

Response

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

from 16 to 26 May 2023

The Government of Hungary has requested the publication of this response. The CPT's report on the 2023 visit to Hungary is set out in document CPT/Inf (2024) 36.

Strasbourg, 3 December 2024

Note: In accordance with Article 11, paragraph 3, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, names of individuals have been deleted.



MINISTRY OF INTERIOR

I. Facts found during the visit and action proposed

A. Law enforcement agencies

1. Preliminary remarks

21. The CPT recommends that the Hungarian authorities pursue their efforts to ensure that persons remanded in custody are promptly transferred to a prison and that the return of remand prisoners to police establishments is sought only when there is absolutely no other alternative, and for the shortest time possible. The relevant legislation should be amended accordingly.

The objective should be to end the practice of holding remand prisoners overnight in police holding facilities.

Moreover, consideration should be given to developing alternatives to deprivation of liberty for persons convicted of misdemeanour offences.

Article 1(b) of the Ministry of Interior Decree 56/2024. (XII.5.) on the order of police jails and Act XC of 2017 on the Code of Criminal Procedure (hereinafter: Code of Criminal Procedure) **ensures the enforceability of detention and arrest in the police detention facility.**

According to Article 2, Article 388 and Article 427 of Act CCXL of 2013 on the enforcement of penalties, measures, certain coercive measures and infraction confinement (hereinafter: Punishment Enforcement Act) and the applicable public law organisational instruments, **the detention period in police detention facilities is limited, and may not exceed 60 days**, subject to Article 299 (2) of the Code of Criminal Procedure.

A **police detention centre is a building or part of a building for the accommodation and safe custody of detainees, suitable for prolonged human habitation. Detention** may be carried out in a police detention centre for a maximum period of 72 hours and, in addition, on the order of the public prosecutor's office, for a **maximum period of 60 days** for the purpose of carrying out procedural acts. In applying these measures, the authorities will in all cases endeavour to ensure that the detainee is held for the shortest possible period.

Practical experience shows that the use of **arrest** in police custody **is rarely used and only in truly justified cases**. In such cases, the prosecutor ordering the enforcement of detention in a police station requests the preparation and presentation of an investigation plan from the investigating authority, and also **closely supervises the criminal proceedings**. These circumstances alone constitute a safeguard against the misuse of the execution of arrest in police custody.

In addition to the above, Section 139 of Act II of 2012 on infractions, infraction procedure and the infraction records system (hereinafter: Infractions Act) regulates the enforcement of **detention for petty offenses**. Subsections (1a)-1(e) of Section 139(1) of the Act contain the mandatory and possible cases of ordering detention for an offence in police custody, **none of which exceeds ten days**.

It is essential to note that according to Section 273(6) of the Punishment Enforcement Act, the reception of a person sentenced to imprisonment shall be carried out, in the absence of any provision to the contrary, in accordance with the working hours of the prison institution. However, the arrest

and delivery of persons sentenced to detention for a minor offense may take place not only during the working hours of the prison institution but also, for example, at night or on weekends.

According to the Infractions Act, in cases where **a custodial penalty is imposed in lieu of a fine**, the Police are required by law to ensure that if the offender, or a family member or other person designated by the offender, upon notification, **duly pays the unpaid fine and presents proof of payment** at the place of detention, the person subject to the custodial penalty **shall be immediately released** following the handover of a certificate pursuant to Section 33(4) of the Police Act.

On this basis, the Hungarian authorities also seek to reduce the measures involving deprivation of liberty.

In the Hungarian criminal law, both in the field of substantive criminal law and in the field of criminal procedure, there are a number of legal institutions that can be used by the criminal court and the prosecution as an alternative to imprisonment. Most of these legal instruments are specifically applied to the lesser substantive offences referred to by the CPT.

Act C of 2012 on the Criminal Code defines the system of criminal sanctions, among which the following alternative penalties can replace imprisonment or detention: community service, fines, prohibition from engaging in certain occupations, prohibition from driving, banishment, prohibition from attending sporting events, and deportation [Article 33(1) of the Criminal Code]. These can be imposed both individually and in combination, thus facilitating individualization.

Pursuant to Article 33(4) of the Criminal Code, if the lower limit of the penalty for a crime does not reach one year of imprisonment, detention, community service, fines, disqualification from engaging in certain occupations, disqualification from driving, expulsion, disqualification from attending sporting events, or deportation, or a combination of these penalties, may be imposed instead of imprisonment. This provision generally allows for the imposition of alternative sanctions instead of imprisonment in cases of less serious crimes, even in cases of offenses punishable by up to five years of imprisonment in certain instances.

The court also has the possibility, in the case of a custodial sentence, to suspend the execution of the sentence of imprisonment for a term not exceeding two years for a probationary period if, in particular in view of the personal circumstances of the offender, there are grounds to believe that the purpose of the sentence can be achieved without its execution.

Among the measures, reprimand, probation, and work performed in amends [Article 63(1) of the Criminal Code] are worth mentioning, which can be specifically applied in cases of less serious crimes.

Probation may be imposed for a misdemeanour or a felony punishable by a maximum of three years' imprisonment [Article 65(1) of the Criminal Code], whereby the court may postpone the imposition of the penalty for a probationary period if it can reasonably be assumed that the purpose of the penalty can still be achieved. In the case of a juvenile offender, probation may be imposed for any crime. Upon completion of the probationary period, the offender's criminal liability ceases.

Work performed in amends [Article 67(1) of the Criminal Code] may be imposed for a misdemeanour or a felony punishable by a maximum of three years' imprisonment, whereby the court may postpone the imposition of the penalty for one year and order the performance of community service if it can reasonably be assumed that the purpose of the penalty can still be achieved. Community service is considered a community sanction. If the offender duly proves that he or she has completed the community service within one year, his or her criminal liability ceases.

In practice, alternative sanctions are widely used by the courts, and in more than half of the cases where imprisonment is imposed, the possibility of suspending enforcement is used, so they are living legal instruments. This is supported by the statistics.

Evolution of penalties

total	imprisonment	detention	community service	fine	disqualification from profession	disqualification from driving	expulsion	disqualification from attending	deportation
2022	19634	1710	7669	24593	1351	14881	22	77	1418
2021	17796	1632	7980	22678	978	13720	18	50	810
2020	15674	1303	7968	22349	515	14073	12	15	458
2019	20157	2178	9777	25454	681	16015	22	36	489
2018	20396	1950	9341	23751	582	15473	15	21	430

Evolution of penalties as a percentage

total	imprisonment	detention	community service	fine	disqualification from profession	disqualification from driving	expulsion	disqualification from attending	deportation
2022	38,3 %	3,34 %	14,96 %	47,97 %	2,64 %	29,03 %	0,04 %	0,15 %	2,77 %
2021	36,75	3,37	16,48	46,83	2,02	28,33	0,04	0,10	1,67
2020	34,05	2,83	17,31	48,55	1,12	30,57	0,03	0,03	1,00
2019	35,81	3,87	17,37	45,22	1,21	28,45	0,04	0,16	0,67
2018	37,42	3,58	17,14	43,57	1,07	28,38	0,03	0,04	0,79

Distribution of imprisonment with a definite sentence

total	number of convicted persons	to be implemented	suspended sentence
2022	19615	764 38,96 %	11966 60,95 %
2021	17776	642 36,12	11348 63,77
2020	15661	533 34,02	10328 65,89
2019	20133	744 36,92	12692 62,97
2018	20381	749 36,73	12890 63,20

Evolution of measures

total	reprimand	probation	work performed in amends
2022	259	5631	114
2021	276	6187	135
2020	405	6305	124
2019	565	8606	195
2018	908	8915	194

Act XC of 2017 on the Code of Criminal Procedure provides the prosecution with several legal instruments that allow for the 'diversion' of proceedings at an earlier stage compared to the traditional conclusion of the proceedings with a judicial judgment. Under certain conditions – such as participation in mediation between the victim and the offender, the provision of adequate compensation to the victim, or the fulfilment of other specified obligations or behavioural rules – these instruments can result in the termination of the proceedings. Examples of such instruments include the referral to mediation proceedings (Chapter LXVI of the Code of Criminal Procedure) and

the ordering of conditional prosecutorial suspension (Chapter LXVI of the Code of Criminal Procedure). Statistical data are also available regarding the application of these legal instruments.¹

total	Reason for discontinuing the proceedings		
	use of reprimand	Successful conditional prosecutorial suspension	Successful mediation with a settlement agreement
2022	2546	5994	2732
2021	2689	5907	2592
2020	3094	5739	2569
2019	3545	5809	2040

In the light of the above statistics, it can be concluded that the Hungarian criminal justice system allows for a sufficient number of alternative solutions both at the pre-trial and trial stages. Sentencing practice is also sufficiently differentiated. The penalties for repeat offences are more severe, but the evolution of the number of known offences confirms the effectiveness of the criminal policy, given that the number of registered offences has more than halved.²

Number of recorded offences

Year	number of offences
2010	447 186
2011	451 371
2012	472 225
2013	377 829
2014	329 575
2015	280 113
2016	290 779
2017	226 452
2018	199 830
2019	165 648
2020	162 416
2021	154 012
2022	167 774
2023	178 172

2. Ill-treatment

22. Once again, the CPT is obliged to recommend that the Hungarian authorities step up their efforts to prevent all forms of police abuse, in particular by:

- i) **sending a strong message to police officers that any form of ill-treatment of detained persons, including humiliation and verbal abuse, is unlawful, unprofessional and unacceptable and will be sanctioned accordingly. Police officers must clearly understand that they will be held accountable for using, instigating or condoning any form of ill-treatment, whether physical, sexual or verbal, regardless of the circumstances. It is essential that we continue to promote a police culture in which it is considered unprofessional to condone the behaviour of colleagues who abuse detained persons (including racially motivated abuse and sexual harassment);**

¹ <https://u.fi.vezseu.hu/wn-content/uploads/2023/II/buntetoioHÍ-szakau-2022.-evpdf> ² <https://www.ksh.hu/stadat/files/ka/hu/iga0003.html>

- ii) **police officers should receive additional practical training on the use of force during arrests, in accordance with the principles of legality, necessity, and proportionality;**
- iii) **reminding police officers that if at any time during the arrest or subsequent detention it is deemed necessary to handcuff (including shackle) a person, the handcuffs (and shackles) must not be too tight under any circumstances and should only be used for as long as strictly necessary.**

It is worth noting that complaints about alleged unlawfulness or unprofessionalism of official measures or about the undignified behaviour of police officers typically reflect the subjective perception of the complainant, which does not necessarily coincide with the provisions objectively laid down in the law and the corresponding police measures.

Based on the National Police Headquarters Instruction No. 22/2010 (OT 10.) on the implementation of the CPT recommendations (hereinafter referred to as the 22/2010 National Police Headquarters Instruction), the Inspectorate of the National Police Headquarters assesses the national situation regarding the realization and respect of human rights. Based on this assessment, the personnel serving in police actions, during restrictions of personal liberty, and in police detention facilities pay increased attention to respecting human rights and ensuring the rights of detainees in the performance of their duties.

Reviser training for staff is ongoing, including on the legal provisions prohibiting torture, illtreatment and cruel, inhuman or degrading treatment. A combination of daily briefings and refresher training ensures that detainees are not subjected to torture, inhuman or degrading treatment.

In all cases where coercive measures are used, the lawfulness, professionalism, proportionality and necessity of such measures **shall be investigated by the commanding officer**. In addition, the prosecution's supervisory and legal protection attorneys regularly inspect the practical enforcement of the human rights of detainees.

Based on the reports summarising the past years, it can be concluded that **no breaches of the law or shortcomings have been identified which would have seriously affected the fundamental rights** of persons subject to measures or whose personal liberty is restricted, or which would have indicated cruel or inhuman treatment. The checks help to ensure that the rights of detainees are fully respected.

In the event of violence beyond the scope of their powers, police forces shall forward the **complaint** to the **investigating prosecutor's** office, which has exclusive competence to investigate it.

Upon admission, detainees receive **written information about their rights and obligations**, as well as information about their complaint options. Information containing the contact details of the Commissioner for Fundamental Rights, civil society organizations, and victim support services is available to detainees – displayed in a clearly visible location in police stations and detention centres.

Based on the annual evaluation reports prepared by the regional police authorities, it can be demonstrated that the **number of complaints** related to proceedings falling under the scope of the 22/2010 National Police Headquarters Instruction **decreased** in 2023 compared to the number of complaints detected in 2022. No complaints were filed against the activities of the staff serving in the criminal field.

When assessing the situation of the enforcement and respect of human rights in the country, it can be concluded that the appropriate conditions are in place for the enforcement of prisoners' rights and for the submission and consideration of their complaints. The activities carried out by other public authorities (prosecutors for the supervision and protection of the law, the Commissioner for Fundamental Rights) and NGOs (UNHCR, Human Rights Watch, Cordelia Foundation), also contribute to the full guarantee of the rights of detainees.

Based on the content of the summary reports prepared annually by the Inspectorate of the National Police Headquarters on the treatment of detainees and the experiences gained from investigating complaints filed by them, **the Deputy National Police Chief sets tasks to reduce the number of complaints and to ensure the lawful performance of duties by the staff.**

In all cases, the task descriptions cover the essential issues of the recommendations made by the CPT, the requirement for lawful, professional and cultured police measures to be carried out in a proportionate manner towards the persons subjected to the measures, which must be demanded of the staff performing the service. The provisions on the prohibition of torture, illtreatment and cruel, inhuman or degrading treatment also **form the subject of training.**

The expectations of the Ministry of Interior and the Police leadership are in line with those of the CPT, and they will do their utmost to ensure that the CPT's recommendations are fully implemented in the daily work of the Police.

23. The Committee recommends that detention staff should not routinely carry batons and tear gas canisters in police detention areas. Furthermore, in view of the potentially dangerous effects of the substance, tear gas (CS agent) should not be used in confined spaces.

The list of equipment that may not be worn by members of the staff performing detention duties and extraordinary guard duties is contained in Section 31(12) of the Ministry of Interior Decree 30/2011 (IX. 22.) on the Police Service Regulation (hereinafter: Service Regulation). Police officers performing jail duty may only carry other equipment in addition to the prescribed guard duty equipment in accordance with points 32-34 of the National Police Headquarters Instruction 3/2015 (II. 20.) on Police Detention Service Regulations.

The risk of health damage from using the gas sprays currently standardized by the police is minimal.

When used correctly, **tear gas cannot cause permanent damage**, but it is still very effective. The majority of the police force is currently equipped with R92 gas sprays, which contain the active ingredient CS (ortho-chlorobenzylidene malononitrile). The active ingredient is watersoluble, so thorough washing helps to get rid of the symptoms as soon as possible. After use in a confined space, the effects of the CS substance can be eliminated by ventilation.

Due to its mechanism of action, the device is effectively applicable in subduing inmates who exhibit violent, potentially self-harming behaviour, as well as those who actively resist or exhibit aggressive behaviour. The lacrimation induced by the CS substance typically causes the person being subjected to the measure to submit to police action without the risk of further injury to themselves or others.

In light of this, and considering that norm-violating behaviour can occur at any time during detention - as detention induces a forced state - and in order to prevent extraordinary events, and to protect the staff performing guard and security duties, in our opinion, **waiving the carrying of the device is not professionally supportable.** The purpose of the regulation is to enable the person supervising the detention to interrupt the violent - even personally directed - behaviour of the detainee, to eliminate events that endanger security, taking into account the principles of legality, professionalism, proportionality, and the principle of gradualness in the use of coercive means.

3. Safeguards against ill-treatment

b. notification of detention

25. The CPT recommends that the Hungarian authorities take steps to ensure that police officers facilitate the efforts of detained persons to have a third person notified of their detention. Further, detained persons should be provided with feedback on whether it has been possible to notify a close relative or other person of their detention, when the notification is done by police officers. Police officers should always record in writing whether or not notification of custody has been performed in each individual case, with the indication of the exact time of notification and the identity of the person who has been contacted.

If, during a police action, it becomes necessary to impose a restriction on the personal liberty of a person subject to the action pursuant to Section 33(4) of the Police Act, the person taken into custody **must be informed verbally or in writing of the reason for their detention** and, pursuant to Section 18(1) of the Police Act, must be asked to make a **statement** regarding the **notification** of their next of kin or another person. When placing a person subject to the action in a detention unit, the staff carrying out the detention must comply with the provisions of Section 31 of the Service Regulation in all cases.

The Police are obligated to notify the person designated by the detainee. **The Police shall fulfil the notification without undue delay.** If the fact of the notification endangers the purpose of the measure based on the data gathered during the proceedings, the notification shall be postponed and shall be made when the endangerment no longer exists. If the fact of the notification itself does not endanger the purpose of the measure, but the notification of the person designated by the detainee endangers the purpose of the measure, they shall be invited to designate another person. If the detainee has designated another person in relation to whom there is no obstacle to notification, the Police shall notify them. **If the detainee is a minor or under guardianship, his or her legal representative shall be notified immediately**

If, in the case of a detainee, the rules of criminal or misdemeanour proceedings are applicable, the notification shall be made in accordance with the special provisions governing these proceedings (Code of Criminal Procedure, Infractions Act).

A **certificate** must be issued to the person taken into custody **regarding the duration of the detention**, and the police report drawn up on the detention must also contain information on the notification.

Section 275 of the **Code of Criminal Procedure** prescribes the measures to be taken after the order of **detention** has been issued, and Section 161 of Government Decree 100/2018 laying down the detailed rules of investigation and preparatory procedure prescribes further official measures to be taken after the order of detention, as follows.

The adult designated by the suspect or the person reasonably suspected of committing a crime **must be informed** of the arrest and the place of detention within eight hours at the latest.

Immediately following the order of detention, the investigating authority shall invite the suspect or the person reasonably suspected of committing a crime to designate a person to be informed of the order of detention and the place of detention.

The investigating authority may permit the suspect or the person reasonably suspected of committing a crime to notify the designated person directly and promptly, or the investigating authority may notify the designated person promptly, or may also use the institution carrying out the detention of the suspect for the purpose of notification.

The investigating authority shall make a record of the notification of the designated person. If the suspect or the person reasonably suspected of committing a crime declares that they do not wish anyone to be informed of the order of detention and the place of detention, this statement may also be recorded on the decision on the order of detention.

