) of the Service of Imprisonment Act that 16 officers of the prison sentence department assigned to custodial staff should not come into direct contact with juvenile convicts. The following can be stated based on CPT's requirements for the provision of the result of the investigation:

One officer of the Czech Prison Service was conditionally sentenced by the District Court in Chomutov on 11 April 2018 to 2.5 years in prison for abusing official powers. Appellate proceedings were initiated in the case on 24 July 2018 before the Regional Court in Ústí nad Labem, and the proceedings are still pending. Another officer of the Prison Service is being prosecuted by the District Court in Chomutov. The last hearing in the case took place on 2 April 2019, when the hearing was adjourned in order to examine a witness currently serving a prison sentence in Germany and to obtain an expert report on the mental condition of one of the witnesses at the time when he had given his testimony in court. No disciplinary infraction proceedings were initiated in respect of the remaining officers following investigation of the case. Two of the officers of the Czech Prison Service concerned left the Prison Service on their own request (one as of 31 July 2015 and the other as of 31 May 2019). A further two members of the Czech Prison Service were reassigned within the prison guard department (the service position of guarding service inspector – operator, and the service position of driver – specialist). Another member of the Czech Prison Service requested that he be released from the service relationship as of 30 April 2019; since 1 May 2019, he has been working as an educator in the prison sentence department for adult convicts in the Všehrdy Prison. One of the officers of the Czech Prison Service has been unfit to work since 5 September 2018. The remaining officers of the Prison Service of the Czech Republic continue to work in the Všehrdy Prison; until 23 July 2019, they did not perform guarding service at the accommodation facility for juvenile convicts. On 22 July 2019, the Všehrdy Prison received a notice from the locally competent public prosecutor that the reasons for issuing the above-mentioned order of 10 September 2014 had ceased to exist, and the same was true of the reasons for the ensuing limitations (prevention of direct contact with juvenile convicts by the officers of the Czech Prison Service concerned).

Response to paragraph 39

The Ministry of Justice and the Czech Prison Service continuously monitor the current state of accommodation capacities in all organisational units, which has varied since the beginning of 2019 between 104% and 108% of occupancy at 4 m^2 per person. Overcrowding of the facilities of the Czech Prison Service has been a long-lasting phenomenon with which the Prison Service has been attempting to deal within its capabilities, with the objective of reaching an accommodation capacity of 6 m^2 per prisoner, primarily by reflecting the mentioned CPT standards in the construction of new or refurbished accommodation capacities (see, e.g., the projects in prisons and remand prisons in Brno, Jiřice, Světlá nad Sázavou, Valdice, Všehrdy and Znojmo) and gradual reconstructions and modifications of existing buildings of the individual organisational units (where technically feasible). However, all these steps are conditional on the amount of the allocated funds. Nevertheless, the Czech Prison Service will continue to co-operate with the Ministry of Justice and pursue these efforts in view of the possibilities afforded by the Czech State budget.

The Czech Prison Service will also examine whether sanitary facilities might have been included in some cases in the area of cells when determining the accommodation capacity, and remedy will be ensured if such cases are found.

Nevertheless, the Czech Republic is aware of the persisting problem of prison overcrowding and aims to deal not only with its consequences, but also with systemic causes related to the criminal policy settings (the proportion of prison sentences, use of alternative punishments, etc.). It is thus also preparing future steps in this area.

Response to paragraph 40

Sanitary facilities in the individual cells of the České Budějovice RP building correspond to the set conditions for cell equipment in conformity with Section 9 of the Remand in Custody Act. From the construction and technical viewpoint, given the current conditions of the České Budějovice RP, sanitary facilities in these cells cannot be separated from the rest of the cell using the required full partition "from floor to ceiling". If the existing screen were extended, it would interfere with the windows in the cell and these could only be used to a limited extent to ventilate the accommodation space, and the natural lighting of the cell would also be impaired. However, the České Budějovice RP is preparing an investment plan of complete reconstruction of the individual cells according to CPT recommendations.

In the Mírov prison, this is true of 3 cells for 2 convicts each (8.95 m^2) in the admission section, where the establishment of a walled toilet would reduce the accommodation area in such a way that only one convict could be placed in the cell. At the present time, these cells are equipped with a fiberglass partition up to the height of 2 m; full partitions will be installed in these cells (from floor to ceiling) by the end of 2019.

Response to paragraph 41

The Czech Prison Service strives consistently to "atomise" the set accommodation capacities, which is manifested in the trend of arranging the planned new or reconstructed accommodation capacities based on the key of 1 to 2 prisoners per cell – dormitory, and 30 prisoners per block. Hundreds of places which such an arrangement are planned with a view to ensuring the

corresponding conditions for accommodation of the prisoners and thus, *inter alia*, complying with the CPT recommendations aimed at this area.

Response to paragraph 42

The prison yard on the 3rd courtyard of the Mírov Prison (smaller yard) is used by convicts placed in the department with reinforced construction-technical security or in an enclosed block. Both the large and small (on the 3rd courtyard) prison yards are currently equipped with rain shelters. The basketball, which is stored in a cabinet with sports aids in a department with reinforced construction-technical security, is provided to the convicts on request if they make it before going to the yard. When the prisoners are already in the yard, it is very difficult to provide them with the ball due to security reasons because convicts would first have to be escorted back to the block where they would be given the ball and then again escorted to the prison yard (this is always done by 2 officers with a dog handler, using handcuffs in some cases), which might reduce the time outside for the convicts. Nonetheless, a solution will be adopted to enable even these convicts to have a ball to do sports during their time in the prison yard.

The České Budějovice RP will prepare a proposal for locating a shelter in the area of the said prison yard used by regular prisoners. The shelter will be placed above benches at the edge of the courtyard and will thus provide a background for convicts who are interested in using the prison yard even in inclement weather. Installation of the shelter is planned for the 1st half of 2020.

Response to paragraph 43

Reconstruction of all eight existing prison yards at the České Budějovice RP has been completed. A reduction of the previous number of prison yards, e.g. by their merger, would complicate proper remand of the individual accused persons in custody, analogously to the conditions for placing accused persons in cells pursuant to Sections 6 and 7 of the Remand in Custody Act. In view of the current size of the individual yards, their use by prisoners is planned so that there is never an excessive number of prisoners in the smaller yards.

Installation of windows in the individual prison yards for horizontal view, including installation of basic sports equipment, will be reflected by the České Budějovice RP in the investment plan which is currently being prepared.

Response to paragraph 46

This was a case of a convict who, at the time of the CPT's visit, was placed alone in the admission unit cell intended for two convicts and refused to visit the culture room and rehabilitation programme activities because he feared for his life. When another convict was placed in a cell with this person, there were frequent conflicts, which culminated even in a criminal prosecution for attempted rape. The convict is now accommodated with another convict in a cell for two; he is assigned to the Working Skills and Documentary Club programmes. However, according to the evaluation, he attends the rehabilitation programmes very rarely or not at all.

Response to paragraph 51

In general, the prisons strive to create suitable conditions to mitigate the negative impacts of remand in custody by organising preventive, educational, hobby and sports programmes. The prisons offer activities to juveniles as well as other accused persons as far as possible in the given prison. Prisons offer a range of programmes with which the accused persons are acquainted upon commencement of their remand in custody. Furthermore, the prison co-operates with the competent authorities, institutions, churches, religious societies, etc. An individual approach is applied in the treatment of juveniles. If the accused has not completed compulsory school education, he/she continues to attend school during remand in custody.

In the České Budějovice RP, accused persons, including juveniles, can take part in any of the activities specified below. Activities in the remand prison take place according to the approved weekly schedule and each accused person has the opportunity to register for each of these activities.

Overview of activities for the accused

Type of activity	**Title**	**Intended for**
educational	Essentials of law	juveniles / adults
preventive	Group consultancy, addiction therapy	juveniles / adults
hobby	Musical therapy	juveniles / adults
hobby	Parlour games	juveniles / adults
hobby	Film enthusiast club	juveniles / adults
hobby	Art therapy	juveniles / adults
sports	Darts	juveniles / adults
sports	Table tennis and table football	juveniles / adults
sports	Fitness room	juveniles / adults
spiritual	Individual spiritual interviews	juveniles / adults

In a remand prison, juveniles have the same opportunity to take part in activities as adults; moreover, professional employees exercise an individual approach towards them. Regular convicts (working/not working) may participate in activities to the full extent according to the set sentence (rehabilitation) programme. Non-regular (temporarily placed) convicts can watch TV if permitted by the capacities of the culture rooms.

The following activities are organised within rehabilitation programmes in a specialised block for permanently unemployable women in a standard prison – the high security block.

Type of activity	**Title**	**Intended for**
spiritual	Group spiritual interviews	imprisoned women
working	Occupational therapy	imprisoned women
special treatment	Reminiscence therapy	imprisoned women
special treatment	Social and legal consultancy	imprisoned women

special treatment	Group therapy	imprisoned women
educational	Basics of social sciences	imprisoned women
hobby	Parlour games	imprisoned women
hobby	Crafts	imprisoned women
hobby	Sports activities	imprisoned women
hobby	Relaxation and physical exercise	imprisoned women

They are also allowed to watch TV and DVD practically all day round in the culture room. Professional employees provide increased care to them and one free-time pedagogue is assigned to this specialised block.