In practice, during criminal proceedings, following the order of detention, **the person concerned can document their request to notify a specific person on the decision form.**

In most cases, the notification is carried out in the presence of the person concerned, typically using a communication device (telephone). It is also common for the person concerned to request the notification of a person (relative) who is present at the investigating authority. **The fact and time of the notification is documented** by a member of the investigating authority in the designated section of the detention order form.

In case of notification in the presence of the person concerned, the presence of the person concerned itself ensures notification. In the case of an absent person (detainee), a member of the investigating authority provides information about the notification or its failure.

If the notification by telephone is unsuccessful, according to the practice of the investigating authority, the notification is carried out by contacting the competent police authority. **The member of the investigating authority makes a separate record of the unsuccessful notification.**

In the case of a foreign detainee, notification of the arrest is typically made by telephone, with the assistance of an interpreter and in the presence of the person concerned, and the foreign representation of the person's country of citizenship is also informed.

Section 73(6) of the **Infractions Act** also contains similar provisions regarding the notification of the order of **detention**, wherein the same practice as described above is applied by the competent authority.

The practice described above ensures the rights of the person concerned regarding notification of their arrest.

The court, prosecutor's office, or investigating authority ordering the detention **may refuse** to inform a person designated by the accused in order to ensure the success of the criminal proceedings or the safety of another person's life or physical integrity. If the information is withheld, it must be ensured that the accused or the person reasonably suspected of committing the crime may designate another adult to be informed.

If the investigating authority refuses to inform a person designated by the suspect or the person reasonably suspected of committing the crime, it shall **make a record thereof**. If, within eight hours of the order of detention, a person cannot be identified who can be informed, the investigating authority shall issue a decision refusing to inform the persons designated by the suspect or the person reasonably suspected of committing the crime. If the suspect or the person reasonably suspected of committing the crime subsequently designates a person who can be informed without any obstacles, the investigating authority shall inform the latter.

If the notification cannot be provided by any means within eight hours – if the accused cannot designate a person who can be informed by the investigating authority without jeopardizing the success of the criminal proceedings or the life or physical integrity of another person – the accused, the person reasonably suspected of committing the crime, and the defense counsel may **appeal the denial of notification**.

In the event of a **soldier** being taken into custody, their commanding officer must also be notified.

c. access to a lawyer

26. The CPT recommends that ex officio lawyers be reminded, through the relevant bar associations, of the importance of their specific role in preventing police ill-treatment of persons in police custody, by performing their duties diligently and in a timely manner and, in particular, by being alert to signs and allegations of possible police misconduct.

In criminal proceedings against prisoners and juvenile offenders, the appointment of a lawyer is mandatory (Code of Criminal Procedure, sections 44 and 682). Similar provisions are contained in section 73(1b) of the Infractions Act (mandatory appointment of a lawyer in the case of detention for an offence).

In practice, as noted in the CPT report, difficulties arise in the successful completion of the assignment of a lawyer during nights and weekends, in which the regional bar association has a significant role (Article 46 of the Act XC of 2017 on the Code of Criminal Procedure).

The following points should be highlighted with regard to the regulation:

Article 3 (1) of Act XC of 2017 on Criminal Proceedings (hereinafter referred to as Code of Criminal Procedure) states as a fundamental principle that the accused has the right to an effective defence at all stages of criminal proceedings. The rules of criminal procedure shall ensure the possibility for the active and meaningful participation of the defence attorney in the proceedings, bearing this statutory obligation in mind. It is the responsibility of the prosecuting authorities to ensure that the legal rules and obligations are complied with.

Under Article 42 (4) of the Code of Criminal Procedure the defense attorney is obliged to

a) contact the accused without delay,

b) to use all lawful means and methods of defence in due time in the interest of the accused,

c) inform the accused of the legal means of defence, inform him of his/her rights and warn him/her of his/her obligations,

(d) to encourage the investigation of facts which may exonerate the accused or mitigate his/her liability,

e) in the event of his/her being prevented from attending to the case, to arrange for his/her replacement, except in the event of an unforeseeable and unavoidable impediment, and at the same time to inform the court, prosecutor's office or investigating authority of the fact of his/her being prevented from attending,

(f) to exercise his/her rights and fulfil his/her obligations in such a way as not to impede the timely conduct of criminal proceedings.

In order to increase the efficiency of the defence and to avoid that the authorities regularly appoint the same lawyer as defence attorney, who is preferred by the authorities and therefore, in some cases, subject to abuse, the rules on the appointment of defence attorney have been amended in the Code of Criminal Procedure which entered into force on 1 July 2018.

According to these amendments, the court, the prosecution and the investigating authority decide on the appointment of a defence attorney if such participation is mandatory in criminal proceedings and the accused or the person reasonably suspected of having committed the offence does not have an authorised defence attorney. **The appointment of a lawyer** to act as the defence attorney on the basis of the assignment **is the responsibility of the regional bar association competent for the seat of the court, prosecutor's office or investigating authority**, i.e. the assigning authority or court has no influence on the choice of the person acting as the defence attorney {(Article 46 (1) of the Code of Criminal Procedure)}. The competent chamber shall appoint the defence attorney by means of a computerised system from a list of lawyers who are active in the area concerned and who have volunteered for this task.

There is no legal remedy against the appointment or designation of a defence attorney, but the accused or the person reasonably suspected of having committed the offence may, if justified, request the appointment of another defence attorney. The court, prosecutor's office or investigating authority before which the proceedings are pending shall decide on the motion {Article 46 (7) of the Code of Criminal Procedure}.

Respecting the legal profession is an essential condition for the rule of law and democracy. The Hungarian Bar Association, as a public body performing professional and interest representation functions, has created its **Code of Conduct no. 6/2018 (III.26.) on the Ethical Rules and Expectations of the Legal Profession (MÜK Rules)**. The lawyer is obliged to carry out his/her activities in accordance with the law and the Code of Ethics, and is subject to disciplinary liability for any breach of these rule.

Point 2.6 of the this code of ethics states that **a lawyer must perform his/her duties with the same level of dedication**, whether (s)he is acting on a mandate, **on secondment**, in an employment relationship or as a lawyer acting in a patronage capacity. According to point 8. 7(a) of the code of ethics **the lawyer** during the performance of his/her duties, **shall be present**, as far as possible, **at the investigative or evidentiary stage** and shall, by his/her conduct, assist the defence.

Within the framework of the Ministry of Justice, a working group on the efficiency of criminal proceedings has been set up from 2023 onwards, in which the Hungarian Bar Association will also participate. The working group will also examine and analyse the jurisprudence on the appointment of defence attorney and on the notification of procedural acts to the legal defence in order to ensure the effective provision of defence.

It is therefore a forum where, on the basis of indications from the law enforcement authorities, the regulation of certain legal instruments can be reviewed and improved, and operational difficulties can be eliminated by legislation, work organisation and the dissemination of good practice.

27. Further, even when lawyers were present during police interviews or at the court hearing, detained persons were allegedly not systematically provided an opportunity to consult with them in private prior to the interview or the hearing, despite their requests to this effect. The CPT must point out in this respect that the right of access to a lawyer should include the right for any detained person to talk to their lawyer in private.² The Committee reiterates its recommendation that this be made clear to police officers.

According to Article 386 of the Code of Criminal Procedure, a person suspected of having committed a criminal offence - if arrested, summoned, produced, wanted or subject to an arrest warrant - **has the right to consult his/her lawyer without control, until the suspicion is communicated**. Article 138 (3) of the detailed rules for the investigation and preliminary procedure, the investigating authority shall ensure that the suspected person or the person reasonably suspected of having committed a criminal offence is given sufficient time - at least one hour - to consult his or her defence attorney at short notice.

Pursuant to Section 39 (2) c) of the Code of Criminal Procedure, the detained accused has the right to contact his or her defence attorney, to communicate with him or her in person, by post or electronically **without control**, and to consult with him or her.

In order to prepare an adequate defence, in accordance with the statutory provisions, the suspect shall be given the time and opportunity **to consult his/her defence attorney without being subject to any control**, in accordance with the statutory provisions, but in any case in excess of the time and opportunity provided by law, if necessary, prior to the interrogation of the suspect.

The presence of a lawyer is mandatory in criminal proceedings conducted against juveniles, and in the vast majority of procedural acts involving the suspect. The **legal representative** participates in the criminal proceedings as an assistant and his/her right to be present cannot and is **not restricted**, with the exception of expert examinations.

However, the possibility of a private meeting between the detainee and his lawyer immediately **prior to the court hearing** is limited for security reasons, but this is not at the **discretion** of the detaining authority but **of the judge**. In practice, in the case of detainees escorted from police custody to a court hearing, the staff of the police escort, in addition to controlling the detainee in handcuffs and a

² Reference is made to Article 4 of Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty.

driver's harness, try to facilitate the possibility of consultation with the defence counsel by physical separation (restraint).

28. The CPT notes these assurances provided by the Hungarian authorities. However, in light of the findings of the visit, the Committee recommends again that further steps be taken to ensure that these safeguards are effectively implemented in practice. In particular, children should be able to meet in private with the lawyers assisting them at any stage during police custody, including before any interviews are conducted by the police, and should not make any statements or sign any documents related to the offence of which they are suspected without the benefit of a lawyer and, in principle, of a trusted adult being present and assisting them.

The previous point is the relevant one in case of the private interview.

Pursuant to Article 682 of the Code of Criminal Procedure, **the participation of defence attorney is mandatory in proceedings against a juvenile**, subject to Article 44 (g). **The presence of a defence attorney is mandatory** at the hearing of suspects, at the confrontation, at the presentation for identification, at the on-site interrogation, at the attempt to take evidence and at the hearing in proceedings concerning a coercive measure with a judicial authorisation concerning personal liberty, held before the indictment. **Where attendance is not compulsory**, the defence attorney shall be informed subsequently of the procedural act in which the juvenile is involved, if the defence attorney was not present and was not notified.

In the case of an accused being under the age of eighteen, the special rules on measures falling within the scope of special treatment set out in paragraphs (1) and (2) of Article 87 of the Code of Criminal Procedure shall be applied accordingly (Article 96 of the Code of Criminal Procedure), thus ensuring the effective enforcement of the rights of children.

The legal representative of a suspect under eighteen years of age **has the right to be present** at the interrogation of the juvenile suspect, at the inspection, the attempt to take evidence, the presentation for identification, the confrontation and the expert hearing of the suspect and the judicial hearing on the remand in custody. The legal representative shall be notified of the place and time of the procedural acts in due time. If this is not done, the hearing of the juvenile suspect shall not be taken into account as legal evidence and shall be repeated. If, despite notification, the legal representative remains absent from the procedural act, the fact of notification and the fact of absence shall be recorded in the minutes.

The procedural act **may not be continued** or a new procedural step may not be taken **in the absence of the legal representative** if it requires the obtaining of a statement which does not fall within the competence of the person participating in the criminal proceedings.

In order to obtain such a statement, the presence of the legal representative shall be ensured at the procedural step.

If the person participating in the criminal proceedings has the capacity to make the statement necessary for the conduct of the procedural act in criminal proceedings, but does not have full capacity under civil law, the legal representative shall be notified of the procedural act in order to ensure the provisions of Article 72 (4) of the Code of Criminal Procedure.

The investigating authority shall consider **the parent exercising parental authority to be the legal representative of the minor**, if there is no indication that (s)he lacks the right of representation.

The legal representation of a minor subject to guardianship is provided by the **guardian**. The legal representative of a minor under guardianship, is the guardian appointed by the guardianship authority. The legal representative of a minor placed temporarily is the parent, unless the guardianship authority decides otherwise.

The decision on the temporary placement and the decision of the guardianship authority or the court appointing the guardian must be obtained in order to prove the guardian's right of representation. The decision communicated to the legal representative must state in its operative part if the legal representative has an independent right of appeal.

If the presence of the legal representative is not mandatory and the delay does not pose a risk, the notification and the preparation or performance of the procedural act **shall, as far as possible, be carried out in such a way** that the legal representative **is present** at the procedural act conducted with the participation of the minor.

The legal representation of a person who has reached the age of eighteen years or who has reached the age of majority by marriage and has the capacity to act shall cease and the legal representative who has previously acted in that capacity may no longer exercise the rights conferred by that capacity.

The fact that the legal representative has been informed of his or her rights shall be recorded in the minutes of the procedural act in which the legal representative took part. The fact, manner and time that the legal representative was informed in due time of the place and time of the procedural steps and of the place and time of the inspection of the file shall be recorded in the investigation file.

d. access to doctor

29. The CPT considers that persons deprived of their liberty by the police should be expressly guaranteed by law the right of access to a doctor from the very beginning of their deprivation of liberty. The relevant provisions must make it clear that a detained person's request for access to a doctor must always be complied with; neither the police nor any other authority may screen such requests. Furthermore, persons in police custody should have the right to be examined by a doctor of their choice, if they wish, in addition to the examination by the doctor requested by the police (with the understanding that the examination by the doctor of the detainee's choice may be carried out at the detainee's own expense).

The CPT recommends that the Hungarian authorities take the necessary steps to ensure that these provisions are effectively implemented in practice. The relevant legal provisions should be amended accordingly.

Primary health care is the first level of health care in Hungary. Primary health care is aimed at the prevention and early detection of disease, health promotion, treatment, care and rehabilitation where necessary, and referral to a specialist. **Primary care is provided by the prison doctor.**

From the medical point of view, **it is not justified to allow the detainee's primary care to be provided by the health care provider of the detainee's choice**, taking into account that this raises serious security concerns and that the doctors of the detention centres have the minimum conditions for the medical care of detainees, as provided for in Decree 60/2003 (X. 20.) on the minimum professional conditions for the provision of health services, and the medical licence to provide such care, which ensures the professional level required for primary medical care.

In Hungary, every person with social insurance (insured person) is entitled to use the higher levels of the care system **with a referral from a doctor**. According to Article 22 (1) (n) of Act CXXII of 2019 on the persons entitled to social security benefits and the coverage of these benefits, prisoners are also entitled to health care services.

Referral to specialist care is strictly a medical matter, not at the request of the patient, but on the basis of the medical condition assessed by the doctor.

The prison doctor obtains the right to refer the detainee, who may also **refer the detainee to a health care provider not obliged to provide care in the area, if the detainee so requests**. In this

case, however, the provider must give the referring doctor a written undertaking that he will receive the patient. From a medical point of view, this is only justified if the chosen provider is able to provide the detainee with specialised care sooner than the provider with a territorial obligation to provide care and waiting for the time allocated to the health care provider with a territorial obligation to provide care would put the patient at risk or cause serious deterioration in his health.

It should be stressed that **the freedom to choose a doctor is not the same as the freedom to choose a healthcare provider.**

With regard to the **free choice of doctor**, it is necessary to refer to the provisions of Article 19 (3) of Act LXXXIII of 1997 on the Benefits of Compulsory Health Insurance and Article 11/A of Government Decree 217/1997 (XII. 1.) on the Implementation of Act LXXXIII of 1997 on the Benefits of Compulsory Health Insurance.

In this respect, the right to choose a doctor is exercised by the doctor to be chosen and the detainee (as the patient) (the doctor and the detainee patient sign a declaration of choice of doctor).

It should be stressed that **the freedom to choose a doctor is only possible within a given healthcare provider.**

There is no obstacle to the detainee (or his/her representative) presenting a declaration of choice of doctor to the detaining authority and requesting to be accompanied to the doctor of his/her choice. It is irrelevant for the detaining authority which doctor the detained person is transferred or accompanied to within the health care system. In our view, the legislation is appropriate and we see no reason to amend it. The Report also states that the Committee has 'heard some isolated allegations' which, as described, are also due to inadequate practical implementation rather than to a shortcoming in the legislation. The Police will continue to pay close attention to eliminating these.

30. The CPT therefore repeats its longstanding recommendation that arrangements be made to ensure that medical consultations are conducted out of the hearing and – unless the healthcare professional concerned expressly requests otherwise in a given case – out of the sight of staff with no healthcare duties. This must be seen as a shared responsibility of police officers and healthcare staff. Alternative solutions can and should be found to reconcile legitimate security requirements with the principle of medical confidentiality. For example, police holding facilities and the hospital structures concerned should have a room available which provides appropriate security safeguards, and healthcare staff could be provided with an alarm/call systems (such as panic beepers or call buttons), whereby they would be in a position to rapidly alert police officers, in those exceptional cases when a detained person becomes agitated or threatening during a medical examination.

Further, the Committee recommends that the medical examinations of persons upon their admission to police detention facilities include a thorough physical examination. The record drawn up after the medical examination should contain:

- (i) a full account of objective medical findings based on a thorough examination;
- (ii) an account of statements made by the person concerned which are relevant to the medical examination (including their description of their state of health and any allegations of ill-treatment); and
- (iii) the healthcare professional's observations in the light of (i) and (ii), indicating the consistence.

Paragraph (2) of Article 17 of the Police Act provides that a person injured during police action must be treated by a doctor. Article 15 of the 56/2014 (XII. 5.) Ministry of Interior Decree on the order of

police detention centres regulates the rules for the placement of detainees in detention. The Detention Facility Regulation provide in detail for the measures to be taken in the event of external signs of injury being detected during detention.

A detainee may only be placed in a detention centre if, following a **preliminary medical examination**, the doctor has given a written opinion that the detainee may be placed in the centre in view of his state of health. If his segregation is justified, the doctor shall also give his opinion in writing.

The detainee shall be admitted only if the medical examination has resulted **in a written record of the external injuries** on the detainee and a medical opinion as to the circumstances in which they occurred **or the absence of external injuries**.

If the detained person complains of ill-treatment by a member of the authority, a **medical report** shall also be drawn up containing the data specified in Annex 2 to Decree No 47/2004 (11 May 2004) on certain organisational aspects of the continuous operation of health care.

If, during the reception in the detention centre, the police officer carrying out the reception detects the absence of a preliminary medical examination when checking the documents required for the reception, or suspects that the detainee's state of health differs from the findings of the preliminary medical examination, in particular with regard to external signs of injury, (s)he shall suspend the reception and take the necessary measures (notification of the competent activity management centre, notification of the issuer of the reception order). **In all cases, the medical opinion shall be attached to the order in a sealed envelope.**

The law enforcement agencies under the control of the Ministry of Interior are not entitled to review the medical records of health care provided under Act CLIV of 1997 on Health Care (hereinafter referred to as Healthcare Act).

If any **detainee makes a report or complaint** to a member of the police staff in connection with an injury or for any other reason, the police officer shall fulfil his/her duty to report the matter to his/her superior commanders, who shall take the necessary measures to conduct an investigation and provide medical care for the detainee.

The Police has a high level of oversight of compliance with these legal provisions and the activities of the Police in relation to detention are subject to **continuous monitoring by the competent prison prosecutor**.

In all cases, prior to preliminary medical examinations, the police officer conducting the escort shall draw the attention of the examining doctor to the provisions of the Decree of the Chief of the National Police No. 22/2010. The examining doctor shall draw up a statement acknowledging receipt of this instruction, which shall be signed and stamped by the examining doctor.

After a full examination, the doctor will give an opinion on the admission. In his/her statement, (s)he will describe in detail what illness the detainee suffers from, whether (s)he has any external signs of injury, and what medication should be provided during detention. After the examination, the doctor will decide whether the detained person can be accommodated in the detention facility.

At the place of detention, the person who carries out the admission, if an injury is detected which is not mentioned in the medical records, shall suspend the admission on the basis of point 51 of the Detention Facility Regulations and arrange for a further medical examination of the detainee.

As a good example, the Central Detention Centre of the Fejér County Police Headquarters has a separate medical room for medical examination upon admission, which is equipped with a so-called panic button. During medical examinations at the Central Detention Centre (or in any other case), the detention staff is not present, unless specifically requested by the examining doctor.

The operation of detention facilities in Hungary is only permitted if their equipment and facilities comply with the requirements of Decree of the Chief of the National Police no. 14/2015 (VII.21.) on the Detention Facility Construction Regulations of the Police (hereinafter: Detention Facility Construction Regulations). According to Annex 1 of the Detention Centre Construction Regulations, the technical and other parameters for the design of each room are set out, among which 10 m² must be provided for the medical examiner.

The Police operates 20 detention centres, all of which have separate medical examination rooms. There are 15 examination rooms with a direct assault alarm; 3 sites have an assault alarm at the entrance to the examination room, which can be operated by the attendant waiting in the corridor, and 2 sites have no assault alarm, where a possible assault can be signalled by a personal alarm on the attendant.

However, the medical examination prior to admission outside office hours is carried out by a doctor from the Hungarian National Ambulance Service in an external health service building where, beyond the control of the detaining authority, the examination room is designed for general patient care and is not equipped with safety equipment. In the case of medical examinations on such premises, it has been specified that the provisions of point 8 of the Decree of the Chief of the National Police no. 22/2010 apply, i.e. the police officer must, if possible, be out of sight and hearing distance when requested by the doctor, ready to intervene if necessary.

Summarizing the above, the Ministry of Interior is of the opinion that the presence of the police at medical examinations is necessary and justified with regard to the safety of life and property and the safety of the doctor. However, the suggestion made by rights organisations for many years that during medical examinations, at the request of the doctor or the detainee, the guard should be out of earshot and (if possible) out of sight, in compliance with the requirements of security and personal safety, is being implemented in an increasing number of detention facilities.

The right to health, including the right to see a doctor, is a fundamental right, the guarantee of which is precisely the obligation to undergo the medical examination referred to above.

31. The CPT recommends that the Hungarian authorities take the necessary steps to ensure, including through the provision of an appropriate training, that healthcare professionals who examine persons in police custody have a clear understanding of their role in the prevention of police ill-treatment and their subsequent obligations. These obligations include the thorough conduct of medical examinations of persons in police custody, under conditions respecting medical confidentiality³ the proper recording of injuries, and the reporting of those injuries indicative of ill-treatment. This implies the existence of a clear reporting line as well as the adoption of whistle-blower protective measures (that is, a framework for the legal protection of healthcare professionals who disclose information on police ill-treatment).⁴

The replies given to points 29 to 30 are relevant.

32. The CPT recommends that the Hungarian authorities put an end to the practice whereby persons in police custody staying overnight in an external medical facility are fixated to their hospital bed for custodial reasons. Other means of meeting security needs satisfactorily can and should be found; the creation of secure rooms in such hospitals is one possible solution.

Further, persons in police custody staying overnight in an external medical facility should have ready access to a toilet at all times. Obliging them to use adult nappies or a bottle to

³ See also the recommendation set out in paragraph 30.

⁴ Reference is made in this context to the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), revised version published in June 2022.

urinate into while they are handcuffed to their hospital bed may amount to degrading treatment and should be stopped immediately.

The Police shall be responsible for the custody of detainees in a medical institution who are classified as detainees pursuant to Section 2, point 4 of the 56/2014.(XII. 5.) Ministry of Interior Decree on the order of police detention centres regulates the rules for the placement of detainees in detention Point 2, sub-point h) of the Order on the Detention of Detainees and, in the case of persons produced, in the case of detainees produced, in the case of detainees produced in a medical institution pursuant to point 2, sub-point d) of Decree of the Chief of the National Police no. 36/2022 on the operation of the production unit and the production room, the production and the execution of detention (hereinafter referred to as National Police Headquarters Instruction No. 36/2022).

Pursuant to Section 18 (3) of the Police Act, the rights of a detainee may be restricted only to the extent that this serves to prevent escape or hiding, the alteration or destruction of evidence, the prevention of the commission of a new offence, the security of the custody and the maintenance of order in the detention facility.

The security provisions on escorting laid down in the Rules of Service, the 56/2014.(XII. 5.) Mol Decree on the order of police detention centres regulates the rules for the placement of detainees in detention, the Rules on Detention Services and Decree of the Chief of the National Police no. 36/2022 shall apply to the performance of guarding and escorting tasks related to detainees.

The guarding shall be organised in such a way that immediate action can be taken to avert an attack on the detainee and to prevent any escape attempt.

If, for any unforeseeable and exceptional reason, the detainee has to be temporarily guarded outside the police building during the period of detention, the guard in charge of the guarding shall do so on the basis of a temporary **guarding order**, while if the detainee needs hospital treatment in the detention centre, the body carrying out the detention shall provide for the guarding on the basis of the tasks laid down in the special guarding order.

Prior to the start of the guarding, the criteria set out in the escort order in accordance with the criteria set out in Article 76 (2) of the Rules of Service - the danger of the escorted person, the method of escorting the detainee (regular or reinforced), and the number, equipment, weaponry, use of coercive means or the possibility of using coercive means of the escorting guards in accordance with Article 119 of the Rules of Service - shall contribute to the preparation of the guarding order/regular guarding order to ensure the implementation of guarding security.

Article 41 (1) (f) of the Rules of Service shall **provide for the possibility of using handcuffs** during the custody of a detainee in the cases specified in Article 48 of the Police Act and if the requirements specified in the Rules of Service are met.

In the case of a person detained while being held in an **off-site facility**, the **security requirements** of the custody shall be checked by the duty commander or, if he is prevented from doing so, by the responsible manager as soon as possible before or during the start of custody in order to identify any circumstances that might jeopardise the security of the person. In the light of the security risks identified, and in order to ensure safe and professional guarding, he shall lay down in instructions the guarding duties of the guard, in all cases **avoiding cruel, inhuman or degrading treatment**.

The police officers carrying out the patrol shall use coercive equipments specified in the patrol order/temporary patrol order, including metal handcuffs with a handle, in the manner and for the duration prescribed in the patrol order, during the execution of the task. Accordingly, the use of means of restraint **shall not be automatic or self-serving. The use of coercive equipments shall be determined in each case, taking into account the specificities of the place, the dangerousness of the detainee and all the circumstances of the case.**

In healthcare establishments, detainees are not housed in single wards with private toilets, which provide maximum security, but the guard is responsible for the lawful, professional and safe guarding of the detainee, as laid down in the guarding instructions/interim guarding instructions, based on well-founded security risks.

The police officer in charge of a guard duty is liable to disciplinary and criminal liability for the proper performance of his duties. The police officer must prevent and prevent the escape of the detainee, prevent the detainee from attacking him or her, and do everything possible to ensure that the detainee does not endanger his or her life or the life or physical integrity of others, including health-care staff.

The police officer shall carry out the guarding of the detainee in health care establishments in accordance with the conduct prescribed by the health care establishments and while maintaining the security of the guard.

In practice, when an inmate is held in a healthcare facility as an external custody location, **the healthcare provider generally offers a separate room, though it is not equipped with security features.** Facilities specifically designed for the custody of inmates are not available in healthcare institutions. Therefore, the application of security measures is determined based on the unique circumstances, aiming to impose the least possible restriction on the inmate's rights.

The CPT report describes a case where an inmate was restrained to a hospital bed and, to address their needs, had to use an adult diaper or "bottle" for bodily functions. Such a situation is not known to have occurred.

In a hospital, as an external custody location, the use of adult diapers or "bottles" is considered only based on the inmate's medical condition and not the fact of their detention.

33. The CPT recommends that the Hungarian authorities ensure that these principles are effectively implemented in practice at Székesfehérvár (Deák Ferenc Street) and Debrecen (Sámsoni Street) police establishments and, as appropriate, in other police facilities in Hungary. Moreover, controlled medications should be kept in a locked cupboard and their dispensation should be registered.

The handling of medicines placed in the detention centre is regulated by Article 16 of the Detention Service Regulations. In the detention facilities operated by the Police, a **minimal stock of medications** is available in the medicine cabinet, separated by drug groups. The dispensing of medications is always carried out by a medical orderly, or in the absence of a permanent orderly service, the guard commander checks and supervises the adherence to the rules related to medication dispensing and storage, according to point p) of section 28/B of the Detention Service Regulations. Additionally, according to sub-point aa) of section 43, the handover-takeover of the detention service also extends to the provision of medication. During detainment, the procedure for providing medication is outlined in points 45-48 of the 36/2022 National Police Headquarters Instruction.

In the Central Detention Facility of the Fejér County Police Headquarters, medications prescribed by a doctor are stored in a **locked cabinet**. The Health Management Service's medical staff is responsible for dispensing the medications according to medical instructions. A **separate record sheet** is kept for the distribution of medications. If there is a weekend admission and no medical staff is present, then the detention facility's medically-trained personnel carry out the dispensing in a documented manner, according to medical prescriptions. Medications brought by detainees are stored in sealed envelopes labelled with the detainee's identifier. Enhanced supervision of activities related to medications stored in the detention facility has been established for the command staff to ensure the enforcement of detainees' rights.

Regarding the CPT's observation concerning the Debrecen Police Headquarters, the necessary measures have been implemented to ensure that medications dispensed to detainees

are stored in a locked cabinet at the cell level. Based on the CPT's recommendation, the staff serving in the detention facility of the Debrecen Police Headquarters **will receive training** suitable for first aid (Police Medic), as well as training provided by the Chief Medical Officer of the Hajdú-Bihar County Police Headquarters. This will qualify the staff to dispense medications prescribed by a doctor to the detainees.

34. The CPT recommends that the Hungarian authorities take steps to ensure that a person competent to provide first aid (who holds a valid certificate in the application of cardiopulmonary resuscitation and the use of an automated external defibrillator (AED)) is always present in every police holding facility; all police holding facilities should be equipped with an AED.

Within the Police, an **automated external defibrillator** is placed in the premises of every police headquarters, and each police station has a designated **first aid room**. For the police force, having a driver's license is a requirement, which can only be obtained if the individual passes a first aid exam.

Police staff are required to have a driving licence, which can only be obtained if they pass the first aid test.

According to points 169 and 170 of the Detention Service Regulations, the **exam required for performing detention service** – covering laws and internal regulations related to detention and custody, as well as basic first aid knowledge – must be taken before a two-member committee appointed in writing by the person responsible for detention. The documented exam must be repeated every two years. Only those who have passed the prescribed exam requirements, based on the questions issued by the Deputy Chief Commissioner of the National Police Headquarters for Law Enforcement, can perform the guarding and escorting of detainees. The certification of passing the exam is placed in the concerned person's personnel file. During the preparation for the exam, the rules of international conventions related to human rights and detention must also be introduced.

In addition to the above, the Police has for several years successfully implemented **Police Medic** training, which aims to train police officers to recognise and respond to life-threatening situations, even during an operation. The main objective is to teach basic life-saving and first aid techniques.

During the training, after theoretical and basic practical instruction, participants practice their acquired knowledge in realistic situational scenarios. Officers who complete the training apply their knowledge as needed in cases of injury treatment and necessary resuscitations.

Beyond the Police Medic training and the first aid exam, the Ministry of Interior's Law Enforcement Education System also provides first aid training programs to maintain the skill levels of the police force.

e. information on rights

35. The CPT reiterates its recommendation that the Hungarian authorities take steps to ensure that all persons detained by the police – for whatever reason – are fully informed of their fundamental rights as from the very outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with the police). This should be ensured by provision of clear verbal information at the very outset, to be supplemented at the earliest opportunity (that is, immediately upon their arrival at police premises) by provision of a written form setting out their rights in a simple and accessible language. This form should be available in an appropriate range of languages and all language versions should contain up-to-date information.⁵

⁵ Reference is made in this context to Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings, which makes it clear that written information to be provided to

The information should be explained to detained persons and care should be taken to ensure that they are actually able to understand their rights; it is incumbent on police officers to ascertain that this is the case. Detained persons who are unable to read the information sheet or understand its contents should receive appropriate assistance including, where necessary, using alternative modes, means and formats of communication.

Further, detained persons should be given (and allowed to keep) a copy of the information sheet.

In addition, there should be a specific information sheet on rights, setting out the particular position of detained children. It should be short, drafted in a straightforward manner and easy to understand. Reference is made in this regard to the Recommendation Rec(2003)20 of the Council of Europe's Committee of Ministers concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.⁷

To fulfil the obligation of providing information, according to point 56/A of the Detention Service Regulations, the national deputy police chief for law enforcement issues and updates as necessary the document titled "*Information in Hungarian on the Rights and Obligations of Persons Detained by the Police and the Rules of Detention.*" Due to the changes in standards, the **information leaflet has been updated**, and at the same time the public order protection service has also assessed which persons of non-Hungarian nationality, who were subject to measures in police detention centres in recent years, mostly in connection with migration, were not able to be informed in a language they knew with the currently available information leaflets in foreign languages.

Prior to the entry into force of the 36/2022 ORFK directive, the National Police Headquarters Directorate General for Law Enforcement initiated the translation of the annex "*INFORMATION on the Rights, Obligations of the Detainee, and the Rules of the Holding Facility*" into 25 different foreign languages (Albanian, English, Arabic, Bulgarian, Czech, French, Hindi, Croatian, Chinese, Kurdish, Polish, German, Italian, Russian, Pashto, Persian/Farsi, Romanian, Spanish, Serbian, Slovak, Slovenian, Turkish, Ukrainian, Urdu, and Vietnamese).

For implementation purposes, the **information translated into 25 different foreign languages** has been received by the police headquarters and is also available as downloadable documents.

In addition to the general section, the **information on "the rights and obligations of persons detained by the police and the rules of detention" includes specific provisions related to particular detainee statuses, such as those for juveniles.** The information on "the rights, obligations of the detainee, and the rules of the holding facility" ensures that detainees in the holding facility are informed.

———— vulnerable suspects or vulnerable accused persons (see, in particular, Article 38 of the Preamble, as well as Articles 3 and 4 of the Directive). ⁷ See in particular Section 15: "Where juveniles are detained in police custody, account should be taken of their status as a minor, their age and their vulnerability and level of maturity. They should be promptly informed of their rights and safeguards in a manner that ensures their full understanding. [...]" Reference is also made to Article 4, paragraph 2, of the EU Directive 2016/800 on procedural safeguards for children who are suspects or accused persons in criminal proceedings.

f. the situation of foreign nationals

36. The CPT reiterates its recommendation that the Hungarian authorities take further action to ensure that foreign nationals apprehended by the police are provided with the services of a qualified interpreter whenever required, and that they are not made to sign any document which they are not able to understand concerning the offence(s) which they are suspected to have committed.

persons in police custody should be drafted in simple and non-technical language so as to be easily understood by a lay person without any knowledge of criminal procedural law. It further stipulates that the information should be provided in a simple and accessible language, taking into account any particular needs of

Regarding foreign individuals, various legal regulations governing police procedures, such as the Code of Criminal Procedure or the Infractions Act establish a fundamental principle regarding language rights. During detention (custody), everyone is entitled to use their native language.

According to §78 of the Code of Criminal Procedure and §47 of the Government Decree 100/2018 (8.VI.) on detailed rules of investigation and preparatory proceedings, if a person involved in criminal proceedings wishes to use their non-Hungarian native language, their national minority language, or another native language specified in an internationally ratified treaty, an **interpreter** with appropriate knowledge of legal terminology should be provided if possible. If the person involved in the criminal proceedings is not a native Hungarian speaker, an interpreter must be **appointed upon their request, even if they know Hungarian**. The investigative authority should ensure, if possible without using an interpreter, that the person involved in the criminal proceedings understands the translation.

If using the native language would pose disproportionate difficulty, or if the person who does not know Hungarian consents, then the use of another language they are familiar with must be ensured through an interpreter.

The record of the procedural act shall contain the name and contact details of the interpreter, including telephone, e-mail or other electronic contact details, his/her identity card number or, failing this, any other personal data necessary for identification, the language of the interpretation, a warning of the consequences of false interpretation, and the interpreter's response to the warning, the interpreter's statement of the grounds for disqualification, the warning to the person involved in the criminal proceedings that he or she may request the assignment of another interpreter due to the poor quality of the interpretation, the response to the warning, and the statement of the person involved in the criminal proceedings as to whether he or she understood the interpretation.

Pursuant to Section 36 (1) of the **Infractions Act** the language of the infringement proceedings is Hungarian. No one may be disadvantaged for lack of knowledge of Hungarian. Pursuant to paragraph (2), everyone may use his or her mother tongue, his or her national language within the scope of an international treaty promulgated by law, or, if he or she does not know Hungarian, **another language designated by him or her** as known to him or her, both orally and in writing, in the proceedings for infringement of the rules.

In addition to complying with the legal requirements and guaranteeing rights in the various police procedures, it is in the Police's fundamental interest to understand the foreign persons subject to the procedures, as this is a basic condition for successful proceedings.

g. Conduct of interviews

The CPT recommends that the Hungarian authorities take the necessary steps to ensure that these precepts are effectively implemented in practice. In particular, steps should be taken to ensure that police investigators are trained to acquire the necessary skills and knowledge in effective interviewing. Reference should be had in this regard to paragraphs 73-81 of the CPT's 28th General Report, which concerns preventing police torture and other forms of ill-treatment (including police interviewing methodology),¹⁹ as well as the Principles on Effective Interviewing for Investigations and Information Gathering⁶ (Méndez Principles).