All prisoners in the remand prison have access to activities intended for them. The above also applies to prisoners temporarily segregated from the rest of the prison population, who then have separate access to these activities in view of the current requirements on their safety (e.g. taking into account the suitability of participation of other specific prisoners in the given activity, etc.). Furthermore, the remand prison utilises the concept of activities outside the prison and the option to leave the prison for convicts who meet the statutory conditions for using these options.

In the Mírov Prison, the parts of the CPT report concerning the rehabilitation programme activities were discussed during meetings with professional employees with a view to increasing the effectiveness, number and quality of activities, especially for convicts placed in departments with reinforced construction-technical security and unemployed convicts. The management of the prison sentence department promised to use individual approach to convicts in view of the relevant security measures, their activity and participation in the individual activities and the current mental condition. If the convicts are interested, the number of activities intended for them will increase.

The Czech Republic agrees with the CPT recommendation and will continue to pay appropriate attention to the area of activities for prisoners, with a view to improving and addressing the situation. The Ministry of Justice and the Czech Prison Service acknowledge the importance of pursuing meaningful activities with the prisoners, both in terms of the compensation effect within imprisonment and suitable way of spending free time, as well as in terms of the educational effect aimed at future benefits for the prisoner. They will therefore focus on extending specific programmes intended for therapy and resocialisation of prisoners and also on the resolution of spatial and personnel limits that stand in the way of improving rehabilitation programmes.

Response to paragraph 52

Each placement, as well as locking up of a juvenile, is addressed individually by the remand prison in view of the juvenile's specific medical and mental condition and the need for social contact. Juveniles are placed in cells separately from other accused persons, even after reaching 18 years of age, unless this is at variance with the interests of other juveniles. Juveniles may be placed in a cell together with accused adult persons only in exceptional cases if it can be justifiably deemed that such a procedure will be more suitable for the juvenile. The placement is always carried out with regard to a recommendation of a physician and psychologist with the aim to place the juvenile as suitably as possible.

Response to paragraph 53

The conditions for access to the fitness room are governed by Art. 6 (4) of the Internal Rules of the Remand Prison for the Accused and the Rules of Operation of the Therapy Room for Fitness Exercises by Prisoners, which are in accordance with Section 21 (3) of the Protection of Public Health Act. It is stipulated in the Rules of Operation that entry to the room is permitted only to users in clean sports apparel, suitable undamaged sports footwear and without any objects endangering their health. Accused persons use sports footwear and apparel in the performance of sports or hobby programme activities subject to fulfilment of the conditions set out in Section 12 (1) of the Remand in Custody Act, i.e. sanitary and aesthetic safety and ensuring their replacement. Those accused who do not meet the aforesaid statutory precondition may, according to the Rules of Operation, use the room in accordance with paragraph 15 of the Rules of Operation: "For those interested in yoga, stretching and rehabilitation exercises, such exercises can be performed without shoes while maintaining hygiene principles". The above Rules of Operation were valid at the time of the inspection; the employees of the remand prison were merely reminded about the existence of this provision.

Response to paragraph 54

For a year now, the Mírov Prison has been advertising a job vacancy for a prison doctor (physician), both via the Labour Office of the Czech Republic and via the official web portals focusing on HR. The current physician also addresses potential job seekers with an offer of at least a part-time job. Given the location of the prison and the salary offered, the prison has so far been unable to fill the vacancy. It can be added in general that the Czech Prison Service has been using its best efforts to fill all the systemic positions within recruitment of healthcare professionals, especially physicians. Unfortunately, the success rate in establishing labour-law relationships with physicians is very low, which corresponds to the situation in Czech healthcare as a whole.

The Czech Prison Service provides healthcare services to its civic employees and officers pursuant to Section 2 (1)(l) of the Act on the Prison Service and Judicial Guard of the Czech Republic. The Prison Service is therefore obliged to perform the relevant tasks in this respect vis-à-vis its patients from among civic employees and officers who have elected to be registered with the Prison Service as a healthcare provider. A physician must treat an employee who is registered with him/her and may not remove patients from his/her care unless they themselves so request. Moreover, if an employee were unable to use the services of the prison doctor (where his/her absence at the workplace is approx. 30 minutes) and would have to visit a physician outside the prison, his/her absence at the workplace would be much longer (as much as 4 hours). Moreover, pursuant to Section 69 (2) of the Specific Healthcare Services Act, the Czech Prison Service is a provider of occupational medical services for its civic employees and officers in the form of regular check-ups in two-year (officers) or four- to six-year intervals (civic employees).

The Ministry of Justice does not agree with the CPT's finding that physicians in both prisons dedicate approximately one half of their working time to care for civic employees or officers. According to available data, the Mírov Prison records a total of 70 registered patients – civic employees and officers, and the České Budějovice RP a total of two registered patients. The volume of care for employees, with the exception of occupational medical services, is completely marginal in the framework of all the healthcare services provided, which by no means denies prisoners access to healthcare. Indeed, compared to the prison population, prison staff generally requires less healthcare. The physician thus has sufficient capacity for both

groups of his patients, and has office hours reserved for each of the two groups. The systemic issue of separating healthcare for prisoners and prison staff will be addressed in the future in the manner described below.

Response to paragraph 55

The České Budějovice RP has established co-operation with an external provider of healthcare services in the field of psychiatry, MUDr. Oxana Samochvalova. Examinations take place in her private surgery in České Budějovice as required, and she also provides all dispensary care and prescriptions of psychiatric medication. A psychiatrist visits the Mírov Prison as required by the convicts, not more than 20 hours a month, which is on average 4 to 5 hours a week. The set office hours fully cover the needs of convicts in the area of psychiatric treatment. A clinical psychologist does not visit the Mírov Prison; if necessary, convicts can use the services of three psychologists in the prison sentence department. The Czech Prison Service has a clinical psychologist only at the Remand Prison and Secure Preventive Detention Institute in Brno and at the Prague – Pankrác Remand Prison. If, after consulting a psychiatrist, a psychologist considers that a convict needs the service of a clinical psychologist, a medical escort to a facility outside the prison is arranged (this occurs very rarely). The procedure in arranging this care by external providers is the same as for any other healthcare service.

It can be stated in general that the provision of psychiatric care in prisons depends on the remuneration of the relevant physicians, which, however, is lower than their remuneration in public healthcare. However, this does not mean that the prisoners are deprived of their right to access healthcare services. If examination by a psychiatrist is required, this is carried either within the office hours of the psychiatrist of the Czech Prison Service or at external healthcare service providers.

Response to paragraph 56

Healthcare is designed in the České Budějovice RP Budějovice as an outpatient service provided by a medical centre for general practical medicine. Outside office hours, healthcare is provided by an ambulance and by the České Budějovice Hospital, which is located in the centre of this regional city, about 10 minutes far from the České Budějovice RP.

In the Mírov Prison, the operation of a medical centre is ensured by a total of 6 nurses, including 1 senior nurse, 1 rehabilitation nurse and 1 nurse for the needs of a dentist. The remaining 3 nurses perform tasks for general practitioners and specialised doctors. The Mírov prison can be reached by an ambulance in about 10 to 15 minutes if called to attend to a convict outside of the office hours. The Mírov prison does not have an inpatient medical facility. The prison's infirmary is a special accommodation capacity which is not incorporated under the medical centre in organisational terms.

We do not consider continuous presence of a paramedic in prisons substantiated. The general nurse provides nursing care, but this is always preceded by medical examination to determine the patient's medical condition. Not only that the general nurse cannot do so in a comprehensive manner, but she primarily is not authorised in any way to evaluate the medical condition and make any conclusions. This means that in case of any health problems experienced by inmates, she would proceed in the same way as officers on duty.

In response to the recommendation concerning the presence of a person professionally qualified to provide first aid, we state that first aid must be initiated by the person who finds the person requiring first aid. Officers and employees of the Prison Service are regularly trained in the

provision of first aid. At the same time, in such cases, it will always be necessary to call an ambulance to provide extended first aid, and to ensure that the patient's condition is examined by a doctor.

Response to paragraph 57

The Ministry of Justice believes in general that there is no professional reason for general distribution of prescription medication in prisons by healthcare professionals. The Ministry consulted the relevant area with the Ministry of Health, which found no errors in the established procedure. The prison staff are trained by the relevant physicians in handling medicaments and, of course, are fully responsible for their proper administration.

Response to paragraph 58

The recommendation regarding a general offer of HIV testing can be implemented if such tests fall within the regime of public health insurance, i.e. are not carried out anonymously. At the same time, the person being tested must give express consent to such testing.

The Government will try to find a suitable solution in respect of general vaccination against hepatitis B.

Response to paragraph 59

When determining a gynaecological anamnesis, the medical staff also takes into account the history of any sexual abuse or other violence. In cases where violence is found, co-operation is established between the medical staff and the psychologist from the České Budějovice RP.