The legal provisions relating to the testimony of the accused are set out in the Code of Criminal Procedure Chapter XXX and § 385-388 and the Chapter 77 (§ 137-149) of the Infractions Act. Investigators in criminal proceedings shall undergo the training necessary for the performance of their duties prior to their appointment. This includes the acquisition of legal, professional and practical knowledge of interrogation. With regard to practical implementation, it is necessary to refer to § 186

⁶ See also the Council of Europe's practitioner's guide on investigative interviewing ("A brief introduction to investigative interviewing – A practitioner's guide", Council of Europe, October 2018).

(2) of Code of Criminal Procedure according to which the accused must be given the opportunity to make a coherent statement, after which he may be questioned.

The Police is constantly striving to make the members of the authority even better prepared to carry out interviews, and in this context (for example, in the case of Fejér County Police Headquarters) measures have been taken to make the information contained in point II/A/37 of the Report known to the relevant personnel. In this respect, it has been decided that, where possible, the **investigative interviewing** method referred to in the CPT report **shall be included in the training**.

As regards the training of investigators in interrogation, it is worth noting that within the system of further training and e-learning of the Police, there are regular mandatory and optional courses, which are designed to deepen the tasks of the criminal field, so that they are developed in relation to specific procedural acts or specific expertise.

38. The CPT recommends that the Hungarian authorities continue their efforts to introduce regular use of electronic recording of police interviews. Interviewed persons should not be obliged to request such recording and should by no means be required to cover its costs.

The entry into force of the Code of Criminal Procedure on 1 July 2018 maintains the **possibility** for the investigative authority to record various procedural acts by video, audio and continuous video and audio recording, but in **several cases it also makes this an obligation**. In the day-to-day application of the legislation, it is expected that the recordings made by the police departments will comply with the legal requirements and will be able to provide clear answers to questions from the investigating authority, the prosecution and the court. To this end, a **detailed methodology** has been developed within the Police.

Pursuant to Paragraph (4) of § 358 of the Code of Criminal Procedure, the suspect, the defence counsel or the victim may also **apply** for the recording of the procedural act in the above manner, with the simultaneous advance payment of costs.

Recording on the basis of a request cannot be refused **if the costs are prepaid in due time**. If the technical conditions are available, a recording will also be made in the case of an advance within 5 days prior to the procedural act. However, due to the limited technical means available, it should be borne in mind when assessing the application that cases of **mandatory recording by law have an advantage** over the procedural acts subject to the recording applied for, solely from the point of view of work organisation and logistics and in compliance with the procedural rules, in particular with regard to timeliness. The person charged is only **liable to pay an advance** if he or she participates in a procedural act which the prosecuting authority did not order to be recorded on video or audio ex officio, but **was requested to do so by him or herself or by his or her defence counsel**.

In addition to the mandatory recordings, the acting member of the authority may decide to order the recording of the procedural act by means of video and audio recordings ex officio. **In the case of a recording made in the course of a compulsory recording or a recording ordered by an authority, the person charged shall not be under any obligation to pay or advance any costs** and may obtain a copy of the recording in accordance with the rules on access to documents.

The **use of a telecommunication device is one of the mandatory cases** of recording.

Pursuant to § 121 of the Code of Criminal Procedure, the court, the prosecutor's office or the investigating authority may order the use of a **telecommunication device** ex officio or upon a request submitted by a person obliged or entitled to be present at the procedural act. In the case of an order on application, it shall notify the court of its decision ordering the use of the telecommunication device without delay, otherwise at the same time as the summons and notification. If the technical conditions for the use of the telecommunication device are met, the prosecution and the investigating authority may not dispense with the use of the telecommunication device in the case of a procedural act requiring the presence of a detained person in custody pursuant to § 122 of the Code of Criminal Procedure.

As regards procedural acts involving the participation of a detained person, the main rule is that the use of a telecommunication device cannot be excluded. The Hungarian Prison Service Headquarters and the National Police Headquarters have prepared a cooperation agreement on the subject, according to which priority is given to reducing the security risk in procedural actions involving detainees, and therefore, the preferred solution should be one that does not involve the removal or temporary transfer of the detainee from the place of detention. This will allow the personalised presence of the detainee **at the place of detention to take place in the event of interrogation or continued interrogation.** The decision to carry out specific procedural acts outside the place of detention in the presence of the person and outside the place of detention should be taken by the investigating authority, without any doubt, on the basis of criminalistics aspects.

The person concerned may apply for the use of the telecommunication device, but only the person charged may oppose its imposition and only if the subject of the procedural act is the hearing on the imposition of a coercive measure with a judicial authorisation affecting his or her personal freedom or the preparatory hearing. In such cases, telecommunications may be ordered only with his consent. **192 fixed endpoints are available** to implement telecommunications, but only limited equipment is available for simplified connectivity (web connectivity). **There is an upward trend in their use.** The increase is due to regular training sessions on the subject, and to the fact that the terms of reference have been set to provide both the theoretical background and suggestions for practical applications. An implementation plan has been developed to increase the use of the telecommunications tool.

Since 2019, the Police **has been ordering the use of telecommunication devices ex officio in procedural acts involving detainees.** In all cases, the use of the telecommunication device must be recorded on video and audio recordings - audio recordings in the case of voice calls - which are recorded on a special server, so that the risk of loss or destruction is close to zero (only human error can cause this). If the authority wishes to involve the detainee in the procedural act by personal appearance, a separate request for authorisation is required, submitted via official channel, and is therefore only used in cases where, for tactical reasons, remote execution would not serve the purpose of the procedural act.

As a result of the efforts made to use telecommunication, compared to the 1 747 procedural acts recorded in 2019, telecommunication and consequently the mandatory video and audio recording were used in 4 739 cases in 2020, 8 091 in 2021, 8 661 in 2022 and 11 713 in 2023. Detainees were involved in at least a quarter of these procedural acts. The use of **telecommunications is not subject to any obligation to pay costs** to the participants in the procedural act, even if it is at their request.

4. Conditions of detention

39. The CPT recommends that steps be taken by the Hungarian authorities to ensure that cells in police holding facilities are properly ventilated and that persons obliged to stay overnight are provided with a clean mattress and clean bedding. Whenever persons are held for 24 hours or more, they should be offered outdoor exercise every day.

When constructing a new police building or renovating, rebuilding or converting an existing detention facilities, the provisions of the Detention Facility Construction Code shall apply with regard to ventilation, windows, floors, walls, bars, electrical equipment, fixtures and fittings, as well as the technical requirements for guard protection and the guard call and alarm system. The Detention Facility Building Regulations state that: '73. In rooms intended for long-term human habitation, only natural ventilation shall be provided by opening windows in the internal wall planes. Enclosures shall be designed with direct natural ventilation only.

The detainee shall be provided with a plastic spoon, a plastic drinking cup, a pillow, a bed sheet, a blanket and a mattress as personal equipment.

The stay in the open air shall be carried out as prescribed in the detention order in the daily schedule of the detention centre, as determined by the officers responsible for the detention, as defined in § 427 (8) of the Punishment Enforcement Act. In accordance with § 20 (1) of the Detention Services Regulation, the detainee is entitled to be in the open air for one hour a day under supervision.

40. The CPT recommends that the Hungarian authorities put in place suitable arrangements to ensure that persons arriving in police holding facilities late in the evening can be offered some food. More generally, persons deprived of their liberty by the police should have ready access to drinking water and be offered food at appropriate times even before their arrival in a police holding facility.

The rules on meals in police detention are laid down in § 5 and § 33 of the Detention Services Regulation, and in the case of persons in custody in National Police Headquarter Instruction No. 36/2022.

If the detainee indicates his/her request for food before the expiry of the first 5 hours of the restriction of personal freedom, he/she may be provided with food for reasonable grounds, in particular if his/her condition or illness so justifies.

After being detained and placed in the holding cell, the rules of the Detention Services Regulation apply. The daily schedule of the holding cell must specify the times for meals. Meals must be provided three times a day, with 30 minutes for breakfast and dinner, and 45 minutes for lunch. Upon request, detainees must be provided with meals that comply with the dietary requirements of their religion, with a daily energy value of at least 2595 kcal, and at least 3565 kcal for juveniles. One hot meal must be provided daily as the main meal, dietary meals must be provided on medical advice, and pregnant women must be provided with 0.5 liters of milk daily from the 20th week of pregnancy – or a substitute food if medically necessary.

B. Prison facilities

1. Preliminary Remarks

The most significant change affecting the entire Hungarian penal system following the CPT's visit is the amendment of Act CCXL of 2013 on the Execution of Punishments, Measures, Certain Coercive Measures, and Confinement for Misdemeanours (hereinafter: Punishment Enforcement Act), which came into force on March 1, 2024.

This amendment represents a systemic change by replacing the regime rules with a category system and by evaluating the behaviour and cooperation of convicts through a newly introduced credit system.

In the system implemented from March 1, 2024, the number of credit points a convict has determines which of the five detention categories they are classified into (Category I being the most favourable and Category V the most stringent). The category and credit system aims to encourage cooperation from convicts by providing increasingly lenient conditions in lower categories, resembling free life more closely, while higher categories impose increasingly strict conditions. For example, the convict's detention category determines the frequency of various contact opportunities, the conditions under which they can engage in available leisure activities, and access to additional services.

The legislative amendment has enabled the behaviour of inmates in prison institutions (hereinafter: prison service) to have a direct impact on their daily lives.

Convicts who demonstrate behaviour and willingness to cooperate that meet the expectations can, after acquiring a certain number of credit points, be classified into a lower-level, less strict detention

category. In acquiring credit points, reintegration activities such as general, secondary, or higher education, vocational training, and participation in work are given particular emphasis.

Conversely, inmates whose behaviour during imprisonment endangers the security of the prison institution and/or safe detention can lose credit points depending on the sanctions imposed for their misconduct. As a result, they may be placed in a stricter detention category.

42. The CPT wishes to receive up-to-date information on the expansion of the prison estate, including capacity, specifics of the establishment(s) and delivery date(s).

The prison service administration (hereinafter: prison administration) prioritizes the development and implementation of measures aimed at reducing the occupancy level of institutional facilities to ensure long-term occupancy rates below 100%. A major milestone in these efforts is the expected opening in 2024 of a new, state-of-the-art correctional facility in Csenger, capable of accommodating 1,500 inmates, and equipped with the most advanced security technology. Given that the construction of the new facility imposes a significant burden on the prison administration, both financially and in terms of manpower, no further capacity expansion measures are planned for the near future.

The relocation of inmates to the new facility will free up space, enabling the prison administration to review inmate placements, which can significantly contribute to establishing appropriate accommodations as recommended by the CPT.

Currently, the prison administration has a capacity of 17,998 inmates. As of June 25, 2024, the inmate population totals 18,370, resulting in an occupancy rate of 102%.

43. The CPT would like to receive further information from the Hungarian authorities on the nature and state of implementation of this measure and considerations related to the terms of the Council of Europe Convention on the Transfer of Sentenced Persons (ETS No. 112), where applicable. Further, the CPT would like to receive information about the legal safeguards, such as access to legal aid and interpretation, that apply to foreign nationals in this context.

Between the entry into force of Government Decree 3/2023 (I. 12.) on the different application of certain provisions concerning the execution of sentences during the emergency (hereinafter: Decree 3/2023) on 13 January 2023 and 25 June 2024, **the suspension of the execution of foreign prisoners until the transfer of their prison sentence to another country was applied to a total of 317 non-Hungarian nationals** (decisions were made for 657 individuals, with 339 applications denied, 319 approved, and 317 having left the country). The government decree stipulates that departure from Hungary can occur voluntarily by the foreign national or through the involvement of the competent aliens policing authority.

At the beginning of the procedure in the prison, inmates are informed about the content of Government Decree 3/2023 and the scope of affected individuals **in the language they speak, write, and read**, enabling them to request the suspension of their prison sentence until the judgment is handed over to a foreign judicial authority. The § 5 (1)-(6) of Government Decree 3/2023 detail the stage of the procedure during which the inmate has a final opportunity to clarify their questions and intentions regarding the procedure through a **hearing and statement in front of a penal judge**.

Considering the involvement of the penal judge and the provision of information in a known language from the outset, the safeguards are adequate, and no modifications are necessary. Moreover, these measures are temporary, as specified in the emergency government decree.

The CPT's mention of "plans to release 700 foreign nationals in May 2023" refers to Government Decree 148/2023 (IV. 27.) on the reintegration custody of those convicted of human smuggling offenses, which introduced reintegration custody for these offenders. Between the decree's effective date of April 28, 2023, and June 25, 2024, reintegration custody was applied to a total of 2,290 individuals. In May 2023, following the introduction of the legal measure, 776 individuals were released from prison institutions. By June 25, 2024, the reintegration custody period had successfully elapsed in 216 cases.

This new, special form of reintegration custody in the Hungarian legal system requires human smugglers, who have been definitively sentenced to imprisonment and expelled from Hungary, to leave the country within 72 hours.

The designated place for carrying out reintegration custody is the territory of the state of the convict's usual place of residence, or if that is not known, the territory of the state of their citizenship. However, this does not mean the "waiver" or "interruption" of the punishment, but rather a more lenient further execution of it. The remaining duration of the imprisonment sentence imposed on the convict – after being released from the correctional facility – is converted into reintegration custody. Violation of the behavioural rules specified in Government Decree 148/2023 (not leaving Hungary or returning to Hungary) results in being taken back to the prison institution, the termination of the reintegration custody, and serving the remaining duration of the sentence in the prison institution.

45. The CPT reiterates its recommendation to the Hungarian authorities to continue their efforts to manage the prison population, taking into account the full range of principles listed in the Council of Europe's Committee of Ministers Recommendation No. R(99)22 concerning prison overcrowding and the inflation of the prison population; Recommendation Rec(2006)13 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse; Recommendation Rec(2003)22 on conditional release; Recommendation Rec(2003)23 on the management by prison administrations of life sentence and other long-term prisoners; Recommendation CM/Rec(2010)1 on the Council of Europe's probation rules; Recommendation CM/Rec(2014)4 on electronic monitoring; Recommendation CM/Rec(2017)3 on the European rules on community sanctions and measures; and Recommendation Rec(2006)2-rev on the European Prison Rules.

The prison service carries out its tasks based on the applicable laws in force, ensuring their full compliance at all times.

56. The CPT recommends that the Hungarian authorities ensure that prison officers against whom there is prima facie evidence of ill-treatment are suspended from duties involving contact with detainees until the alleged ill-treatment has been fully investigated.

The Committee requests detailed information on all investigations conducted since 2018 concerning staff ill-treatment at Tiszalök Prison, including the outcomes of these investigations, and reports on any criminal or disciplinary sanctions imposed on the prison officers involved or any other measures taken against them.

If any staff member or detainee commits a violent act against another person – for any reason or motive – **the prison service immediately takes the necessary measures.** In doing so, **it files an official complaint** with the competent investigative authority based on the Criminal Code Act C of 2012 (hereinafter referred to as the Criminal Code) and initiates **disciplinary proceedings** against the perpetrator. In cases of personal injury, the facility also notifies the prosecution office responsible for supervising the legality of the prison institution's operations.

At the same time, the prison institution ensures the collection of evidence and investigates all circumstances related to the incident, including the perpetrator's motives, and forwards this information to the competent investigative authority. If there is reasonable suspicion, the facility takes

steps to isolate the perpetrator if they are a detainee. **For staff members, the investigative authority decides on potential detention or arrest. If necessary, the head of the prison service suspends the staff member from their duties.** During disciplinary and criminal proceedings, the circumstances and motives of the incident are considered. The court makes its judgment based on the investigative authority's investigation and the judicial trial, taking into account any aggravating or mitigating factors.

The final conclusion of the criminal proceedings and the subsequent disciplinary proceedings (30+30 days) can take several years. The correctional organization cannot and should not influence the work and duration of the prosecution and the court.

Reassigning (removing) staff member(s) reported by a particular detainee without thorough consideration could convey a message to the detainees that they can have supervisors, who enforce their obligations, removed from their positions through the institution's management simply by filing a complaint alleging abuse or misconduct, and initiating an investigation based on that complaint. Therefore, it is necessary to thoroughly and carefully evaluate the circumstances before making decisions that result in changes to the staff's positions and the possible removal of the affected staff members.

According to the Tiszalök National Prison, staff members allegedly involved in ill-treatment have always been removed from the affected area.

The change of duty station - as described - is a matter of individual discretion. The alleged abuses are not primarily tied to the duty station but rather to the detainee or the group of detainees. In case of suspicion, the transfer of detainees, the transfer of staff members, the transfer of both groups, or leaving them unchanged may be implemented. Therefore, the transfer cannot be a static measure and decision.

For the member of the staff where it was necessary, the institution's commander, as the disciplinary authority, utilized the measure of suspension from duty.

If the institution's commander, as the disciplinary authority, orders the suspension of a staff member from their duty position, it may last up to a total of 18 months according to Section 199 of Act XLII of 2015 on the service relationship of the professional personnel of organs performing law enforcement duties (hereinafter: Law Enforcement Service Act).

The law also states that if the suspension from duty expires but the need to keep the person away from the duty station remains, the person under investigation may be employed in another duty position or assigned to another duty station until the conclusion of the proceedings.

In most cases, in the event of a serious crime, the staff member resigns from their service relationship.

Information on the investigation conducted into the abuse and violation of treatment at the institution since 2018:

In all cases of suspected criminal offence, a commander's investigation is ordered. Relevant evidence for the specific period is collected, based on which a summary report is prepared and sent to the Director General of the Hungarian Prison Service Headquarters. Before the investigation begins, the duty prosecutor of the competent regional investigative prosecutor's office and the prison service prosecutor are verbally informed.

If the alleged criminal offence is committed by a staff member, the institution reports the case to the investigative prosecutor's office. If the criminal offence is committed against a staff member, the institution reports it to the competent police department.

If, during the investigation, the abuse alleged by the detainee is not conclusively established based on the available data and evidence (camera recordings, medical reports, reports, minutes, etc.), no

personal responsibility is established for the institution's staff. Nevertheless, the institution's commander is obligated to file a report against an unknown perpetrator for the suspected offence of abuse in an official procedure under Section 301 of the Criminal Code, which is a mandatory action rather than a discretionary one.

Regarding the specific abuses outlined in the CPT report, criminal complaints have been filed in all identified cases, and criminal proceedings are ongoing for each case. Based on the individual examination of these cases, the necessary personnel measures have been implemented, considering the presumption of innocence. Since 2018, the institution has filed 47 reports with the competent prosecutor's office on suspicion of abuse committed in an official procedure, resulting in two suspect interrogations. On April 19, 2024, the investigation into a complaint made in 2020 was terminated by the Debrecen Regional Investigative Prosecutor's Office (hereinafter: Prosecutor's Office) under Section 398 (1) (c) of Act XC of 2017 on Criminal Procedure, as the available data and evidence did not substantiate the commission of a crime.

Of the 47 cases investigated, one did not occur within the institution. This case was forwarded to the Szeged Strict and Medium Regime Prison by the commander for jurisdictional reasons, as the staff member involved requested a transfer to the Tiszalök National Prison in the meantime. In this instance, a commander's investigation and a report were also conducted, and disciplinary action was initiated against the involved staff member, along with suspension until the conclusion of the criminal proceedings.

All 46 abuse-related incidents involving the institution were fully investigated, and the reports were forwarded to the competent Debrecen Regional Investigative Prosecutor's Office (hereinafter: Prosecutor's Office).

In five cases, the responsibility of the staff was established as follows:

- a) On July 6, 2022, the Complaints Office of the Hungarian Prison Service forwarded a complaint from the contact person (father) of prisoner [A], alleging that his son had been abused by staff members. Following the receipt of the complaint letter, the institution's governor ordered a detailed investigation of the incident. During this investigation, the day and night shift supervisory logs for the relevant service day, reports from day and night shift supervisors, chief supervisors, and security officers, the relevant report from the reintegration officer, and camera footage and its analysis were obtained.

The governor arranged for the formal questioning of the mentioned convict and other prisoner who might have knowledge of the incident. Additionally, the investigator collected the disciplinary procedure initiation form, relevant data from the official system, and a memorandum from the Health Department regarding the medical condition of the mentioned prisoner. Furthermore, the governor ordered a medical examination for the mentioned convict, as well as the preparation of a medical report and photographs. The bloc supervisor involved in the case gave statements contradicting those of the convict [A]. According to them, the grievances reported by the convict did not occur. On July 4, 2022, sergeant [B] initiated disciplinary proceedings against convict [A] for shaving his head and eyebrows without permission. The convict was informed about the disciplinary report. In the attached report, sergeant [B] stated that the convict cut his hair out of boredom. Overall, it was determined that the direct evidence of the abuse was only supported by the statements of the convict and one of his cellmates. This was not corroborated by the medical report or the camera footage. The statements of the indirect witnesses were contradictory regarding what they heard about the incident. Based on the available evidence, the governor filed a report with the Prosecutor's Office on suspicion of abuse in an official procedure under Section 301 of the Criminal Code and other crimes. Disciplinary proceedings were initiated against sergeant major [C], company sergeant major [D], and sergeant [B], which were suspended

until the conclusion of the criminal proceedings. sergeant [B]'s service relationship ended on July 3, 2023, so the disciplinary proceedings against him were terminated by the governor on July 4, 2023, under Section 210 (1) (e) of the Law Enforcement Service Act. The criminal proceedings are still ongoing, so without a final judgment, the suspended disciplinary proceedings against the other two colleagues cannot continue.

- b) On November 17, 2022, under the direction of the deputy chief prosecutor, staff members of the Prosecutor's Office conducted searches and inspections in the Health Unit of the institution in a criminal case initiated on suspicion of abuse committed in an official procedure. Three professional staff members - major [E], Head of the Health Unit, captain dr. [F], qualified medical specialist, and first lieutenant [G], senior employment officer - were involved. Outside the institution, searches and vehicle inspections were also conducted at the residences of the involved individuals, and evidence was seized from the institution's health unit. In a letter dated November 18, 2022, the Prosecutor's Office informed the institution's governor that major [E] and captain dr. [F] were interrogated as suspects on November 17, 2022, in an ongoing criminal case for the offence of preparation for abuse committed in an official procedure. The institute commander ordered disciplinary proceedings against the three individuals, which were suspended until the final conclusion of the criminal proceedings. Additionally, all three personnel were suspended from their duties for 2 months, with 50% of their salary withheld (which was extended until May 18, 2024).

The service relationship of captain dr. [F], was terminated on probation with effect from November 30, 2022, thereby also ending the disciplinary proceedings against him.

The Prosecutor's Office, in a letter dated March 20, 2024, summoned ensign [H], sergeant [I], sergeant [L], ensign [J], and ensign [K], on suspicion of abetting a public official's misconduct under Article 282 (1)(a) and qualified under Article 282 (3)(d) of the Criminal Code. First Lieutenant [G] were summoned on reasonable suspicion of abuse in official proceedings under Article 301 (1) of the Criminal Code, and major [E] was summoned for continuous interrogation as a suspect. The Prosecutor's Office interrogated ensign [H], and sergeant [L], as suspects on March 26, 2024, and ensign [J], on March 27, 2024. They interrogated sergeant [I], company first ensign [K], and first lieutenant [G], on April 10, 2024, major [E] on April 11, 2024. The governor ordered disciplinary proceedings against the seven personnel members **who participated in the interrogation** as suspects, which were suspended until the final conclusion of the criminal proceedings. For ensign [K], the investigative authority terminated the proceedings, and the disciplinary authority terminated the suspended disciplinary proceedings. In the case of first lieutenant [G], the lawful period of suspension from duty expired, and his service relationship was mutually terminated on May 23, 2024.

- c) On May 4, 2023, staff members of the Investigation Department of the Hungarian Prison Service conducted hearings at the institute. During these hearings, convict [M] reported that he had been assaulted by personnel on April 28, 2023, in the two-person cell L/252 of the "A" building's Purple section. Relevant evidence (camera footage, convict hearing records, personnel reports, medical documentation) was collected. The institute commander ordered an analysis of the camera footage for the relevant dates. Although the footage did not show any assault, it confirmed the presence of the involved personnel at the cell during the times mentioned in the records. The reports from the involved personnel did not support the convicts' claims of assault by the staff. Following consultations with the prosecutor and considering the available records, camera footage, and the verifiable timing of the injuries observed on the convict, the institute commander filed a criminal complaint on May 8, 2023. The criminal proceedings are ongoing. Personal responsibility within the institute's personnel was determined as follows. The suspicion of disciplinary offenses was raised against company first ensign [O], sergeant [P], bloc supervisor, first ensign [Q] security officer, and sergeant [R], specialist nurse. Based on the above, the governor ordered disciplinary proceedings against them, which were suspended until the final conclusion of the criminal proceedings. Due to the seriousness and nature of the disciplinary offenses, company

sergeant major [O] and sergeant [P] were suspended from duty for 2 months effective May 6, 2023 (later extended until November 6, 2024). During the suspension period, 50% of their absentee pay was withheld by the disciplinary authority. As an employer's measure, the appointments of company sergeant major [O] as a chief inspector and first ensign [Q] as a security officer were also revoked.

- d) On June 16, 2023, the bloc supervisor on duty at the institute reported that coercive measures were used against convict [S] in the search room of the "L" building. The security officer on duty conducted an initial review of the recorded camera footage and observed that convict [S] fell to the ground with his pants pulled down to his knees as he exited the search room. Based on the footage, the security officer suspected assault and reported the incident to the deputy governor of the institute. The deputy governor reported it to the governor, who then ordered a detailed investigation of the incident. The governor directed the staff of the Emergency Incident Investigation Unit of the 5th Agglomeration Center to the site to conduct an independent investigation (these staff members serve at the Borsod-Abaúj-Zemplén County Remand Prison and the Sátoraljaújhely Strict and Medium Regime Prison), and assigned Agglomeration Deputy Commander Colonel [T] to lead the investigation. Relevant evidence was collected in connection with the case (camera footage, detainee hearing records, personnel reports, medical documentation). Considering the available records, camera footage, and the injuries observed on the convict, the assault was not clearly substantiated, as the injuries could have been caused by the physical force applied to the convict and the fall to the ground in the corridor. A medical report was prepared for the convict, and he was subsequently transported to Nyíregyháza Jósza András Hospital for Educational Purposes for further examination. The reasonable suspicion of disciplinary offenses arose concerning sergeant [U] and sergeant [V]. Based on the above, disciplinary proceedings were ordered against them, which the institute commander suspended until the final conclusion of the criminal proceedings.
- e) On September 28, 2023, the Prosecutor's Office informed the governor that in the ongoing criminal case for group assault and other offenses committed during official procedures, the detention of first ensign [W], sergeant [X], sergeant [Y], and sergeant [Z], all belonging to the institute's personnel, had been ordered. These individuals were interrogated as suspects for group assault committed in an official procedure under Section 301(1) and (2) of the Criminal Code and for causing lifethreatening bodily harm under Section 164(1) and (8) of the Criminal Code.
- The institute commander ordered the suspension from duty for two months and initiated disciplinary proceedings against these four individuals, which were also suspended.

In the ongoing criminal case for group assault and other offenses committed during official procedures, the disciplinary proceedings against sergeant [Z] and sergeant [Y], which started and were suspended on September 25, 2023, were terminated by the commander in charge on October 3, 2023, based on Section 210(1)(e) of the Service Act. Their service relationships were terminated on October 2, 2023, at their own request, based on Section 80(2)(b) of the Law Enforcement Service Act.

The disciplinary proceeding against company first ensign [W], which started and was suspended on September 27, 2023, was terminated by the commander in charge on January 24, 2024, based on Section 210(1)(e) of the Law Enforcement Service Act company first ensign [W]'s service relationship was terminated on January 24, 2024, at his own request, based on Section 80(2)(b) of the Law Enforcement Service Act.

The Director General of the Hungarian Prison Service extended sergeant major [X]'s suspension from duty until March 28, 2025.

Sergeant [Y] was released from the Heves County Remand Prison on October 25, 2023, and sergeant P.R. on January 24, 2024. First ensign [W] and sergeant major [X] were released from the Békés County Remand Prison on January 29, 2024.

In a letter dated February 28, 2024, the Prosecutor's Office summoned two additional personnel members, lieutenant [AB] and sergeant major [CD], **as suspects** for the suspected offence of conspiracy to commit a crime in the course of official proceedings of a public official in violation of Article 282 (1) (a) of the Criminal Code and qualifying under (3) (d). Disciplinary proceedings are already pending against these persons.

A total of 16 disciplinary proceedings were initiated by the disciplinary authority concerning the personnel involved in the incident (one under the jurisdiction of the Hungarian Prison Service), and four individuals were also suspended from duty. Due to the termination of service relationships, 13 (12+1) disciplinary proceedings remain suspended, and the Director General of the Hungarian Prison Service extended the suspension from duty for one individual.

58. The CPT recommends that Hungarian authorities ensure that measures effectively eradicate and prevent all forms of abuse in prisons.

Authorities must send a clear and unequivocal message of zero tolerance for any form of abuse, stating that such practices are illegal and completely unacceptable in any prison in the country, and that all such cases will be investigated, with those responsible held accountable and appropriately sanctioned. Senior prison staff should be held responsible to ensure that they fulfill their fundamental responsibility to guarantee that prison staff respect the right of detainees to physical and psychological integrity. This requires all senior and middle management to pay particular attention to the activities of the personnel under their responsibility and to take immediate steps to address any signs of staff misconduct, not only by abusing detainees but also by encouraging or condoning the mistreatment of detainees, sometimes by their fellow detainees. Failure by supervisory staff to fulfill this role should itself be considered a serious dereliction of duty.

The CPT further reiterates its recommendation that Hungarian authorities introduce proactive measures to prevent individual detainees from being subjected to retaliation if they wish to make a complaint or speak to external bodies about mistreatment.

The Tiszalök National Prison (which also serves as the leading institution of the agglomeration district) and its current and former commanders, involving middle management and subordinate leaders, have implemented and/or determined the following measures to prevent and reduce abuse:

- the deputy commander in charge of specialised management presented and reviewed the circumstances and lessons learned from the extraordinary event of September 25, 2023 (suspicion of abuse during an official procedure) across all prison institutions under the agglomeration center's jurisdiction,
- the deputy commanders briefed all staff on duty under the shift system about the critical importance of avoiding abuse during official procedures and emphasized the criminal and disciplinary sanctions for violations related to service, service discipline, and service performance,
- the heads of the units provided documented training to the subordinate staff on the measures outlined in the action plan issued under reference number 305030/17631/2023 on June 16, 2023, which covered abuses during official procedures, and continuously monitor the implementation of these measures,
- a professional day was organized in the agglomeration on October 3, 2023, during which the lessons learned from the incident were also reviewed with the participation of all security unit heads
- during the upcoming (October 2023) annual training, the disciplinary and investigative officers provided detailed information to the staff about the incident, including procedures related to abuse, and discussed military, official, and corruption crimes, as well as disciplinary actions and their possible consequences and sanctions,

- a professional case study on the extraordinary event was prepared and sent to the leaders of the prison institutions in the agglomeration, and the contents were reviewed with all affected staff,
- during the annual training from October 9-12, 2023, the Psychology Unit conducted a training for the entire staff titled "Behavioural Characteristics of Detainees with Special Needs, Their Treatment, and Stress Reduction",
- a professional case study prepared by Hungarian Prison Service on December 15, 2023, was also presented and reviewed with the staff in a documented manner.

In the relevant units, training has been conducted as follows: 11 sessions in the Health Unit, regular monthly training and daily briefings in the Operations Unit, and 7 sessions in the Detainee Affairs Unit. It can be stated that in the prison, all specialist units have addressed the prevention and reduction of abuse during unit meetings. The staff's morale is calm and balanced.

Since the extraordinary event, no new reportable incidents have occurred. The conducted training and sensitivity briefings have been effective. Security unit heads (or their designated substitutes in their absence) personally manage and supervise all coercive measures.

Additionally, the involvement of the National Protective Service has begun to ensure that, within the framework of the annual training, a staff member experienced in on-site inspections is provided to the prison service, who will give professional guidance on securing crime scenes.

From October 10 to 24, 2023, centralized training was mandated for the entire prison organization staff based on a pre-prepared training agenda. This included a comprehensive overview of the prevention and reduction of violent extraordinary events affecting detainees, the legal consequences of such incidents—including the responsibility of accomplices—and the processing of final court judgments for specific criminal offenses.

On May 21, 2024, a training session was organized for all deputy commanders of the prison institutions. Guest speakers included senior officials from the National Protective Service and the Prosecutor General's Office, who also gave presentations on the topic.

59. In the light of the number and severity of the allegations received during the visit to Tiszalök Prison, as well as the information provided by the authorities, the CPT recommends that the Hungarian authorities initiate a thorough and independent investigation into the situation of staff misconduct at Tiszalök Prison. The CPT requests a detailed report on the steps taken and any results of the investigation to be sent to the Committee within three months.

In accordance with the CPT's recommendation, a report on the independent investigation conducted by the Commissioner for Fundamental Rights has been submitted.

60. The CPT also recommends that a clear message be sent to the detention staff, particularly to those working in the special intervention units at Tiszalök and Nyíregyháza Prisons, emphasizing that no more force than strictly necessary should be used to restrain violent and/or non-compliant prisoners. Once prisoners have been restrained, any further use of force cannot be justified. Force should only be used in accordance with the relevant legal requirements and the principles of necessity and proportionality, solely to maintain safety and order, and never as a form of punishment. In this context, the authorities should ensure that all prison officers are trained in recognised control and restraint techniques without harming detainees.

The Hungarian Prison Service's staff placed the daily service operations, activities, existence and completeness of documents of the Agglomeration Operations Unit of the Institute, by means of

personal control and the saved images from electronic monitoring devices. Professional guidance and support, along with the daily use of body cameras, significantly facilitated and contributed to the development of proper communication and the evolution of tactical procedural culture. During the inspection period, all on-duty members of the Operational Unit participated in tactical procedure training according to a training plan.

To promote regular, proportional, and lawful actions, the prison service places significant emphasis on the training of tactical procedure instructors. Over the past year, their training was conducted in 4x5-day sessions, and by June 30, 2024, it has been carried out in 2x5-day sessions, with an additional 2x5-day further training planned for the current year. These trainings encompass communication and the psychology of tactical procedures, establishing a unified methodology for actions and covering the principles of using coercive tools. Thanks to these trainings, **all prison institutions now have trained tactical procedure instructors responsible for training the entire staff in this area.** Additionally, in 2024, the **methodological guide** titled "Procedural Tactics and the Use of Coercive Measures in the Prison System" was reviewed, further ensuring the proportionality of actions.

From 2023 to 30 June 2024, the Hungarian Prison Service held 5 training courses under the title *recognizing and mitigating dangerous situations arising from the unlawful behaviour of detainees.*

62. The CPT would like to receive information on the measures taken by the penitentiary organisation to protect the detainee from further violence and why the case has not been referred to the prosecutor.

Paragraph 141 of Hungarian Prison Service Instruction 72/2020 (XII. 23.) on the Security Regulations of the Prison Service (hereinafter "the Security Regulations") provides for the monitoring of prisoners' activities. If the activities of prisoners in the cell are hidden from prison staff (they cannot be heard or it is not possible to install an electronic monitoring device in the cell), the only way to detect abuse is to carry out body surface checks following a prisoner's report or during a changeover.

In the period between 19 May 2023 and 20 May 2023, a prisoner in the Szabolcs-SzatmárBereg County Remand Prison reported a previous assault that occurred in December 2022. When the prisoner reported the incident, the prison took the necessary measures (record hearings, initiation of disciplinary proceedings, the prison commander filed a complaint with the competent police station).

65. In the light of the above observations, the CPT recommends that staff be clearly and regularly reminded that any act by prison staff which tolerates, encourages or colludes in any form of punitive action against prisoners by other prisoners, or any other form of inter-prisoner violence or intimidation of prisoners, is subject to criminal prosecution. Furthermore, the Hungarian authorities should develop and implement a strategy to combat inter-prisoner violence and intimidation, in particular in Tiszalök Prison. This strategy should include investing much greater resources in recruiting additional staff, promoting a truly dynamic approach to security by prison staff and offering a wide range of meaningful activities for prisoners throughout the prison system. In addition, antiharassment protocols should be developed to complement the cell risk assessment that is conducted at the intake of all prisoners (convicted and on remand) to identify categories of incompatible prisoners.