In general, the Ministry of Justice notes that the purpose of a medical examination in the general sense of the word is to determine the patient's medical condition. This naturally also includes his/her mental condition. However, any specific inquiry or physician's questions concerning previous sex life during a medical examination could have a rather counterproductive effect in this regard. A psychologist discovers potential abuse gradually within his/her therapeutic work with the client.

Response to paragraphs 60 and 61

The Ministry of Health is currently working on an amendment to the Healthcare Services Act based on which a healthcare worker will no longer be in breach of confidentiality if he/she provides prosecuting bodies or the police with data or other facts indicating that a person deprived of liberty could have been subjected to ill-treatment. At the same time, the Ministry will also create guidelines for healthcare professionals regarding the form of reporting signs of ill-treatment of persons deprived of liberty in accordance with CPT standards, which will be issued in the Journal of the Ministry of Health. The draft amendment to the Act will be submitted and the related methodical material will be created by 30 June 2020. The Ministry of Justice will ensure that the internal regulations governing the recording of signs of ill-treatment of persons deprived of liberty are amended to comply with the CPT standards by 30 June 2020.

Response to paragraph 62

As regards the České Budějovice RP, it can be stated that officers are present to the mentioned acts only on the physician's explicit request. The physician's surgery at the České Budějovice RP is equipped with a CCTV camera; in conformity with the internal regulations, the officer escorting the prisoners provides supervision inside the surgery only on the physician's request. In the Mírov Prison, a CCTV system is installed in the doctors' surgeries – the system is connected only to the prison officer's station at the medical department. It is up to the physician whether he/she will require the presence of a prison officer during an examination. If an officer is present to an examination, a record is always made of this fact in the convict's health card kept by the physician. If a physician does not request the presence of a prison officer during an examination, the officer will monitor the situation in the surgery using the CCTV system from his/her station (i.e. beyond earshot) and if the physician wishes to prevent even this option, he/she may turn off the camera in the surgery (i.e. out of sight).

Arranging the presence of an officer of the Prison Service in sight is required by Section 46 (1)(g) of the Act on healthcare services and the conditions for their provision. In practice, the Czech Prison Service installed monitoring devices in the physicians' surgeries in prisons and remand prisons. Nonetheless, if there is a justified concern that, in view of his/her characteristics, the prisoner will behave in a violent manner or that bodily harm might be inflicted on the medical staff or property damaged, the prison officers responsible for supervision will be present to the prisoner's examination, based on prior agreement with the specific healthcare staff. At the same time, pursuant to Section 9 (1) of the Act on the Prison Service and Judicial Guard of the Czech Republic, prison officers are obliged to maintain confidentiality of facts they have learnt when on duty.

Response to paragraph 63

The setting of the system in the Mírov Prison corresponds to its nature and security. A camera placed in the physician's surgery is routed only to the office of prison officer on duty, without a recording option. The transferred image does not allow for detailed observation of the actual examination. The installation of CCTV systems in surgeries was a compromise solution agreed in the past with the Public Defender of Rights, as it replaced a general system of continuous presence of a prison officer in the surgery. We cannot see any difference in whether images are obtained by a camera covering the whole surgery or through a crack in the door used by a prison officer to constantly supervise the surgery. In this regard, the CCTV system seems much less intrusive. Nonetheless, a solution will be sought in the future in accordance with the new setting of the system described above.

Response to paragraph 64

As regards the availability of treatment of hepatitis C, the České Budějovice RP has established co-operation with the Contagious Diseases Department of the České Budějovice Hospital, and biological antiviral treatment is currently applied to all prisoners suffering from this disease if they are interested. The treatment of hepatitis within the Czech Prison Service Prison Service is ensured mostly by healthcare service provider Remedis, s.r.o. or some other entity providing the relevant healthcare services.

The provision of substitute treatment of addiction to opioids in a prison is conditional on the establishment of a Substitute Treatment Centre in the given prison. A Substitute Treatment Centre has so far been established in 10 prisons; however, the České Budějovice RP is not

among them. Therefore, if necessary, substitute treatment is provided to patients placed in the České Budějovice RP and indicated for this type of treatment via external healthcare service providers or by their relocation to a prison providing such care.

Response to paragraph 65

The Ministry of Justice already provided a response to paragraph 65 by the set deadline. According to the statement of the Czech Prison Service, the convict was no longer present in the Mírov Prison in April 2019; he was placed in the Valdice Prison from 25 October 2018. His alleged health problems following from sleep apnoea had been repeatedly addressed with him in the past before the CPT visit. The information provided indicates that he was examined in a sleep laboratory and that the mentioned CPAP machine was provisionally recommended to him, but the relevant revision doctor rejected the application for the provision of this machine. In the given case, the application was dismissed by the revision doctor as the competent authority, rather than by the Czech Prison Service. It then followed from the statement of the Czech Prison Service that the use of the CPAP machine was generally permitted to the prisoner if needed.

Response to paragraph 66

In connection with the outputs of the broad inter-departmental working group for systemic resolution of the subject of prison healthcare, a decision was made in 2016 to maintain the current state of affairs, i.e. that the provision of healthcare in prison facilities would remain under the responsibility of the Ministry of Justice in view of the legal and practical unfeasibility of transferring the competence to another entity. The Ministry of Justice plans to renew the activities of this group and seek a broad inter-departmental agreement regarding the most efficient and, at the same time, functioning system of provision of healthcare in prison facilities which would ensure quality care and reflect medical, human-right and also security and logistics aspects of the issue. In this regard, the Ministry of Justice shall provide the CPT by 30 June 2020 with information on the procedure of the inter-departmental working group, including an outline of possible solutions.

Response to paragraph 68

The number of individual officers at the guard stations of the České Budějovice RP is based on the Guard Stations Schedule, which forms a part of the "Guard Plan" of the České Budějovice RP. This number is in line with Section 52 (2)(a) of Order of the Director General No. 23/2014, on prison and judicial guard, and in conformity with Section 89 of Order of the Director General No. 5/2016, on employees and officers of the Prison Service of the Czech Republic providing for remand, imprisonment and secure preventive detention.

Response to paragraph 69

During a body search (strip-search), it is imperative to use the best efforts to maintain dignity of the person being searched so that he/she is not affected by the search more than is absolutely necessary. The conditions and manner of carrying out body searches with observation of the naked body are distinguished in an internal regulation from searches where it is not necessary to observe the naked body and which are sufficient in many cases. A thorough body search is carried out in a designated, sufficiently heated room equipped with mats, benches and hangers. The doors and windows of the room must be adjusted so that the prisoner being searched cannot

be seen from the outside of the room. In cases of collective thorough body searches, the prisoners are always separated by screens or cabins so as to ensure the necessary degree of privacy and dignity of the prisoner. A search is carried out by a person of the same sex.

The provisions of the internal regulations of the Prison Service on thorough body searches were amended so that a thorough body search (strip-search) is carried out only if there is a justified suspicion based on individual risk assessment that the imprisoned person carries dangerous or unauthorised objects. The Ministry of Justice will ensure compliance with this practice. Searches will also be carried out in that the person being searched will be allowed to strip only half way, and subsequently expose the other half of the body once the first half has been covered, unless there are security reasons in a particular case for conducting the search in a different manner.

Response to paragraph 70

The manner of cuffing before an escort is determined on the basis of individual risk assessment with regard to the criminal history of the escorted person, duration of his/her sentence, behaviour during imprisonment, further criminal proceedings, inclusion in the Index of Escapees and Dangerous Persons, etc. If a physician from a civil healthcare facility requests that cuffs be removed from the prisoner with a view to performing his/her examination, the cuffs are removed during the examination.

The Czech Prison Service will modify the existing practice in this area in that cuffs (coercive means) will only be used in the most serious cases, where the prisoner poses a serious security risk. The escort commander will always advise the physician accordingly and upon his/her request will remove the cuffs (coercive means) even in these cases. In all the other cases the cuffs (coercive means) will only be used when the medical personnel feels endangered and asks for such use. Written information will be drawn up for those physicians who provide healthcare services to prisoners on a regular basis.

Response to paragraph 71

Pursuant to Section 72a of the Service of Imprisonment Act, a convict is deemed very dangerous if he/she has been given an extraordinary sentence or is being prosecuted for an especially serious felony committed during remand in custody or service of sentence, or has tried to escape or escaped from remand or service of imprisonment during the past five years, or it can be justifiably expected that he/she will endanger the safety of other persons.

Based on the above provision of the Service of Imprisonment Act, very dangerous convicts are placed in a department with reinforced construction-technical security for a period not exceeding 90 days. If no reasons for such placement are found during this time, the convict is removed from this department. If such reasons are found during this period, the convict will remain in this department, even repeatedly, for a period not exceeding 180 days. The deadlines set for assessment of continued placement in a department with reinforced construction-technical security may be reduced by a decision of the prison director. A convict placed in a department with reinforced construction-technical security may apply to the prison director for removal from this department if the prison director believes that the reasons for such placement have not arisen or have ceased to exist. The decision on the application is drawn up in writing and delivered to the convict. The convict may lodge a complaint against the decision within 3 days of its delivery; a complaint does not have a suspensory effect. A decision on this regular remedy is made by the Director General of the Prison Service or an employee of the Prison Service authorised by the

Director General. If the convict's application has been rejected, the convict may file it again only after expiry of three months of the legal force of the decision.