The CPT further recommends that further emphasis be placed on promoting the professionalism of prison officers and staff through targeted training activities. This includes the ability to identify perpetrators of violence against other prisoners and to recognise when vulnerable prisoners are requesting assistance by acting in a manner contrary to the prison's internal rules.

Finally, the EESC recommends that if a doctor identifies serious physical injuries that are consistent with allegations of inter-prisoner violence, the record should be forwarded immediately to the competent prosecutor and a preliminary investigation initiated.

The deputy governor in charge of specialised management presented and processed the circumstances and lessons learnt from the incident of 25 September 2023 (suspected criminal assault in official proceedings) in every prison under the subordination of the Agglomeration Centre V.

In all cases, the deputy governors briefed the staff on rotating duty schedules on the importance of avoiding the crime of assault in official proceedings and raised awareness of the criminal and disciplinary sanctions for breaches of the law and other regulations relating to the performance of duty, discipline and the discharge of official duties.

Criminal charges have been brought in all identified cases of the specific abuses identified in the CPT report, and all are under prosecution. On the basis of the individual examination of each case, the necessary personal measures have been taken, taking into account the presumption of innocence. Since 2018, **the institution has reported 47 cases** of suspected assault in official proceedings to the competent prosecutor's office, of which **2 cases were investigated**.

In order to investigate the measures taken and possibly not taken to curb ill-treatment by staff members, the **Hungarian Prison Service Headquarters** carried out a comprehensive audit of the effectiveness and efficiency of the measures taken and the higher level regulators in the Tiszalök National Prison. The audits were carried out through on-the-spot inspections, analysis through electronic monitoring tools and verification of electronically recorded data. The summary report has been published under file number 30500-16/293-1/2024.

The Code of Conduct of the prison organisation (published under file number 30500/97813/2023.) clearly prescribes the conduct of the staff in the course of their duties, with special emphasis on the treatment of prisoners. During its inspections, the Hungarian Prison Service Headquarters regularly examines professional and lawful treatment.

The commanders in charge of the staff, who are also the disciplinary authority, do their utmost to ensure that staff members carry out their work in accordance with their oath and observe the rules for the treatment of prisoners.

Pursuant to Article 150 (2) of the Punishment Enforcement Act, "For the purpose of ensuring the order of the penitentiary system and preventing criminal offences, misdemeanours and disciplinary offences or other violations, electronic monitoring devices may be placed in the prisoners' section, the security isolation section, the HSR unit, the disciplinary isolation section and the cell for the enforcement of solitary confinement, as well as in the vehicle used for the transport of prisoners." **This will ensure the detection of possible acts of mutual abuse and the immediate eradication of such acts.** In order to detect and identify injuries, the staff on duty in the wards will carry out a visual check (at the same time as removing the prisoner's clothing) on prisoners who have been subjected to abuse during the shift to ensure that they are not injured.

Prior to the Tiszalök incident, on 19 June 2023, a Terms of Reference (30500-16/410-1/2023.) was issued to the heads of all agglomeration centres to reduce violence against detainees.

In connection with the offence of assault in official proceedings at Tiszalök Prison on 25 September 2023, **training was ordered for all executive staff in all agglomeration centres to prevent similar offences.**

The Hungarian Prison Service Headquarters has prepared a **technical case study** detailing the circumstances of the suspected assault in the official procedure at the Tiszalök Prison on 25 September 2023. The aim of the case study is to help prevent similar incidents in the future by presenting the information that emerged in relation to the incident.

The Hungarian Prison Service Headquarters is carrying out an analysis of the measures taken following each major incident (including Tiszalök) and determined the performance of data provision for the deputy commanders responsible for the security management of all agglomeration centers.

In accordance with paragraph 64 of the Hungarian Prison Service Instruction 26/2022 (XII. 21.) on the functioning of the operational units of the prison service organisation (hereinafter: Hungarian Prison Service Instruction 26/2022), the main task of the tactical measures instructor is to assist the staff of the prison institutions performing the specialised security tasks in **acquiring the tactical measures knowledge** necessary for the performance of their duties.

All the agglomerations **keep separate statistics** on the number of violent acts committed by prisoners against each other and on the number of such acts, and preventive measures are implemented on the basis of a plan of action to ensure that preventive measures are implemented effectively. The Hungarian Prison Service Headquarters' relevant specialised sections also continuously implement specialised management measures to implement preventive measures. The number of **violent acts** committed by prisoners against each other has **decreased by almost 60%** in the last 6 years. The incidents that have occurred are processed at the level of the penitentiary, at the level of the agglomeration and in several cases at the meeting for the national managers.

The Hungarian Prison Service Headquarters has revised the previously issued guidance **document** with similar content **on communication methods** for reintegration officers in the field of dynamic security, (under file number 30500-17/700-1/2023). This aid makes a major contribution to the prevention of violence between detainees by providing specific guidelines for the staff who are most involved with detainees, both in terms of prevention and in terms of recognising possible incidents.

It should be stressed that, both in the case of cell/residential accommodation and in any other form of co-location of detainees, the prison institutions place particular emphasis on the **absence of any relationship of superiority or subordination** between the detainee and other detainees.

In addition to the above, in 2018, a specialised field of intelligence was created as a department within the Hungarian Prison Service Headquarters, which will operate as a separate department from 2020. Its competences include the operation of the dynamic security system, which is of particular importance in the field of incident prevention.

The Hungarian Prison Service Headquarters also places special emphasis on **the training of its staff**. In September 2023, a professional training course was held in the context of the Risk Analysis and Management System (Kockázatelemzési és Kezelési Rendszer, hereinafter: KEK) pursuant to Section 82(3) of the Punishment Enforcement Act. The two main elements of the KEK system are the assessment of certain detention risks and the provision of risk management programmes to respond to them. The aim of the training is to provide reintegration officers and social assistants with experience of "aggression reduction" and "assertiveness" sessions aimed at reducing risks of detention, and to prepare staff for the ongoing management of the relevant KEK programmes. The training was attended by 16 staff members nationwide.

In parallel with staff training, **risk reduction and reintegration programmes** for prisoners were monitored.

In 2023, a total of 203 inmates participated in drug abuse prevention training in 22 groups nationwide, 273 inmates in 26 groups in aggressive behaviour training, 150 inmates in 17 groups in assertiveness training, and 8 inmates in alcohol prevention group sessions.

One of the important elements in the fight against violence between prisoners is that, based on the proposal initiated by the Hungarian Prison Service Headquarters, the authorization of drug testing in the Punishment Enforcement Act was amended from January 1, 2023, so that it is no longer only possible to test prisoners for drug prevention purposes or in connection with disciplinary or criminal proceedings, but also on a random basis, which can contribute to the reduction of incidents committed under the influence of narcotic or intoxicating substances.

On March 1, 2024, an amendment to the Punishment Enforcement entered into force, the aim of which was to create a concept that organizes the previous complex, but still rigid system due to the stages of implementation into a more transparent structure that encourages cooperation between inmates. The two key elements of the Punishment Enforcement Act are a **system of categories** replacing enforcement grades, regime rules and security risk classification, and a **credit system** for the evaluation and promotion of prisoners. The credit system, which tracks the prisoners' willingness to cooperate, can ensure the possibility of movement between categories. In the new five-grade category system, 1 is the lowest category and 5 the highest.

The initial classification of prisoners is subject to strong safeguards in the legislation. In other words, although the organisation's classification options are broad but not unlimited, in some cases the prisoner may apply for judicial review.

After the initial classification, prisoners can gain and lose credits, in the light of which they can be moved up or down in the classification system.

The credits are awarded to prisoners every 6 months by the Admission and Detention Committee, based on the committee members' proposal, taking into account the prisoner's performance in work, education, reintegration cooperation, etc., and the risks involved. The organisation will provide the prisoner with the opportunity to obtain credits, but will also assess the prisoner's cooperation, activity and risk factors, and will determine and approve the number of credits obtained by aggregating all these factors. In other words, **the acquisition of credits is not automatic, but requires the prisoner's cooperation and active involvement in the activities provided and offered by the prison organisation.**

The credit system increases objectivity and also gives prisoners predictability, which is guaranteed throughout their detention by transparent rules.

The more favourable separation rules associated with the categorisation system provide more optimal placement options for prisoners, who are thus encouraged to participate in the activities offered throughout their detention, which are personalised in the system.

3. The conditions of detention

a. *material conditions*

73. The CPT recommends that the Hungarian authorities make efforts to ensure that all prison establishments have:

- **facilities and equipment in good condition;**
- **an acceptable standard of hygiene, including clean mattresses, pillows, bed linen and blankets, and regular disinfection to eliminate bedbugs, ants and cockroaches;**
- **good access to natural light and adequate artificial lighting;**
- **good ventilation and temperature control, especially in sanitary units;**
- **daily access to hot water, preferably running water, especially in winter;**
- **accessible and functioning call bell or intercom;**
- **specially adapted materials for prisoners with disabilities.**

The sanitary toilets within the cell shall be completely separated from each other in multioccupancy cells and shall be kept clean and well maintained with adequate ventilation. Common shower rooms shall also be adequately ventilated and free from mould. Yards shall be equipped with rest facilities and protection against adverse weather conditions. They should also be equipped with sports facilities and sufficient outdoor views, not exclusively vertical.

Importantly, the Hungarian authorities should also end the use and regular placement of reception, disciplinary and medical observation cells in all prisons.

The CPT recommends that, in the design of future prisons, cell-type accommodation should be preferred to dormitories or cells with more than one cell. Prisoners should be housed in small residential units with a maximum of four prisoners per cell.

In April 2024, the Hungarian Prison Service Headquarters allocated HUF 52 million to the agglomeration centres for the maintenance of lockers in the institutions under their control, which they should carry out in a scheduled manner by the end of 2024.

The replacement of inmate bed equipment is scheduled to improve the quality of the equipment. In order to ensure the continuity of supply, the Hungarian Prison Service Headquarters concluded an agreement for the purchase of a sponge mattress worth HUF 7,000,000.00, other lock-up furnishings worth approximately HUF 19,000,000.00 and other inmate equipment worth HUF 95,000,000.00 in December 2023, some of which has already been delivered and will be delivered in 2024.

The cleaning of the detainees' cells in all prison institutions is carried out on an ongoing basis, with the employment of cell cleaners and in the framework of unpaid work. The replacement of personal equipment issued to detainees will be carried out in a documented manner, as required by law. Prison service shall have a contract in force for the cleaning and laundering of soiled clothing, bedding and bedding material collected during the clean changeover.

In the prison institutions, the change of clothing and bedding of prisoners with infectious diseases and the disinfectant washing of textiles classified as infectious are carried out as a matter of routine.

More frequently than the eradications specified in point 5 of Annex 4 to NM Decree No. 18/1998 (3.VI.1998.) on the epidemiological measures necessary for the prevention of diseases and epidemics, a quarterly comprehensive bedbug eradication shall be carried out in all prison institutions, covering the entire institution, and shall be repeated 2 weeks after the eradication. All prison institutions shall make every effort to ensure adequate ventilation in accordance with local conditions, paying particular attention to the preservation of the premises.

The Hungarian Prison Service Headquarters has set the minimum illumination level in cells and living quarters at 300 lumens. If the minimum illumination in the living quarters/cells cannot be provided by natural light due to its architectural characteristics, artificial lighting is provided.

The windows in the cells/living quarters of prison institutions may be fully or to a certain extent shuttered to provide ventilation. If the air exchange in the cell/living quarters is not ensured due to the architectural conditions, a ventilation system has been installed to ensure ventilation.

The temperature in some rooms of the prison institutions is also centrally controlled. During the heating period, the temperature in the detainees' accommodation sections is continuously measured and recorded, and the appropriate temperature is ensured.

The possibility for prisoners to bathe at least three times a week is provided by the prison service in accordance with their statutory obligations. If the prisoners so requests, daily hygiene in the cell/living quarters is provided for him/her using the washbasin provided on admission, as ablution is permitted. In the case of women, juveniles and working prisoners, and on medical advice for sick detainees, daily bathing is provided by the prison institutions.

Running water is provided in the cells/living quarters of the institution. If hot running water is not available in the cell due to architectural constraints, it is provided outside the cell (e.g. by means of

a wall-mounted well in the corridor). Access to hot water for prisoners is also provided by the use of water heaters that can be rented as part of the additional service.

With the exception of lightweight buildings, a two-way intercommunication device is available to prisoners in all cells/living quarters. In lightweight buildings, the doors of the living quarters are not locked overnight, so there is no obstacle to the notification of the guards.

In the case of the Judicial Observation and Psychiatric Institute (hereinafter: IMEI), a display is available for the detainees to be informed by the guard/nurse, and in the Central Hospital of the Prison Service, a nurse call is available for the prisoners to be informed by the guard/nurse. The Chronic Aftercare Unit is also an open ward, so that prisoners are free to leave the wards.

Taking into account the available financial resources, the prison institutions have paid and will continue to pay special attention to the design of the cells for the disabled and the maintenance of the cell equipment.

The separation of the sanitary toilets within the cells/living quarters has been implemented, taking into account safety aspects. In the case of communal showers, ventilation is provided by the institution primarily by keeping the doors open. Where architectural constraints do not allow rapid ventilation and dehumidification after bathing, mechanical ventilation is provided. The prisons pay particular attention to the maintenance of the cells, living quarters, common areas and equipment in the cells, including the cleaning of showers and, where necessary, the removal of mould, from the financial resources available.

The technical condition of the special cells in the Szabolcs-Szatmár-Bereg County Remand Prison and in Building II. of the Middle-Transdanubium National Prison is continuously maintained. In the Szabolcs-Szatmár-Bereg County Remand Prison, new curtains have been installed in the toilets of the special single-occupancy cells with accessibility.

In the Tiszalök National Prison, 2 mobile ramps were purchased to facilitate the access of disabled prisoners to the open air. The elimination of visibility through the opening in the door of the disabled toilet lockers was examined. Due to the technical design of the toilet locker, we believe that the only way to limit the visibility is through an architectural solution, which could reduce the useful floor area of the toilet locker. The implementation of the visibility restriction is carried out on a scheduled basis, subject to the availability of funds.

The Tiszalök National Prison does not have walkway, but there are benches. The Szabolcs-Szatmár-Bereg County Remand Prison has included a request in the 2024 budget for the construction of a covered walkway. At the Middle-Transdanubian National Prison Unit Székesfehérvár, the walking courtyards are currently divided into two parts, and there are plans to separate a third part of the courtyard from the current one, which is in the process of being separated, but no canopy has been built. A canopy is under construction in Building I of IMEI. Canopies have been constructed in Buildings II and III.

The walkways are not always equipped with rain shelters to protect against adverse weather conditions. Taking into account the size of the courtyard and the number of prisoners present at any one time, the necessary number and size of rain shelters are being assessed and will be implemented in due time, depending on the financial possibilities. The possibility of installing benches is being examined by the prison service.

The general provision of sports equipment is not carried out because of the risk of accidents, which is a priority safety aspect. The use of the fitness room is allowed as an additional service for prisoners who meet the criteria for authorisation (e.g. good health).

Horizontal views from the corridors are not always provided, but only where the architecture allows.

In the case of newly built prison institutions for detainees, small cells will be provided, as already recommended in the Recommendation.

The use, furnishing and accommodation in each special cell or living quarters is determined in accordance with the legislation in force.

b. prison regime

80. In the CPT's view, there is a need for a fundamental change to the current system, particularly for persons in pre-trial detention. Detainees should not be left to languish in their cells for months. **The CPT calls for all detainees, including those in pre-trial detention, to spend a significant part of the day (eight hours or more) outside their cells, engaged in a variety of purposeful activities, including work (preferably of professional value), education, sport and other collective and targeted rehabilitation activities. As a general rule, detainees should be allowed to exercise in their cells. Detainees should not be prevented by financial considerations from participating in meaningful activities (including indoor sports facilities such as gyms). In addition, the CPT recommends that the conservative rule prohibiting detainees from resting on their beds during the day be abolished without delay.**

In all the agglomerations, detainees have the opportunity to participate in **primary and secondary education and vocational training**, with 21 prison institutions providing training for detainees. In this regard, cooperation within the districts provides an opportunity to ensure that the forms of education provided are accessible to the widest possible group of detainees.

In prisons, certain trainings are already provided **also in an online format**. In addition to school-based training, several vocational training courses are launched each year to promote reintegration after release. The number of participating prisoners has also increased with the training courses implemented within the framework of the priority project EFOP-1.3.3-162016-00001 "Reintegration of Detainees" (hereinafter referred to as **EFOP project**).

The enrolment figures for each academic year were as follows:

Academic year	Primary school	Secondary school	Vocational training	Higher education	Total
2015/2016	1 016	967	1 156	56	3 195
2016/2017	909	1 218	770	43	2 940
2017/2018	821	1 252	828	42	2 943
2018/2019	831	1 193	969	29	3 022
2019/2020	856	1 242	1 024	24	3 146
2020/2021	1 079	1 517	1 017	5	3 618
2021/2022	1 171	1 505	1 311	2	3 989
2022/2023	1 353	2 020	993	2	4 368
2023/2024	1562	2265	760	0	4 587

For the academic year 2023/2024, a total of 4 587 prisoners have been enrolled nationally.

Due to the skills and qualifications acquired through adult education and training, the prisoners' labour market competences are also improved, thus increasing their chances of finding a job after their release. To reinforce the former, a wide variety of vocational training courses have been launched in the 2023/2024 academic year. The Prison Service has made efforts to organise training courses that are useful to society, such as mason, painter, drywaller, cook, locksmith, electrician, wrapper and plumber. As a result of the measures introduced to increase the efficiency of labour market integration after release, **the number of people enrolled in training has steadily increased in recent years.**

With regard to individualisation, it can be stated that the Punishment Enforcement Act in force from 1 March 2024 introduced a system of categories and credits for prisoners, on the basis of which they are offered inclusion in reintegration programmes that correspond to the personality, criminal history and punishment enforcement data of the prisoner, and they receive credits for active participation in these programmes. By achieving a certain number of credits, they can advance in the category, which will provide them with more favourable living conditions.

Working prisoners can also participate in educational programmes. Outside working hours, if a form of education is provided and the prisoner has agreed to participate in it, the working prisoner may attend. On 25 June 2024, 717 prisoners nationwide will be simultaneously educated and employed.

The detainee may not be obliged to work pursuant to Section 407 of the Punishment Enforcement Act, and may only be involved in the cleaning of the penitentiary without remuneration and in related tasks. If they are fit for work, they may be involved in work upon request, and their written consent is required for their employment. At present, 401 detainees nationwide have agreed to work, 91 others are receiving training and 16 are undergoing training.

The number of **reintegration programmes** available in the prison institutions is especially high, and their topics are remarkably varied. In addition to educational/training programmes, prisoners have the opportunity to participate in competence and skills development sessions, art therapy programmes, programmes related to risk assessment and management, personality development programmes and prevention programmes, which are listed in a non-taxative way as follows:

- education/training activities:
 - o education in primary schools
 - o secondary school courses
 - o higher education courses
 - o vocational training (e.g. electrician, carpenter, tiler, painter, cook) □ competence and skills development sessions:
 - o within the framework of specific departments
 - therapeutic treatment department
 - psycho-social department
 - o practiwork - development of cognitive skills essential for work
 - o Hungarian and foreign language courses
 - Hungarian language courses
 - Spanish language course
 - English language course
 - Hebrew language course

 - A workshop organized by prisoners
 - o sports activities
 - table tennis workshop

- chess workshop
- o occupational rehabilitation within the framework of EFOP
- o reintegration programmes within the framework of the EFOP
- o meditation sessions
- o logic sessions
- o creative activities (e.g. free drawing, poetry)
- o literature workshop
- art therapy programmes
 - o drama group
 - o right brain-hemisphere drawing
 - o craft activities
 - o painting and drawing
 - o Bible workshop
 - o music workshop
- programmes related to risk analysis and management systems
 - o drug prevention training
 - o Aggression, assertiveness management and drug prevention training developed by the Central Institute for Testing and Methodology (Központi Kivizsgáló és Módszertani Intézet)
 - o communication and relationship building training
 - o training to reduce the likelihood of recidivism of offenders of sexual offences and crimes against sexual morality
- personal development programmes
 - o self-awareness sessions
 - o religious spiritual care
 - o stress management training
 - o EFOP motivational sessions
 - o etiquette training
 - o reparation programmes
 - o CV writing
- prevention programmes
 - o within a special department, drug prevention unit
 - o addiction group work
 - o smoking cessation training

In addition to the above, within the framework of the cooperation with the National Crime Prevention Council, the prison institutions also involve prisoners in various reintegration programmes. Currently, prisoners can take part in art therapy programmes, rehabilitation programmes and training in the specific treatment of addictions. In addition, during the festive season, programmes are organised to celebrate the current festive season.

The **EFOP project** was implemented in the convergence regions of Hungary between 01 October 2016 and 31 October 2023. During the EFOP project period, nearly 8,000 prisoners were involved in the programme and the Individual Development Plan document was prepared for them, which includes the services required and to be provided. Almost 30% of the prisoners involved in the EFOP projects (more than 2 000) successfully completed some kind of competence development activity. The initial aim was to develop self-awareness, aggression management, conflict management, communication and life skills, which were expanded with the assistance of the Central Institute for Testing and Methodology to include sessions on aggression reduction, assertiveness, drug prevention and alcohol prevention.

In addition to the competence-building sessions, individual and group sessions were provided for prisoners on a number of topics. More than 3 000 group sessions were conducted by EFOP project staff.

During the EFOP project period, the sessions were continuously provided to the prisoners, despite a high turnover.

The Hungarian Prison Service Headquarters has developed (under file number 30500-17/3033/2024) a **methodological aid** for the uniform design of the implementation and documentation of credit-earning reintegration programmes in view of the amendment to the Punishment Enforcement Act, which is also intended to ensure that prisoners' leisure time is spent in a useful way, by involving them in several reintegration programmes. The Hungarian Prison

Service Headquarters will continue its efforts to ensure the full involvement of prisoners in reintegration programmes.

The rules on bed rest are set out in the House Rules of the prison. The established bed schedule must be maintained by prisoners from wake-up to bedtime. There are no prohibitions on daytime rest for prisoners, nor is bed rest a prohibited activity. The establishment and maintenance of a locked cell area also promotes the behaviour expected to maintain a hygienic and cultured environment and to prevent or reconstruct any possible acts of in-cell behaviour (e.g. assaults).

Movement is not prohibited in the cells. Even if it were categorically forbidden, prisoners would still do "bodyweight trainings" in the cells. An explicitly permissive regulation would mean that the cell would be used to permit a type of sporting activity for which the cell would otherwise be unsuitable, neither from the point of view of accident prevention nor from the point of view of general coexistence rules. In addition, the practice of combat sports, which are favoured by prisoners, would accentuate the possible "power hierarchy" in the cell, thus increasing the potential for prisoners to commit violent acts against each other.

Prisoners may use the **fitness room** as a first line of additional service, the fee for which is reviewed annually. Free use of the fitness rooms is possible under the reward and category system.

81. The CPT reiterates its recommendation that personalised programmes be drawn up following admission to prison and regularly reviewed on the basis of an individualised risk and needs assessment by a multi-disciplinary team, in consultation with the prisoners concerned. Activities should be further incentivised and tailored to the needs of each category of prisoner (adult remand or sentenced prisoners, prisoners serving life sentences, sentenced prisoners held in special conditions of high security or control, female prisoners, children, etc.).

In addition to what is described in point 65 on the credit system, an individualised detention programme plan is drawn up for prisoners. This is a personalised plan, drawn up with the involvement of the prisoner following a risk assessment after admission, which is designed to assist in identifying the reasons for the offence, in raising awareness of the consequences of the offence and the harm caused, in planning and implementing possible remedial and reparative actions, and thus in achieving successful reintegration, and is reviewed at least every six months.

Individual security instructions for each prisoner will be issued on a statutory, individualised basis.

The amendment to the Punishment Enforcement Act , which will enter into force on 1 March 2024, will also provide more scope for the implementation of the individualised detention programme plan by introducing a system of categories and credits. The **risk analysis**, which is the basis of the category system, as set out in Article 29(4) in the detailed rules for the implementation of imprisonment, detention, pre-trial detention and detention in lieu of remand, as provided for in Minister of Justice Decree 16/2014 (XII. 19.) (hereinafter: IM Decree) - is a professional activity of the penitentiary system, during which the reintegration needs and social situation of the prisoner, as well as the risk factors that endanger the order of execution and the security of detention, i.e. the fulfilment of the individualised detention programme plan, are ensured and monitored. The individualised detention programme plan shall include the necessary medical and psychological tasks and plans for the involvement of the prisoner in employment and personal development programmes.

The risk analysis assessment does not only differentiate between categories of prisoners, but also individualised differentiation gains space. That is, the individualisation of the prisoner is not only

specialised by the category of prisoner to which he/she belongs (e.g. whether he/she is an adult or juvenile prisoner, a life sentence prisoner, a female prisoner, etc.), but also **individualised**.

Every year, the Hungarian Prison Service Headquarters organises a training course on the methodological and practical skills necessary for the implementation of the KEK programmes, especially for staff members serving in the detention area (reintegration officers, social assistance officers, EFOP counsellors). During the training, in addition to being trained to deliver a series of 12 sessions suitable for prisoners, they also become part of the programme themselves, in accordance with its themes and methods, by carrying out the same tasks and techniques that they will carry out with prisoners. Two training themes are also included in the training, on communication and the treatment of prisoners by staff.

The primary aim of the **aggression reduction programme** is to develop social skills to enable participants to identify situations in which aggressive behaviour may occur. Group members can learn the basics of effective, non-violent communication, while aggressive, offensive behaviour is gradually reduced.

The primary aim of the **assertiveness programme** is to enable participants to identify situations in which they find it difficult to assert themselves effectively and without friction by developing social skills. The group members will learn the basics of non-violent communication, while developing self-awareness and learning behavioural techniques to express their thoughts, feelings and resolve conflicts in a way that is satisfying for both the person and the environment.

The programmes are not specifically targeted at one or another specific group of prisoners (i.e. women, men, juvenile and adult prisoners, arrestees and prisoners, prisoners serving life sentences, prisoners posing a particular risk to the security of detention, prisoners placed on HSR, or any other special unit, possibly for priority prisoners), but can be tailored to individual needs and group composition during implementation, as well as being used later by the colleagues who learn the techniques, in the course of their daily work, in a targeted way, not only for specific groups but also for individuals.

The Hungarian Prison Service Headquarters has examined the possibilities of modifying the practical implementation of risk analysis in the case of **arrested persons**, in particular with a view to amending the Punishment Enforcement Act. In the case of arrested persons, the risk analysis is implemented in the decision on the regime category, in the application of any specific security standards issued, in the measures taken on the basis of any information on increased supervision issued by the competent authority.

83. The Committee recommends that the Hungarian authorities review the law so that every prisoner shall receive equitable remuneration for their work. In this context, reference is also made to Rule 26 of the European Prison Rules.

In the case of any mandatory financial deductions and contributions (e.g., to electricity costs, social insurance or living expenses), these should not disproportionately diminish a prisoner's net income from work, education, training or welfare benefits.⁷ The CPT recommends that the Hungarian authorities review the law and practice accordingly.

Further, the CPT invites the Hungarian authorities to explore ways to reduce the cost of goods and telephone communications so as to align them with the market price. The prices of products purchasable by prisoners should not exceed retail prices with the result that basic items remain unaffordable to those without private means or outside support.

⁷ Reference is made in this context to the substantive section of the 30th General Report of the CPT (CPT/Inf(2021)5-part).

The prisoners' **wages** are determined by 31 December each year on the basis of the Punishment Enforcement Act and the Decree. The amount of the **alimony** is determined by the gross remuneration of the prisoners. The **alimony fee** may not exceed 1 % of one month's basic monthly wage under the Punishment Enforcement Act.

The current legal framework regulates the remuneration of prisoners for work and the payment of scholarships for educated prisoners adequately and there is no reason to amend it. The wages of prisoners are based on the current minimum wage in the country, which ensures that if wages in civilian life increase, the wages of prisoners will also increase.

With the increase of the minimum wage, the scholarship for prisoners will also increase, and the participation in educational forms will be provided free of charge for prisoners.

The **per-minute rate** for telephone calls is determined by the contract between the prisoner and the service provider. A comparison with the market price is not realistic because of security requirements. The security system running behind the telephony, which includes individual billing, interception and monitoring, represents an extra cost for the telephony provider, "Mobil Kapcsolat Zrt." However, video calls provided by the prison service are free of charge.

The prices of the shops in the prison institutions (access shops), which are designated for the purchase of the amount that can be spent on personal needs, are set centrally by the operating Bv. Holding Ltd. In setting the prices, it takes into account the current market environment and the purchase price of the product in question, in addition to the fact that it also provides prisoners with three meals a day. The governor of the prison shall conclude an agreement with the operator of the shop designated for the purchase of the amount available for personal needs on the premises of the penitentiary for the operation, in which the parties stipulate that the operator shall provide a uniform range of goods in all prison establishments, in accordance with the needs, and shall not set the prices of the products uniformly higher than the average price level in retail shops.

Essential items ('sanitary products') are provided by the prison institution for those without money in deposit.

According to Article 155 (6) of the Punishment Enforcement Act, the prisoner is obliged to pay for the washing and cleaning of his own clothes and the cost of sanitary equipment, and **the prisoner without a deposit must be provided with basic sanitary equipment.** The prisoner must also pay for the use of the additional services provided for by law (use of the fitness room, use of the refrigerator provided by the institution, use of the water heater provided by the institution, photocopying and printing) in accordance with the category in which he is classified.

In the context of the application of Article 133 (3) of the Punishment Enforcement Act and Article 269 (4) of the Punishment Enforcement Act the prisoner is **not obliged to contribute to the costs of his maintenance** if he is not working and does not receive regular cash benefits or does not have any money in deposit for reasons beyond his control.

Deductions from prisoners' wages are proportional. It should be noted that the prison institution does not deduct social security contributions from the prisoners' wages or their scholarships. Of particular importance is the fact that a certain part of the prisoners' earnings **is set aside for the period of their release**, so that they can secure their financial well-being immediately after their release.

Based on the above, the CPT's recommendations are currently being provided by the institution.

c. foreign nationals

88. More proactive measures should be taken by the Hungarian authorities to address the specific needs of foreign prisoners, and ensure their access to information on their rights and duties and to meaningful activities such as work, education and vocational training during the period of detention.

The CPT recommends that each prison in which foreign nationals are regularly held have at least one officer available to meet and provide advice to each new foreign national and serve as a point of reference. The Committee also recommends that the Hungarian authorities ensure foreign national prisoners have access to interpretation, possibly through the means of an interpretation device, and translation services when required, and as a matter of priority, during medical consultations.

The Hungarian Prison Service Headquarters has issued the Procedures for the full exercise of the rights of foreign detainees, which were revised and updated in 2024 (30500-17/329-2/2024. fogv.) due to the amendment of the Punishment Enforcement Act. **All the recommendations were already included in the Procedures** and have been put into practice by the prison service.

The prison organisation strives to involve as many foreign language speaking staff members as possible in communication tasks, and thanks to the agglomeration cooperation, support is also provided from other prisons in personal contacts with the detainee, but also in online format (video-call). In the cases provided for by law, the prison institutions also ensure the presence of official **interpreters**, and **a number of devices** – high-quality translation machines, smart phones – is available to facilitate communication.

d. children

89. The delegation met two children - aged 16 and 17 - in Nyíregyháza Prison. They were isolated from the rest of the prison population and never mixed with adults.⁸

Upon arrival at the prison, the two children were placed in a cell and were subsequently separated as they were considered accomplices by the police. Due to lack of place, the two boys were placed in the two special cells, alone, so that they had no meaningful human contact for 23 hours a day, the eldest in cell 301 for 12 days⁹ and the youngest in cell 111 for 60 days, during which time they were only allowed to read a few books. During this time, the constant video surveillance caused the children a lot of anxiety. The oldest was then placed in cell 112, allowing the children to talk through the walls and interact with each other. **The CPT is of the opinion that under no circumstances should a child be placed alone, either in a special cell or in a larger normal-sized cell similar to a solitary confinement cell.**

If the juvenile detainees were involved in the criminal proceedings in which they were involved as offenders and as accomplices, their placement in the same cell would have jeopardised the successful conduct of the proceedings (they could have colluded with each other to mislead the prosecuting authority, etc.), which in itself justified their isolation.

All detainees in custody and their lawyers have the right to make a request to the competent authority in respect of any detention which they consider inappropriate. If the competent authority agrees to the detainee being placed in a prison institution other than the one for which it is competent, it shall inform the detaining prison, which shall take the necessary measures to transfer the detainee as

⁸ According to the Punishment Enforcement Act (Article 192(2)), children over 14 years of age may be placed in an adult prison until they reach the age of 18 if they are "accommodated in a separate part of the prison institution".

⁹ It is alleged that the inner grille door was open during their stay. See the section on the physical conditions of the security cells (paragraph 144).

soon as possible. **In all cases, juvenile prisoners must be separated from adult prisoners, so that if there are no other detainees of a similar age in the same prison institution, it is not possible to provide a cellmate.**

In the event that the change of placement of the prisoner is not agreed to by the competent authority during the procedure up until the charge, the prison service cannot arrange for his or her transfer. However, there has been a positive trend that has been continuing for years, with the number of juvenile detainees falling significantly, to only 121 in the country.

All prisoners are accommodated and in care in accordance with the legislation in force.

Several international documents recommend and require that juveniles be separated from adult detainees, whether they are serving a sentence of imprisonment or are subject to a coercive measure restricting personal liberty (arrest), as is provided for in point 18.8(c) of the European Prison Rules adopted by the Council of Europe; and in Article 37(c) of the Convention on the Rights of the Child, adopted in New York on 20 November 1989.

Accordingly, Section 101 (l) (c) of the Punishment Enforcement Act provides that, unless otherwise provided by this Act, juveniles shall be separated from adults during the execution of imprisonment. This rule also applies during arrest pursuant to Section 391(2) of the Punishment Enforcement Act.

In the case of arrest, the person exercising the power of disposal may order the separation of persons arrested in the same proceedings pursuant to Section 390 (1) (b) of the Punishment Enforcement Act, e.g. in view of the risk of collusion, in which case these persons shall be placed in separate accommodation pursuant to Section 391 (1) (c) of the Punishment Enforcement Act.

In the case of arrested juveniles, as mentioned by CPT, the place of enforcement is not the juvenile correctional institution, but the county ("capital") correctional institution competent according to the seat of the person exercising the power of disposal pursuant to Section 388 (1) of the Punishment Enforcement Act. This rule is based on the interest in maintaining the timeliness of the criminal proceedings and is intended to ensure that the procedural steps are as simple and unhindered as possible, which presupposes that the arrest is carried out in the county prison nearest to the authorities conducting the proceedings.

An exception to the general rule is made in the case of juveniles in Section 413 (2) (b) of the Punishment Enforcement Act, when it allows the enforcement of the arrest in a correctional institution, which is part of the child protection system.

The timeliness of the criminal proceedings may be a reason for making an arrest in a penitentiary rather than in a correctional institution, especially taking into account that correctional institutions are not available in all counties, but only in some.

91. The CPT recommends that the Hungarian authorities stop placing children in adult prisons and take proactive measures to accommodate their rights and needs in all circumstances. For instance, they should be entitled to at least two hours of outdoor exercise. Regime activities shall aim at education, personal and social development, vocational training, rehabilitation and preparation for release.

In the context of the placement of juvenile detainees, the tasks of the prison service are defined in the MoI Decree No. 16/2018 (VI. 7.) on the rules for the designation of prison institutions for the enforcement of custodial sentences, confinement, detention in place of disciplinary fine, arrest and confinement for petty offences. The Punishment Enforcement Act sets out a strict differentiation criterion to separate juveniles from adults. Due to the low number of juveniles, there are no longer any prison institutions exclusively for juvenile offenders, but in all institutions where juvenile offenders are placed, they are placed in a separate facility or in a separate section.

If a juvenile (in view of the fact that there is no child in a prison institution) starts serving a sentence of detention which is not final or which has become final, he or she shall be immediately transferred to an **institution designated for the juveniles serving their sentences of detention**, before which he or she may be transferred only **with the permission of the authority exercising the power of disposal** (court or prosecutor's office).