Response to paragraph 72

Chains and padlocks are not used inside the department with reinforced construction-technical security in the Mírov prison and are used when prisoners are relocated to other departments. The use of chains and padlocks instead of ordinary handcuffs is always discussed by the security committee of the Mírov Prison on the basis of a proposal of a prison employee. The degree of danger posed by the convict, his/her physiological parameters and mental condition are assessed in all the discussed cases.

As of 9 July 2019, two convicts were restrained at the Mírov Prison using chains and padlocks because one of the convicts had previously been seen by a prison officer to remove his hand from closed handcuffs and the other convict threatened to attack the personnel. At the time of the CPT visit, one other convict was also restrained by chains and padlocks because he had attacked the escort when being handcuffed; however, chains and padlocks are not used to restrain him at the present time and have been replaced by handcuffs and a belt.

Response to paragraph 73

The reason for placing a person in a "special cell" (designated as a "crisis cell" by the CPT) is not *a priori* an illness, but rather a current poor mental condition. Prior to placement, these persons are examined by a physician without delay pursuant to Section 5 (3) of Order of the Director General No. 25/2011 on crisis departments and treatment of prisoners in crisis. The purpose of this initial examination is determine precisely whether or not the person's conduct is caused by his/her medical condition. During their placement, they are then under supervision and in the care of the prison psychologist, who co-operates with other professional employees, including a physician, if necessary. Nevertheless, the Czech Republic acknowledges the problem and agrees to ensure that prisoners in special cells are visited by medical staff at least once a day (physician or nurse).

Response to paragraph 76

The Czech Republic is aware of the seriousness of this issue and will carefully consider the CPT's recommendation. However, we believe that in the case of medical examinations related to search of body cavities, physicians of the Prison Service may perform them without exceeding the limits of medical ethics. This is a classical medical-legal act, i.e. the actual provision of a healthcare service, on which the physician issues a medical report and submits the report to an authorised person who performs further acts on the basis of the report. Therefore, it is not a physician or a healthcare worker who performs the actual repressive activity; this distinction in the competences of the individual persons must be maintained.

In terms of urine testing for the presence of illicit substances, healthcare workers currently provide most of the total volume of indicative examinations for the presence of dependency producing substances in the body, while they usually do not participate in sampling of the biological material (urine), but rather only in performance and evaluation of the results of the indicative test. If this practice were to be changed, it would be necessary to completely reorganise the personnel carrying out the tests or substantially reduce the number of tests. Reorganisation of the personnel would most likely require increased financial resources in

connection with an increase in the number of systemic positions, especially in respect of remand and service of sentence, or among the prison officers. On the other hand, a marked reduction of the number of tests performed (i.e. the number of tested persons) could impair the effectiveness of this security measure, which is aimed primarily at enforcing the prohibition of using addictive substances by prisoners.

Response to paragraph 78

It should be noted primarily that the punishment of solitary confinement is used as the strictest sanction for the most serious disciplinary offences committed by convicts. Last year, the sanction of solitary confinement was imposed in 18 cases from the number of approximately 11,000 disciplinary punishments imposed.

The Czech Prison Service is currently working on amending the existing legislation concerning means of achieving order and discipline among convicts, where serious unlawful acts committed by convicts should be dealt with in criminal proceedings, rather than in disciplinary proceedings. The Czech Prison Service is also developing a new method of motivating convicts using benefits, rewards and sanctions.

Response to paragraph 79

A specific pedagogical sequence is followed in imposing disciplinary sanctions in the Všehrdy Prison and no juvenile convict was punished by solitary confinement or whole-day placement in an enclosed section during the given period. In contrast, the prison uses, as the strictest disciplinary sanction, whole-day placement in an enclosed section, except for the period set for the performance of tasks assigned in the rehabilitation programme. Before imposing a disciplinary punishment, each convict is allowed to provide a statement on the matter. Furthermore, each convict may appeal against a decision on imposition of a disciplinary sanction within three days; this option is seldom used in practice by the convicts.

Response to paragraph 80

As already stated in the response to paragraph 78, the Czech Prison Service is working on a legislative change, or more specifically, on a new method of motivating convicts using a new system of benefits, rewards and sanctions. The Czech Prison Service is currently reviewing individual disciplinary sanctions and rewards, and proposals for new benefits, rewards and disciplinary sanctions, also in view of foreign practice.

Response to paragraph 81

The Czech Prison Service already responded to similar findings of the CPT in 2014 by amending its internal regulation to reflect the wording of Art. 43 (2) of the European Prison Rules.

Prisoners placed in solitary confinement are visited by a general nurse in regular intervals pursuant to Section 31a of Order of the Director General No. 36/2014, on disciplinary proceedings against accused persons, convicts and institutionalised persons. It can be assumed that the intervals will be shortened in individual cases, e.g. based on a decision of the prison director. It is necessary to promote the creation of a confidential relationship between a patient and a physician; however, the exclusion of a physician from the process of placement of prisoners on solitary confinement also carries certain risks. A physician's interference before the

commencement of this disciplinary punishment is precisely what enables to eliminate cases where, for example, a person with mental illness or other chronic illness unfavourably affecting his/her mental condition is being punished in this way, and his/her placement in solitary confinement could quickly cause suicidal tendencies. Consequently, a physician is not the person who makes a decision on a disciplinary sanction, but may rather only mitigate the punishment based on health reasons and adopt such measures that will protect the prisoner's health.

The Czech Republic will deal comprehensively and intensively with the issue of involvement of physicians and nurses in security acts and the subject of disciplinary punishments. It will carefully consider the CPT's recommendation, especially in connection with the possible disruption of the physician-client relationship.

Response to paragraph 85

An amendment to the relevant Director General's Order has been made since the last visit of the CPT, allowing to divide the overall duration of visits to prison.

Response to paragraph 86

The legislation on remand in custody was modified after the last visit by the CPT; in justified cases, the prison director may allow an accused person to receive a visit without supervision in terms of eavesdropping and possibly also visual supervision. This option is also available in case of imprisonment, but only in areas designated for this purpose. Nonetheless, the permission of both these options is in the discretion of the prison director.

The České Budějovice RP increasingly uses the option of allowing convicts to leave the prison for 3, 10 or 24 hours in connection with a visit pursuant to Section 45 (2)(g) of the Service of Imprisonment Act. Given the composition of the prison population and in view of the unfavourable construction-technical and spatial conditions of the České Budějovice RP for establishing the corresponding facilities, this is a suitable option for unsupervised visits. A permission to leave the prison was given 24 times in 2017 and 39 times in 2018. The option of suspension of imprisonment is also used based on Section 45 (2)(h) of the Service of Imprisonment Act. The service of imprisonment was suspended in 35 cases in 2017 and in 14 cases in 2018.

Response to paragraph 87

The Ministry of Justice notes that the České Budějovice RP has already sent a request to the Security and Communication Technology Department of the General Directorate of the Czech Prison Service for the provision of 14 telephones for prisoners, which will subsequently be installed on the designated premises of the remand part of the České Budějovice RP and in the prison yards. This number of telephones will ensure more comfortable exercise of the prisoner's rights. A social worker has been appointed at the České Budějovice RP to verify as quickly as possible that the given right is indeed used to call a "close person" as required by the law. If the prisoner fails to provide the relevant data (e.g. non-existent telephone numbers, non-existent persons, etc.), this fact is always dealt with individually with the applicant by an employee of the České Budějovice RP.

Response to paragraph 89

Public prosecutors supervise over the exercise of remand in custody and service of imprisonment and regularly visit the relevant facilities. In cases where the public prosecutors performing supervision request access to the accommodation premises for inmates and the possibility to interview them in private, they are allowed to do so. Interviews with inmates serving imprisonment or accused persons in remand during regular inspections in prisons are one of the main methods of supervision over detention and have been applied since the very beginning of this supervision, i.e. since January 2000. In the interest of effective and immediate interference in cases of torture or other inhuman or degrading treatment, the Supreme Public Prosecutor has also issued a general instruction[4], which lays down, to the extent possible, a specific regime in investigating the state of affairs within shorter time limits for addressing complaints. Review of the state of affairs by public prosecutors in these cases is based on the principle of adversarial investigation of complaints filed by persons in detention.

With a view to even more consistent detection of cases where persons in detention have become victims of physical attacks or even torture, a legislative intent has been prepared to supplement Section 65 (2) of the Healthcare Services Act to include the right of the Public Prosecutor's Office to inspect medical records in relation to supervision at places where freedom is restricted under the statutory authorisation. The Supreme Public Prosecutor's Office sent the reasoned legislative intent to the Ministry of Justice on 7 February 2019.

Based on the CPT Report, the Supreme Public Prosecutor's Office has also prepared a summary of basic tasks for the exercise of the non-criminal competence of the Public Prosecutor's Office, which reflect the findings mentioned in the CPT.

C. Psychiatric institutions

Response to paragraph 90

The aim of the reform in the field of psychiatric care, or rather the reform of care for mental health, is to provide quality care to all people with a mental illness in terms of the place and scope of the services, where such care is co-ordinated and comprehensively covers all the needs, is efficient and innovative, and places emphasis on rehabilitation and early return to normal life and, in particular, respect for human rights. For common population, the objective is to "normalise" mental illnesses and help to perceive them as common and treatable, as well as to focus on prevention and timely intervention that will prevent further development and, subsequently, chronification and long-term consequences of mental problems.

The reform is carried out in the form of several projects of the Ministry of Health, Institute for Health Information and Statistics, and the National Institute of Mental Health, which is the main professional workplace for psychiatric care in the Czech Republic. The projects are financed from European structural and investment funds.

Support for the creation of Mental Health Centres (MHC) I, II and III

The objective of the first project is to establish, within three consecutive phases taking place until 2021, a total of thirty pilot mental health centres distributed evenly throughout the Czech Republic as the backbone of the future network of approximately 100 of these centres. A total of

[4] General Instruction of the Supreme Public Prosecutor No. 7/2019 of 22 May 2019, amending General Instruction No. 10/2012, on supervision over compliance with legal regulations at places where personal freedom is restricted under the statutory authorisation, as amended.

5 centres have been operating in a pilot regime since 1 July 2018 (two in Prague, and one each in Přerov, Havlíčkův Brod and Brno). Each centre should be composed of a mobile multidisciplinary team whose members will work at least 50% of the time in the field, i.e. in the natural environment of people with a mental illness. Their main target group will be patients with a serious mental illness (i.e. patients with a severe progress of schizophrenia, an obsessive-compulsive disorder, a bipolar affective disorder and patients with a severe personality disorder). This group of patients is most endangered by institutionalisation and exclusion from normal society. The target group will also include persons with early occurrence of a psychotic disease. The centres will co-operate in their respective regions with other services, both specialised and those intended for the ordinary population, e.g. in the area of employment, education, housing and leisure time activities. The centres will provide health-social services through a single joint team operating on the basis of the case-management principle. For a period of 3 years, the centres are paid from European funds and, subsequently, the healthcare part will be reimbursed from public health insurance and the social part from the social services budgets of the administrative regions. From 2020, the centres will be defined in legal regulations as independent types of health and social services.

De-institutionalisation of services for mentally ill persons

The first part of the project supports management and professional guarantees for the entire reform. The Executive Committee for Managing the Implementation of the Psychiatric Care Reform Strategy began to meet regularly in June 2017. This working group is composed of representatives of the Ministries of Health, Labour and Social Affairs, and Finance, administrative regions, insurance companies, and users and supervisors of individual projects; it meets once a month or more frequently for the purpose of operative management and co-ordination of all reform activities implemented within the individual projects. The Reform Expert Board appointed by the Minister of Health and composed of renowned experts in the main areas of the reform also met for the first time during that month. The Expert Board meets at least once every 3 months and approves documents, gives recommendations and prepares expert reports on issues identified within the reform process.

The second area on which the project focuses is the quality of care within the services provided and the care for patients as such in accordance with the Convention on the Rights of Persons with Disabilities, *inter alia* in connection with the World Health Organisation's project Quality Rights. Each psychiatric hospital employs a quality manager (employee of the Ministry of Health, rather than of the hospital), who works together with the hospital management to ensure the quality of care and respect for patients' rights based on a previous analysis of the situation and identification of strengths and weaknesses. An analysis has been drawn up of the use of means of restraint in psychiatric inpatient institutions, and training was organised in co-operation with WHO with regard to use of alternative approaches of de-escalating crisis situations; this will further continue. Methodologies will also be created for evaluation of the quality of care and its certification in psychiatry, both in inpatient facilities and in the outpatient sector, and criteria for evaluation of health-social services are being prepared in co-operation with the Ministry of Labour and Social Affairs. Quality assurance also requires the creation of a general standard of care for mentally ill persons, recommended procedures and training of experts in the area of quality for the purposes of implementation of changes. The entire system will then be integrated into the existing systems of accreditation and certification of healthcare services, including changes in legislation.

Another project activity aims to create regional care networks in which health and social services will co-operate, together with all public authorities affecting the lives of persons with a mental illness. The desirable target state of the regional network of services will be defined for each

administrative region. The network will be defined based on a regional analysis of the necessity and current condition of the network in each region. A regional co-ordinator is currently employed for each administrative region and the services for persons with a mental illness are being mapped. A regional co-ordination group has already been established in a majority of administrative regions, involving representatives of the region's health and social departments, providers of individual services in the given region, users and representatives of insurance companies. The outputs of mapping then serve as the basis for planning processes, but also for managing and financing of health and social services in care for mental health at the regional level.

Another important activity focuses on changes in psychiatric hospitals, specifically changes in the provision of acute and follow-up inpatient psychiatric care. Acute inpatient care will be integrated into general healthcare and the network will consist of smaller capacities with a reasonable catchment area ensuring continuity of care in connection with somatic care and the natural environment of patients. The number of acute beds in the system will gradually increase with the decreasing capacities of follow-up inpatient care in accordance with the development of modern care, with the exception of forensic and detention beds. Beds for follow-up psychiatric care in the existing institutions will be transferred to the services and residential capacities created at the place of residence of people with a mental illness. Acute psychiatric care beds will be available in the network of services for patients with all psychiatric diagnoses; the same will be true of beds for care for children and youth and beds for specialised care.

One of the objectives of the reform is to utilise the personnel of psychiatric hospitals for the development of other forms especially of outpatient care for mentally ill patients outside the existing facilities. Transformation plans are being drawn up for the individual psychiatric hospitals, comprising the goals of future care provided, the role of the hospitals in regional networks, the proposed organisational arrangement, the hospital's personnel strategy, including education and development of qualifications, as well as the urban and functional design of the premises, for the purpose of planning the necessary investments. The transformation process will require 15 to 20 years and has to be closely linked to regional care networks. The creation of new residential capacities and services must precede the reduction of the number of beds in institutions. The need for improved quality of care and technical background in existing psychiatric hospitals must not be neglected either.

Last but not least, the project deals with the overall concept of reimbursements for psychiatric care and the necessary changes in legislation. The existing financing system often motivates the providers to proceed in the opposite direction than anticipated by the Psychiatric Care Reform Strategy. This needs to be substantially changed and the financial motivation for all providers in the system must be brought into accord with the objectives of the reform. Furthermore, it is necessary to ensure financial sustainability of the newly created services after termination of financing from European funds. With this goal in mind, the Ministry of Health, health insurance companies and the Psychiatric Company of the ČLS JEP Psychiatric Association signed a Memorandum of Co-operation in implementation of the Psychiatric Care Strategy and ensuring sustainable financing of psychiatric care in the long term. This Memorandum was followed in January 2018 by an Implementing Agreement on the creation of and support for healthcare services related to the reform of psychiatric care, signed by the Minister of Health and the Director of the General Health Insurance Company. The Implementing Agreement already defines the specific steps to ensure sustainable financing of psychiatric care. Based on this Agreement, a working group was created in January 2018, consisting of representatives of health insurance companies, the Ministry of Health, the Ministry of Finance and the ČLS JEP Psychiatric Association, with the task to prepare and approve specific changes in the financing of psychiatric services.

Support for new services in care for mentally ill persons

The objective of this pilot project is to verify the functioning of new services in psychiatry. Specific goals include the creation of a specific form of community care provided by multidisciplinary teams for pedopsychiatric patients, gerontopsychiatric patients and patients who have been ordered to undergo protective treatment, and to ensure pilot verification of the standards of an outpatient facility with extended care. Outpatient psychiatric care will be provided in the network of psychiatric services by means of existing outpatient psychiatric departments or outpatient facilities with extended care. The team of an outpatient facility with extended care will include a psychiatrist, clinical psychologist, psychiatric nurse and other staff, if appropriate. The employees will co-operate based on the principles of multidisciplinary co-operation. Unlike the existing outpatient psychiatric departments, an outpatient facility with extended competence will have regional responsibility for patients from diagnostic groups falling within its specialisation. The services may include also include field work, psychotherapeutic programmes and day-care centres. Outpatient facilities with extended care will closely co-operate with physicians in primary healthcare in their respective catchment regions with a view to arranging mutual transfers of patients and minimisation of waiting periods. Outpatient facilities with extended care will also closely co-operate with the community teams being developed.

The methodology of calls for applications for subsidies is currently being prepared, a workshop has been organised for potential applicants, and the absorption capacity has been mapped. Sustainable financing has been set up with insurance companies for the time when financing from European funds will no longer be available for this service. Sustainable financing of the social part of the service is discussed with the Ministry of Labour and Social Affairs and administrative regions. The call is expected to be announced in August 2019; the operation should commence immediately after the necessary documents have been delivered and a decision on the subsidy has been issued.

Support for introduction of a multidisciplinary approach to mentally ill patients

The objective of the project is to standardise the multidisciplinary approach to care for mentally ill persons and introduce it into the practice of health and social services providers through methodologists' support and sharing good practice. The project focuses on the most suitable method of work in care for mentally ill persons in view of the ongoing transformation and de-institutionalisation. The first part of the activities focuses on harmonising the notions and methodology of the multidisciplinary approach, including training of people who will assist in its introduction into practice and motivation of the affected entities. Further activities will then support proper implementation of the methods of work into the practice of service providers. The last part of the activities will be related to sharing good practice within the new system. The project was commenced in September 2017 and is currently in the phase of preparation of a methodology and planning of training events.

Analytical and data support for the psychiatric care reform

The project was commenced in March 2018 and falls under the responsibility of the Institute for Health Information and Statistics. Information tools will be created for the infrastructure of psychiatric care and evaluation of the quality of care; data collection and a register of mental health centres will be set up within the project.

Timely detection and intervention

The objective of this project of the National Institute of Mental Health is to prevent the development of serious mental illnesses, ensure hospitalisation upon occurrence of the initial episodes, and prevent a loss of employment by persons threatened by a serious mental illness.

The project includes training of three teams in the provision of timely detection and timely intervention services, and sharing of experience.

De-stigmatisation of persons with a mental illness in the context of the reform of psychiatric care

This project of the National Institute of Mental Health comprises the creation of a methodology of de-stigmatisation and analysis of the current state of affairs; a campaign will begin in the regions the coming months with the objective to promote de-stigmatisation and support the users and family members, along with a project of primary prevention.

Methodology respecting the development of psychiatric services

In co-operation with the Ministry of Labour and Social Affairs, the National Institute of Mental Health has been implementing a project respecting the development of psychiatric services, i.e. cost evaluation and evaluation of the efficiency of the entire reform process.

In addition to the mentioned projects, European funds are also used to support investments in the establishment or reconstruction of acute care departments of general hospitals, mental health centres, day-care centres, outpatient facilities with extended care, and equipment of mobile teams. Over CZK 2 billion has thus been invested so far.

The National Action Plan of Mental Health for 2020–2030 is currently being finalised on the systemic level; the plan is to establish long-term inter-departmental and inter-sectoral co-operation aimed at resolving all the aspects of the quality of life of mentally ill people, improving prevention and early intervention, setting up communication with the payers and providers of care to ensure an efficient and sustainable system of financing, and also addressing other areas, such as the system of education in healthcare and social services.

A transformation team has been established in each psychiatric hospital to co-ordinate the transformation in relation to the development of services in catchment areas. A plan of educational workshops has been created for the managing staff of psychiatric hospitals with a view to establishing transformation teams and creating transformation plans. The needs of all patients hospitalised in psychiatric hospitals in the long term are assessed[5], i.e. it is determined what these people will need in order to leave the facility and live in their own social environment. A personnel analysis of hospitals, an analysis of the economic impacts of the transformation and a general analysis of property have been performed. A regional co-ordination group has been established in all the administrative regions of the Czech Republic to address the development of a network of social services at the level of the regions so as to ensure a safe transition of patients from psychiatric hospitals to their own social environment. Negotiations with regional hospitals are underway with regard to the development of acute care, which will also be provided in existing psychiatric hospitals. A system of payments for the outpatient segment of psychiatric care is being modelled together with health insurance companies (outpatient facilities, day-care centres, etc.) to motivate its development, while simultaneously guaranteeing the quality of the care provided. A Memorandum on Acute Inpatient Psychiatric Care has been signed with health insurance companies to increase the payments for this segment of care subject to certain quality criteria. Financing of follow-up psychiatric care has been agreed with the health insurance companies so that the psychiatric hospitals would not face serious economic instability in the process of transformation and, moreover, so that a degressive financing model would motivate them to proceed with de-institutionalisation. An analysis has been carried out as regards protective treatment and an inter-departmental working group has

[5] As of 31 September 2018, a total of 2,803 patients were hospitalised in psychiatric hospitals for a period exceeding six months (of which 1,360 with a serious mental illness).

been established to set up a functional system of protective treatment in psychiatric hospitals and at outpatient psychiatric departments.

Response to paragraph 93

As part of the reform of psychiatric care, the number of beds in multiple-bed dormitories is being gradually reduced. This process is taking place gradually and is also reflected in the transformation plans of hospitals, which are now being implemented within the reform of psychiatric care. The Ministry of Health is currently preparing a National Action Plan of Care for Mental Health, where the selected measures pertain precisely to a reduction of the capacities of psychiatric hospitals with support for care in the natural community and based on the patient's individual needs. The action plan will be adopted by 31 December 2019.

Statement on paragraphs 94 and 95

In most psychiatric hospitals, access to open air is dealt with in internal regulations, e.g. operating rules. Patients are allowed to go outside at times of insufficient stabilisation of their condition even in the presence of medical staff. The reconstruction projects comprise construction measures to ensure direct access to open air from the department in the form of terraces, gardens and other options.

The internal regulations of the Jihlava Psychiatric Hospital have already been modified based on CPT's instigation; all employees have been acquainted with them and they are being put into practice. A good practice will be identified based on the recommendation; this will then be disseminated to all hospitals via the quality managers.

Response to paragraph 97

The Act on the conditions for acquiring and recognising professional qualifications and specialised qualifications to perform a medical profession of a physician, dental practitioner and pharmacist specifies directly the basic fields of specialised education and the duration of education in these fields. According to the Act, a physician who has yet to pass his regular exam has to work under direct physical supervision of a qualified physician who is present at the workplace. Until the relevant certificates are obtained, a qualified physician must be available within 30 minutes (for supervision). In accordance with this statutory provision, physicians who have yet to complete their specialised education also work in psychiatric hospitals. Nonetheless, such a physician must consult the available fully qualified doctor on all complicated cases. We agree that it would be desirable to increase the presence of qualified doctors; unfortunately, the hospital's staffing often does not permit this.

Response to paragraph 99

The Jihlava psychiatric hospital, in co-operation with the quality manager (employee of the Ministry of Health as part of the project of De-institutionalisation of Services for Mentally Ill Persons), is currently reviewing the internal regulations and practice regarding the introduction of individual treatment plans. At the same time, other hospitals established by the Ministry of Health are systematically supported in the implementation of individual treatment plans and evaluation of patients in the framework of the project of De-institutionalisation of Services for Mentally Ill Persons. The Ministry of Health is currently preparing a methodological procedure aimed at creating individual treatment plans and reviewing the procedure defined in the Journal

of the Ministry of Health of the Czech Republic, including methodological support in introducing changes in hospitals. The plan also includes the introduction of regular re-evaluation of the medical condition of all patients hospitalised in the long term. The personnel of psychiatric hospitals who should perform this evaluation are currently undergoing training.

Response to paragraph 101

Administration of medication as required in relation to the patient's current condition is in accordance with the law. Such administration is indicated by a physician, e.g. in case of anxiety or insomnia, and the dosage, possibility of repeated administration, etc., should also be specified. Each administration of a medicament is thus evaluated by a physician. This medication is regularly re-evaluated and adjusted within doctor's rounds. The administration is recorded in the documentation and the physician is acquainted with the administration of medication in accordance with his/her indication. Such administration should be subject to a free and informed consent of the patient just like any other treatment procedure.

The Healthcare Services Act allows treatment without consent only in urgent cases necessary for saving life or health if the patient cannot grant consent to treatment in view of his/her medical condition (e.g. if he/she is unconscious or severely mentally ill). If medication is administered in this manner despite the patient's resistance when averting an immediate threat to life, health or safety of the patient or other persons, such administration should be recorded as use of a means of restraint in accordance with the statutory rules, including an entry in the central records.

If a medicament is thus administered against the patient's will, e.g. in case of auto- or hetero-aggressive conduct, despite the fact that it is often administered as causal treatment (e.g. treatment of psychotic restlessness under hallucination or delusions), it should be recorded in such a case as use of a means restraint in accordance with the statutory rules, including an entry in the central records.

However, the difference between a pharmacological means of restraint and treatment without consent is not sharp and the definitions are indeed a problem in this regard (for more details, see paragraph 105). In this respect, the Ministry of Health shall prepare, by 30 June 2020, a methodological guideline for healthcare service providers, in which it will summarise the legal rules and lay down a recommended procedure for treatment of mental disorders without consent, including treatment with the use of PRN medication.

The use of psychotropic medication is regularly re-evaluated and adjusted within doctor's rounds. Unless a condition corresponding to the physician's indication occurs, the medicament is not administered by the secondary medical staff. For this reason, we consider special records redundant.

Response to paragraph 103

The use of means of restraint should always be limited to the period of existence of the condition due to which they are applied. A restriction may also be terminated by the secondary medical staff in accordance with the relevant methodological guideline if the duration of restriction would otherwise be prolonged without reason.

Response to paragraph 104

Section 39 of the Healthcare Services Act provides for the use of means restricting free movement in healthcare. The Act specifies what is meant by a means of restraint, and lays down

the conditions of their use and other duties of healthcare service providers. Specifically, pursuant to Section 39 (3), each provider is obliged to ensure that a patient and his/her guardian are informed, that supervision is ensured during the restriction, and that the restriction is properly documented, for reasons of safety, demonstrability and control. Under Section 39 (4), each provider is also obliged to keep central records of the use of means of restraint, containing summary data on the number of cases where means of restraint were used during a calendar year, separately for each means of restraint.

The methodological recommendation for the providers of inpatient care to restrict free movement of patients and use of means of restraint against patients, effective from 20 April 2018 and published in the Ministry of Health Journal No. 4/2018, specifies, further to this legislative regulation, the conditions under which restriction can be safely performed by placing a patient in a special room, and recommends the maximum time periods after which a physician has to re-evaluate the justification of further restriction, in addition to regular evaluation by a nurse. Furthermore, there is a duty to ensure continuous supervision by healthcare workers. The requirement for a therapeutic interview with the patient and acquainting him/her with the reason for the restriction and further procedure was returned to the methodical recommendation. The methodological recommendation goes farthest in the area of prevention. It is newly recommended in Art. 1 (1) that providers prepare a risk management plan for prevention purposes within the individual treatment procedures for selected patients. Furthermore, it is considered inadmissible if means of restraint should be used as measures following from an inadequate operational situation (lack of personnel, non-functioning CCTV system, etc.). The providers are to ensure initial training of the relevant healthcare workers with refreshers at least once every year.

It can be stated that the described practice is not in accordance with the methodological guideline that a psychiatric hospital is obliged to comply with, and the Ministry of Health now considers it of key importance to prepare interpretation guidelines and recommended procedures for the providers. It is also necessary to implement educational programmes on the given subject so as to educate all the relevant hospital staff. Within the project of De-institutionalisation of Care for Mentally Ill Persons, the Ministry of Health is now preparing a review of the procedure in using means of restraint. The area in question was included in the National Action Plan of Care for Mental Health, which is currently being prepared, both within legislative amendments and within methodical instruments and educational programmes. The Ministry of Health is now preparing, in co-operation with the World Health Organisation, a second edition of an educational programme for hospital staff focusing on prevention of use of means of restraint, including debriefing. An analysis focusing on the use of means of restraint has been carried out within the reform of psychiatric care; systemic changes in practice will be prepared on its basis.

Response to paragraph 105

The administration of rapidly acting medicaments is always indicated by a physician who knows the patient's medical condition and treatment indications, and evaluates the risks for the patient. He/she determines doses, possibilities of repeated administration, etc. Medical staff are trained in de-escalation techniques with the intention to avoid situations where medication would have to be used as a means of restraint. An individual failure or mistake cannot be ruled out. In the described situations, the physicians follow the Methodological Instruction described above. The use of a prescription as required for rapidly acting tranquilisers is regularly re-evaluated within doctor's rounds.

However, the Ministry of Health agrees with the need to establish principles of administration of rapidly acting tranquilisers specified by the CPT and will submit to the Government, by 30 June

2020, a draft amendment to the Healthcare Services Act so that the definition of psychotropic pharmaceuticals as a means of restricting free movement of a patient ensures that rapidly acting tranquilisers are administered only in exceptional situations. If these medicaments are administered as PRN, a physician will always have to be contacted before the use of these medicaments and their administration will be consistently recorded. At the same time, in a methodological instruction for healthcare services providers, the Ministry of Health specifies interpretation of the use of psychotropic medication as a means of restricting free movement of patients.

Response to paragraph 106

In an amendment to the Healthcare Services Act which is being prepared, the Ministry of Health plans to abolish the option of using net-beds as a means of restraint. The draft amendment to the Act will be submitted to the Government by 30 June 2020.

Response to paragraph 109

Pursuant to Section 29 of the Code of Civil Procedure, the presiding judge appoints a lawyer as a guardian for a person who is unable to act independently before a court if a close person cannot act as a guardian. According to the Legal Profession Act, a lawyer is obliged to protect and enforce the rights and justified interests of his/her client and observe the client's instructions. However, he is not to be bound by the client's instructions if they are at variance with a legal or professional regulation. A lawyer acting as a guardian is obliged to act honestly and conscientiously; he/she is obliged to use consistently all the statutory means and, in the framework thereof, enforce any and all measures in the interest of the client which the lawyer considers beneficial. Breach of these obligations would be a disciplinary offence subject to a fine or even a temporary prohibition to perform the legal profession or removal from the list of lawyers.

The general requirements for the guardian are set by the Civil Code, according to which one of the basic duties of the guardian is to maintain regular contact with the client in a suitable manner and to the extent necessary, to show real interest in him and to take care of his rights and protect his interests. If he fails to do so sufficiently, he does not fulfill his statutory obligations and can therefore be dismissed by the court.

Response to paragraph 110

If a patient agrees with hospitalisation and subsequently requests that he/she be released, the physician shall always assess the patient's current medical condition and, if possible, he/she will discharge the patient. If the medical condition of a patient, including voluntarily hospitalised patients, changes (deteriorates) and the statutory grounds for involuntary hospitalisation are met, the patient will be hospitalised without consent and the relevant legal procedures will be followed, including an application for court approval of the hospitalisation. Patients may withdraw their consent at any time and should be informed of this fact. By 30 June 2020, the Ministry of Health will adopt a Methodical Instruction stipulating the recommended procedure for situations where previous voluntary hospitalisation changes to involuntary hospitalisation, and will prepare information for patients in this situation.

Response to paragraph 111

If a patient opposes hospitalisation, his/her hospitalisation must be considered involuntary despite the consent of his/her guardian. Subsequently, all statutory procedures, including a request for court approval of the hospitalisation, should again apply. Based on the CPT's recommendation, a recommended procedure or methodological interpretation will be prepared within the project of De-institutionalisation of Services for Mentally Ill Persons and the hospital staff will be acquainted with the procedure or interpretation, and hospitals will be supported in its consistent incorporation in practice.

Response to paragraph 113

In practice, the courts often require an expert report when reviewing protective treatment. Expert assessment of a patient subject to protective treatment is usually carried out by an independent expert who is not involved in the actual protective treatment in a healthcare facility. However, the introduction of a mandatory expert report in cases of compulsory periodical checks to assess whether or not the purpose of protective treatment has already been achieved, is complicated by a lack of experts, especially in the field of psychiatry.

Response to paragraph 116

Each patient should be informed of the intended treatment and should be able to refuse the treatment, subject to exemptions stipulated by the law. As mentioned above, the conditions for involuntary treatment are formulated strictly and apply only to the most critical cases. Nonetheless, if a patient disagrees with the application of involuntary treatment even if the statutory conditions have been met, the patient's only option is currently to file a court action whereby he/she can retroactively claim compensation for any harm to his/her personal rights. Therefore, the Government will deal with this issue and will analyse by 30 June 2020 the availability and effectiveness of existing tools for protection of patients' rights in involuntary treatment; based on the result of the analysis, it will either prepare a methodological and information material for providers and patients on how to effectively use these tools in clinical practice, or a draft amendment to the Healthcare Services Act to lay down new instruments.

The patient is obliged to subject him/herself to treatment if protective treatment is ordered by the court. The patient should be informed of possible alternatives to the treatment with the right to choose the treatment procedure he/she prefers. If he/she rejects treatment as a whole, this should be considered as frustrating a court decision and the court should decide on termination of the protective treatment on the grounds of its unenforceability. Nonetheless, based on the CPT's findings, the Ministry of Health will submit to the Government, by 30 June 2020, an amendment to the Specific Healthcare Services Act so that the latter includes the principle of free and informed consent even in case of protective treatment, that it clearly specifies any exemptions, and that it provides for decision-making on involuntary treatment within protective treatment, including the possibility of filing an appeal. By 30 June 2020 the Ministry of Justice will also submit to the Government a proposal to amend the Criminal Code so as to remove the problematic part of Section 99 (5) "or otherwise show a negative attitude to protective treatment", thus tightening the conditions for converting protective treatment to security detention.

The legislation of the Czech Republic allows for issuing a second psychiatric opinion (right to a second opinion). This is common in cases of outpatient treatment and the patient can obtain a second psychiatric opinion, which is paid from public health insurance. However, this system of

financing does not permit this during hospitalisation. As part of the activities under the National Action Plan of Care for Mental Health, which is being prepared, a mechanism will be sought to ensure financing of a second psychiatric opinion also during hospitalisation.

Response to paragraph 117

A model information leaflet will be prepared within the project of De-institutionalisation of Care for Mentally Ill Patients and, in co-operation with quality managers, information leaflets will be either provided or reviewed in all hospitals, including the mechanism of their provision to all the patients. These leaflets are already available in some hospitals.

Response to paragraph 118

The given recommendation has already been incorporated in the internal documentation of the Jihlava Psychiatric Hospital; the staff has been familiarised with the complaint and it has been implemented.

D. Social care institutions

Response to paragraph 120

An amendment to the Social Services Act is currently being prepared, including discussions with all stakeholders such as social services providers, clients and their associations, NGOs and experts from practice. The objective of the amendment will be to generally clarify and simplify the system of social services. The amendment should also bring greater transparency and efficiency, increase the co-operation between public administration and the non-profit sector, eliminate duplicities in the system of arranging social services, and clarify the offer of social services for the public. The performance of social work will also be defined and the group of employees performing professional activities in social services will be diversified. However, its contents cannot be further specified at the present time.

Response to paragraph 124

The legal regulations governing the area of social services also define, *inter alia*, the settings of personnel and material-technical conditions for the provision of social services that are to guarantee dignified conditions for the life of users of these services in a residential facility. A number of criteria and standards of the quality of social services have been set, and they must be complied with by their providers. These standards include, *inter alia*, the creation of dignified conditions for the clients' stay in social services facilities. Compliance with these criteria and standards by the individual providers is also subject to checks performed within the inspection of social services.

A draft amendment to the Social Services Act and the follow-up implementing decrees will specify in further detail the personnel and material-technical conditions for the provision of individual types and forms of social services, which will undoubtedly contribute to improvement of the conditions for users living in residential facilities. Attention will also be paid to ensuring the clients' access to open air in residential social services facilities.

Response to paragraphs 126, 127 and 128

Healthcare services provided in residential social services facilities, specifically in homes for people with disabilities, weekly day-care facilities, retirement homes and special regime homes, are provided primarily by general nurses. This care is financed from public health insurance while complying with the set personnel, professional and material standards. Efforts are used to ensure that a sufficient number of nurses are available in each facility.

The specific nursing care procedures are specified by the examining physician in view of the client's medical condition and his/her current medical needs. Setting a specific treatment is thus fully within his/her competence. The nurses then provide nursing care on the basis of the set indications. This is true both of the general practitioner the patients are registered with and of specialised doctors such as psychiatrists, neurologists and psychologists. Where necessary, the mentioned experts may also visit the client in the facility or transport the client to their surgeries outside the facility.

The Ministry of Labour and Social Affairs perceives the issues related to the situation of persons requiring simultaneous provision of health and social care, and is aware of their seriousness. It is therefore currently working with the Ministry of Health on regulation of the entire subject of bordering social and healthcare areas with a view to setting up a system that will clearly define the roles of the two ministries in long-term care services including the necessary health and social services. The main objective of the regulation is to interconnect social and health care in the Czech Republic, including its financing. The change will concern, *inter alia*, the provision of healthcare in residential social services and its reimbursement, and setting the conditions for granting authorisation to provide healthcare and social services, standards in personnel and material-technical areas, standards of the quality of care, and the structure of reimbursements for healthcare. The changes should be prepared this year and be effective from 2021.

To modify the procedure in administrating medicaments as a measure restricting movement of persons, the Ministry of Labour and Social Affairs adopted the Recommended Procedure for the Use of Measures Restricting the Movement of Persons in 2018. The document specifies that medicaments may only be administered on the basis of a physician's instruction and in his/her presence, and this procedure may only be used if preventive measures have previously been unsuccessfully attempted with a view to avoiding a high-risk behaviour and conduct of the given person, and if this person has not calmed down even after being physically restrained and placed in a safe room. We further refer in this respect to the statement on the use of chemical means of restraint in paragraph 105.

According to the Social Services Act, residential social services facilities must comply with the standards of quality of social services as laid down by the relevant decree of the Ministry of Labour and Social Affairs[6]. According to the decree, homes for people with disabilities, weekly day-care facilities, retirement homes and special regime homes must provide training, educational and activation programmes, including e.g. labour-educational activities, training and improving motor, mental and social abilities and skills, creating conditions for ensuring appropriate education or work, leisure and hobby activities, and assistance in restoring or improving contact with the natural social environment. Furthermore, these facilities must mediate contact with the social environment, i.e. e.g. support and assistance in the use of commonly available services and information sources, assistance in renewal or improving contact with the family, and assistance and support in other activities promoting social inclusion of persons. Last but not least, they must also arrange for social-therapeutic activities, i.e. socio-therapeutic activities, the provision of which leads to development or maintenance of personal

[6] Decree No. 505/2006 Coll., implementing certain provisions of the Social Services Act.

and social skills promoting social inclusion of people. Compliance with these standards is checked and evaluated within the inspection of the provision of social services. Non-compliance constitutes an infraction subject to administrative punishment or de-registration of the social services provider.

Based on the findings made by the CPT, the Ministry of Labour and Social Affairs will carry out an inspection visit in both buildings with a special regime in October 2019. If it ascertains that shortcomings detected by the CPT persist, it will impose remedial measures on both facilities. At the same time, it will also consider reflecting these measures/requirements in the legislation defining the criteria and standards which take into consideration quality standards and compliance with dignity in the provision of social services.

Response to paragraph 132

In August 2016, an amendment to the Social Services Act and the Special Court Proceedings Act laid down clear and predictable conditions under which personal freedom of a person could be restricted in social services facilities in accordance with Art. 5 (1) of the Convention for the Protection of Human Rights and Fundamental Freedoms and Art. 14 of the UN Convention on the Rights of Persons with Disabilities. In connection with the above amendment, in 2017, the Ministry of Labour and Social Affairs reworked and issued Recommended Procedure No. 4/2017 on detention in social services facilities with the aim to provide support and assistance to social services and employees of municipal authorities of municipalities with extended competence in application of the relevant provisions of the Social Services Act.

In response to repeated criticism from the Public Defender of Rights, as well as, e.g., the Ministry of Justice, regarding the contents of the above-mentioned recommended procedure and the absence of certain aspects important for practice, the Ministry of Labour and Social Affairs updated the procedure in 2018. The Ministry of Labour and Social Affairs co-operated with the Ministry of Justice, the Office of the Public Defender of Rights, the Office of the Agent of the Government of the Czech Republic at the European Court of Human Rights, the Public Prosecutor's Office, as well as the professional public. The update, which came into effect on 1 January 2019, is published on the Ministry's website under the title Recommended Procedure No. 5/2018, replacing Recommended Procedure No. 04/2017, on detention in social services facilities. Recommended Procedure No. 5/2018 includes, *inter alia*, the procedure of the municipal authority of a municipality with extended competence and of the provider in concluding a mutual contract; the procedure of a social service provider in cases where serious disagreement has been expressed; the provider's notification duty; keeping records of expressed disagreements; the role of the inspectorate in the provision of social services; penalties in case of non-compliance with the duty to keep records; the conditions of court protection, including representation and further support for the detained person; as well as two annexes: recommended form of the Notice of Detention and recommended form of a Medical Report.

The introduction of an "automatic" review of court decisions on the permissibility of detention does not seem inevitable at the present time. According to the Social Services Act, a user involuntarily placed in a residential facility can express his/her serious disagreement with this placement at any time, and the provider is obliged to notify the competent court of this fact within 24 hours; the court will then decide in special summary proceedings on the lawfulness / permissibility of further continuation of detention of the given user. This is how judicial protection of personal freedom is fully guaranteed.

Response to paragraph 134

Within an amendment to the Social Services Act, the Ministry of Labour and Social Affairs is also preparing, *inter alia*, the introduction of a complaint mechanism. According to the proposed regulation, the Ministry of Labour and Social Affairs will be authorised to examine complaints filed by persons with regard to inadequate quality and manner of provision of social services. Filing of such a complaint must not be to the detriment of the person to whom the social services are provided. With a view to examining the complaint, the Ministry of Labour and Social Affairs will be authorised to carry out an on-site inquiry and request the opinion of the authorities concerned. Depending on the complexity of the case at hand, certain deadlines for resolving a complaint are proposed (30, 60 and 90 days). The Ministry of Labour and Social Affairs will notify the person who filed the complaint in writing of the results of examining the complaint.

If the Ministry of Labour and Social Affairs concludes during examination of a complaint that the quality of the social services provided is inadequate or that these services are not provided in a manner corresponding to the law, the Ministry will require the provider to adopt corresponding remedial measures, with specification of the deadline for implementation, or will submit an instigation for further steps to the competent authority. If the ascertained facts indicate that an infraction has been committed under the Act, the Ministry of Labour and Social Affairs will initiate proceedings on the infraction *ex officio* or will initiate proceedings before another authority competent pursuant to Section 108 of the Social Services Act.

E. Use of surgical castrations in the context of treatment of sex offenders

Response to paragraph 136

The Czech Republic is seriously dealing with the issue of surgical castrations. A special legal regulation has been in effect since 2012 within the Specific Healthcare Services Act, laying down strict conditions for performing surgical castration in persons with a paraphilic sexual disorder who have either committed a violent sexually motivated criminal offence, are very likely to commit such an offence in the future, or their disorder has a significant impact on the quality of their life. Other treatment methods must then be found unsuccessful or impracticable. Castration is always conditional on a free and fully informed consent of the patient and approval by an expert committee; court approval is also required for persons subject to protective treatment or placed in secure preventive detention. Persons remanded in custody and serving imprisonment or enjoying limited legal capacity may not be subjected to castration at all. These strict conditions lead to very low numbers of permitted and performed castrations.

Nevertheless, the Czech Republic takes into account the CPT's arguments that reject surgical castration, and appreciates the professional debate that it can pursue with the CPT.[7] It will therefore seek ways to replace surgical castrations in treatment of paraphilic disorders at the national level. The CPT will also be informed of further developments in this matter.

[7] See also CPT/Inf (2015) 29, p. 26 *et seq.*