The number of juveniles in prison institutions is less than 1% of the total (0.67%, 126 persons), but the number of available juvenile places represents 1.44% of the total capacity (259 places). Therefore, there is no justification for allocating additional places for juvenile detention.

The accommodation, treatment and care of convicted persons and other prisons is provided by the prison service in accordance with the legislation in force. A specific **methodological guide** on the treatment and care of juveniles was drawn up on 28 March 2024, which includes guidelines on recreational programmes, movement routes, reception procedures, reintegration activities and preparation for their release. For juveniles, the focus is on reintegration activities, with education being one of the most important segments. As in civil life, education is compulsory up to the age of 16. The prison institutions provide access to primary, secondary and higher education, as well as a wide range of vocational training opportunities.

Juveniles may, as a general rule, be placed in a juvenile detention centre when serving a custodial sentence, exceptionally in a separate section of an adult detention centre.

For the sake of criminal procedure, it has been stipulated that arrests must be made in the County Remand Prison of the county where the court is located. The timeliness of criminal proceedings is an interest which may justify this exceptional case, as it allows procedural steps to be taken quickly and easily. The total exclusion of this possibility cannot be supported in this respect. Point 17.2 of the European Prison Rules also provides for the possibility of taking into account the circumstances of criminal investigations, security and safety when determining the detainee's placement.

The place of detention of a juvenile may be designated as a correctional facility during the enforcement period. Pursuant to Paragraph (4) of Article 413 of the Punishment Enforcement Act, the court may change the place of execution of the arrest during the period of arrest on the motion of the prosecution, the accused or the defence or the legal representative. In the interest of the juvenile, the prison institution may also make such a proposal pursuant to Section 413 (5) of the Punishment Enforcement Act.

e. prisoners serving life sentences

93. The CPT recommends once again that the Hungarian authorities ensure that (whole) life sentences are subject to a meaningful review procedure accompanied by appropriate safeguards and within a reasonable time in the course of their execution. Such reviews should be based on individualised sentence-planning objectives defined at the outset of the sentence, and re-examined regularly thereafter. The aim should not only be to provide the prisoners concerned with the possibility of having their sentences effectively reduced, but also to have a target to aim for, which should motivate positive behaviour in prison.

The CPT would like to receive details about the possibility for prisoners serving a life sentence to be released early (including statistics of releases in recent years, review procedure, etc.).

Pursuant to Article 95(3) of the Punishment Enforcement Act, in the case of all prisoners sentenced to imprisonment, following admission to the prison institution, the head of the receiving unit shall, **in cooperation with the prisoner, develop and record an individualised detention programme plan on the basis of the risk assessment report, and the Admission and Detention Committee shall decide within eight days of the personal hearing of the prisoner on the prisoner's participation in reintegration programmes in the prison institution.** Thus, under the current system, a plan for the detention programme is also established for life sentenced prisoners. Making it operational, i.e. providing sufficient motivation and encouraging compliance with the law, is a

matter for the prison service and therefore a matter for prison practice. It should be emphasised that **the recently introduced new category and credit system also provides an opportunity for life sentenced prisoners to obtain credits for their cooperative behaviour and participation in reintegration activities, thus enabling them to be placed in a more favourable category and thus in more favourable enforcement conditions.**

The Hungarian legislation complies with the requirement that if a negative decision is taken on the issue of conditional release, the decision should be reviewed within a reasonable period of time. According to Article 57(8) of the Punishment Enforcement Act, if the prison judge has not granted parole to a person sentenced to life imprisonment, he/she **shall review the possibility of parole no later than two years later, and thereafter annually.** In such cases, he may order a probation officer's opinion to be obtained.

In the case of a person sentenced to life imprisonment, a decision is not taken on the release on parole, but a **mandatory pardon procedure** is conducted, **the procedure contains a number of professional guarantee elements and involves a substantive examination of the achievement of the aims of the sentence** (Sections 46/A to 46/H of the Punishment Enforcement Act).

In order to substantiate the assessment, the prison must submit documents demonstrating the prisoner's participation in activities aimed at reintegration: a summary report on the risk assessment of the prisoner, documents relating to the prisoner's security risk classification, assessment reports on the prisoner, documents relating to disciplinary proceedings against the prisoner, documentation on the prisoner's state of health, including medical and psychological reports on the prisoner's mental state, and an environmental assessment of the prisoner's reception environment by the prison probation officer (Article 46/C of the Punishment Enforcement Act).

On the other hand, the progress of the prisoner's behaviour, reintegration activities and the achievement of the aims of the sentence are examined by a judicial forum, the five-member Clemency Board. The members of the Clemency Board are appointed by the President of the Curia on the basis of a proposal from the Criminal Chamber of the Curia. Members of the Pardons Board may be appointed by a judge who is a member of the Curia or of the Court of Appeal in criminal matters. [Article 46/D (4) of the Punishment Enforcement Act].

The Clemency Board shall consider whether, in view of the prisoner's good conduct during the execution of the sentence, his willingness to lead a law-abiding life, his personal or family circumstances and his state of health, there are reasonable grounds to believe that the purpose of the sentence can be achieved without further deprivation of liberty. The Clemency Board shall hear the sentenced person in the course of its proceedings. The Clemency Board shall adopt a reasoned opinion on the basis of its examination, including a proposal for the exercise of the pardon (Article 46/E of the Punishment Enforcement Act).

In the case of a negative decision, the law also ensures that the decision is reviewed within a reasonable time. According to Article 46/H of the Punishment Enforcement Act, if the mandatory pardon procedure has ended without the prisoner having been pardoned and the prisoner is still serving a life sentence, the mandatory pardon procedure **must be resumed two years after the end of the mandatory pardon procedure.**

Information on parole decisions and pardoning practices as a result of the mandatory pardon procedure is available from the Hungarian Prison Service Headquarters.

Moreover, a person sentenced to life imprisonment or life imprisonment for life is not barred from applying for a pardon before the date on which parole or compulsory pardon becomes due.

Article IV (2) of the Fundamental Law of Hungary states the applicability of life imprisonment without parole. In the current regulatory system, **the provision on the date of review** of the possibility of release of a life sentence holder (forty years) in the mandatory pardon procedure is in

line with the substantive criminal law rules on life imprisonment, according to which, **if the court does not exclude the possibility of parole in the case of life imprisonment, it shall set the earliest date of release at a minimum of twenty-five years and a maximum of forty years.**

It should be pointed out that **the length of the period of time to serve before the first review has been challenged by the European Court of Human Rights** in several decisions. **Several proceedings are currently pending before the Constitutional Court** on the constitutionality of life imprisonment without parole. Also on the same subject, proceedings are pending under number X/02144/2020 concerning a motion of the **Commissioner for Fundamental Rights on the interpretation of Article III(1) of the Fundamental Law**. In order to ensure that the legislation on life imprisonment without parole is in line with both the European Convention on Human Rights and the case law of the Court of Justice, but also with the Fundamental Law, **it is essential to await the decision of the Constitutional Court.**

f. Prisoners placed in the HSR unit

94. The Committee reiterates its longstanding recommendation that prisoners who present challenging behaviours should not be accommodated in the HSR Unit but held in a dedicated unit such as the IBP unit, and the legal criteria for placement should be amended accordingly. The CPT reiterates its recommendation that alternative placement should be sought for prisoners segregated for their own protection.

The placement of each detainee in the special regime unit for prisoners with long-term sentences (hereinafter: HSR unit) is based on the principle of individualisation, on the basis of a multidisciplinary opinion, taking into account all relevant factors, ranging from security conditions, accommodation possibilities, the realisation of the detainee's contact with the authorities, to the examination of their possible employment.

A prisoner serving a sentence of life imprisonment or a sentence of at least fifteen years' imprisonment, whose conduct, cooperation during the execution of the sentence, attitude to the order and security of the establishment and individual security risk assessment justify special treatment and placement in order to prepare him for release or to re-integrate them into the community, may be placed in an HSR unit.

The Intensive Prison Adaptation Programme (hereinafter: IBP unit) was removed from the system with the amendment of Punishment Enforcement Act, but the new special unit for prisoners posing a particular threat to the security of detention was introduced, which offers an alternative for the accommodation and treatment of prisoners classified in the most severe (V.) category, who require placement in a special unit, separately from the HSR unit, based on a different set of criteria.

A category V. prisoner whose attitude towards the order and security of the establishment is blatantly hostile, openly or covertly aggressive, and

- (a) has prepared, attempted or committed an act which seriously undermines the order and security of the prison, or
- (b) has engaged in conduct, which seriously injures or endangers their own life or the life, physical integrity, or property of others, or
- (c) openly disobeys an order to maintain the order of execution and persists in such conduct despite repeated disciplinary measures imposed within a short period of time.

95. The CPT recommends that the Hungarian authorities ensure that reviews of placements in the HSR unit offer to the prisoner the opportunity to express their views on the matter. Reviews should be objective and meaningful, and form part of a positive process designed

to address the prisoner's problems and permit their (re-)integration into the mainstream prison population. The prisoner concerned should be made aware of the availability of effective avenues to challenge the decisions. Further, placement in special security conditions should not be imposed for any longer than necessary in each individual case.

Pursuant to Section 105 paragraph (2) of Punishment Enforcement Act, placement on the HSR unit is reviewed by the prison **every three months**. The placement lasts only as long as the conditions laid down in Section 105 paragraph (1) of the Punishment Enforcement Act

During the decisions of the Admission and Detention Committee, in cases specified in the Punishment Enforcement Act, arrangements are also made for the detainee to be interviewed, which takes place in a documented form.

Pursuant to Section 142 paragraph (1) of Punishment Enforcement Act, *“except in the case of a decision granting the application, in the event of a decision, action or failure to act by the head of the department of the penitentiary or by a committee appointed by the commander of the prison, the convicted person may, unless otherwise provided by law, file a complaint with the commander of the prison where the decision, action or failure to act occurred, pursuant to paragraph (3) of article 21.*

If the authority to decide on the application/complaint exceeds the authority of the head of the prison institute where the detainee is being held, the prison service provides for the possibility, under the current regulations, for the governor of the agglomeration centre or the Director General to decide on certain complaints.

Given that, pursuant to Paragraph 105(2) of the Punishment Enforcement Act, **the prisoner must be informed in writing** of the decision relating to the application of the HSR unit or the review of the placement in the department, thus the prisoner is aware of the decision and can **therefore exercise their right of appeal**, as indicated above.

96. The CPT recommends in particular that the management of Tiszalök Prison consider removing the plexiglass on the inner barred separation in the cells of the HSR unit and ensure that the tinted windows are replaced to allow prisoners to see outside their cells.

It also reiterates its recommendation that the Hungarian authorities remedy the shortcomings related to the yards of the HSR unit.

The plexiglass wall installed in the HSR unit was designed as a preventive measure to prevent prisoners with a high risk of suicide from self-harming or attempting suicide. Given the fact that the mood of the prisoners in the HSR unit cannot be predicted in advance due to the specific circumstances, the use of plexiglass is still necessary to protect their physical integrity and their lives. The purpose of the internal grid is to ensure that the detainees are housed safely. A view barrier (tinted window) can be designed as a security feature to ensure adequate ventilation and natural lighting of the cell. In the case of a special section, one of the aims is to protect the prisoner from external stimuli (e.g. other prisoners) and to prevent the flow of prohibited items. The guidelines for the yards are contained in point 73.

97. The CPT recommends that prisoners concerned should be able to spend a reasonable part of the day (eight hours or more) outside their cells engaged in purposeful activity of a varied nature, including work (preferably with vocational value), education, sports, and other collective and targeted rehabilitation activities. As a general rule, prisoners should be allowed to exercise in their cells. Prisoners should not be impeded from taking part in meaningful activities (including indoor sports facilities such as gyms) by financial considerations.

A key element of HSR unit is to ensure that **prisoners have access to all the activities in the recommendation within the department**, in a manner that is closed to the other prisoners.

Prisoners housed here may be permitted to participate in certain activities, subject to the provisions under Article 136 (e) of the Punishment Enforcement Act – specific security requirements – and the unpredictability of the atmosphere and the offences committed, as referred to above, require that the activities be chosen carefully.

g. intensive prison adaptation programme (IBP)

98. The CPT recommends that any prisoner placed in a unit such as the IBP unit be informed in writing of the detailed reasons for the initial placement decision and subsequent reviews.

Following the amendment to the Punishment Enforcement Act that entered into force on the 1st of March 2024, the IBP units were removed from the prison service system.

In the current system, **the type of department that can be largely paralleled to the former IBP unit** – based on the reasons for its placement and its purpose, as well as the inmate population involved – **is the department for convicts** who pose a particular threat to the security of detention, which is intended to accommodate prisoners who do not cooperate, for longer periods and not for disciplinary reasons.

The conditions for compartmentalisation, as described in the previous point, are clearly laid down in the legislation. Each of the conditions is based on a fact known to the prisoner: a reasoned decision on the prisoners' classification in Category V is taken, which the prisoner is informed of; and written information is provided on the disciplinary procedure(s) initiated as a consequence of their attitude, act or conduct in defiance of the order or security of detention, **all of which also end with a decision** of which the detainee is informed.

However, the prisoner's knowledge of certain information on the basis of which he/she has been placed in the unit may pose a risk to the order or security of the detention, the successful conduct of an ongoing investigation or other proceedings, the life or physical integrity of a fellow detainee, etc.

Pursuant to Article 72 (1) of the IM Decree, *"When reviewing the placement of a prisoner in a unit posing a particular threat to the security of detention, the BFB shall decide on the maintenance or termination of the placement based on the opinions of the specialised unit, and may, if necessary, order a reassessment of the risk of recidivism and the risk of detention of the prisoner before making the decision."*

According to point 115/D of Hungarian Prison Service Headquarters Instruction 20/2021 on the implementation of tasks relating to prisoners with special needs and prisoners placed in other special units, *"The BFB shall decide on the placement of a prisoner in a special unit in the operating prison on the basis of a preliminary proposal from the heads of the relevant prison establishments in the agglomeration. In the case of an arrested person, the court is authorised to place them in the Department on the proposal of the prosecutor's office exercising the power of disposal."*

Based on the above, the Admission and Detention Committee decides on the placement and its maintenance or termination after considering the proposal and the specialist opinions (and, if necessary, the reassessed risks of recidivism and detention of the prisoner

Informing the prisoner, either in writing or orally, of the reasons of their replacement (or prolongation) in the unit, beyond the extent necessary (as recommended: *in detail*), is not a legal obligation for the prison service (in some cases it is clearly prohibited by law, see. article 26 paragraph (4) of the Punishment Enforcement Act), and in view of the fact that detailed information may be a potential source of danger, we do not believe that there is any justification for amending the current legislation and changing the procedure.

Information on the behaviour and expectations to be met for release from the unit is provided in the individualised detention programme plan of the prisoner and its assessment.

99. The CPT recommends that the Hungarian authorities take further steps to ensure that the prisoners concerned are able to spend as many hours as possible each day outside their cells and participate in regular, purposeful and varied activities tailored to their individual needs and specific challenges.

In addition to the previous points, the Hungarian Prison Service Headquarters has developed (under number 30500-17/303-3/2024) a methodological aid material prepared for the uniform development of the implementation and documentation of the credit-earning reintegration programs in view of the amendment of the Punishment Enforcement Act, which is also intended to ensure that the free time of prisoners is spent in a useful way, by involving them in several reintegration programmes.

4. Healthcare services

a. medical examination and quarantine on admission

100. The CPT recommends that the Hungarian authorities adapt the admission procedures at all prison establishments accommodating female prisoners to consider their gender-specific needs. This should include screening for sexual abuse or other forms of gender-based violence inflicted prior to entry into prison, and ensuring that such information is considered in the drawing up of an individual care plan, in the first few weeks following admission.

During the admission procedure, it is still possible for the prisoner's active cooperation to indicate to the relevant staff members that they are concerned about the issue indicated by the CPT to be reflected in the individualised detention programme plan. Under the KEK scheme referred to in point 65, detainees may also participate in programmes of "aggression reduction" or "assertiveness" sessions aimed at reducing the risks of detention.

Admission to nursing and medical care in prison institutions are carried out without exception Hungarian Prison Service Headquarters Instruction No 64/2020 (XII. 12.) on the health care of prisoners and other prisoners in custody (hereinafter Hungarian Prison Service Headquarters Instruction No 64/2020). Hepatitis C and HIV screening will be offered on a voluntary basis during the admission procedure. Pursuant to NM Decree 18/1998, a lung screening will be carried out after admission.

Hungarian Prison Service Headquarters Instruction 18/2020 (V. 29.) on the prevention of crises, suicide attempts and self-harm in prisoners (hereinafter: Hungarian Prison Service Headquarters Instruction 18/2020) deals in detail with the management of prisoners at risk and provides for the operation of a crisis prevention committee in all prison institutions.

101. In the absence of any international or national public health emergency, the CPT would like to receive the protocol for such persisting quarantine (including information about those responsible for the assessments and the reasons why isolation from others is considered necessary). It recommends that the prison authorities explore ways in which newly admitted prisoners placed in quarantine for epidemiological reasons are provided with meaningful human contact every day.

For people in close-knit communities, the practice of epidemiological surveillance is widely used in epidemiological practice worldwide. Quarantine for epidemiological surveillance generally means restrictions that represent more stringent measures.

In the case of COVID, knowledge of virus transmission has necessitated post-containment isolation and surveillance to protect closed communities in accordance with the incubation period of the disease. This could prevent the introduction of the pathogen into the community, which was particularly effective in Hungarian prisons due to the practices used.

The WHO's declaration on 5 May 2023 that the public health emergency had been lifted did not mean that the virus had ceased to exist worldwide. Even in the winter of 2023-2024, the epidemiological authorities continued to record newer and newer variants of the SARS CoV-2 virus that were still active in the respiratory surveillance system. **To date, there is a risk that the virus could at any time evolve into a variant** capable of mass disease transmission with severe symptoms.

In the light of the above, **there is currently no protocol for permanent quarantine, which is applied on a case-by-case basis, taking into account medical and professional criteria.** The epidemiological practice in such cases is therefore to adopt an individual approach. In the case of communicable diseases, the incubation period is the period from the moment of introduction of the pathogen (infection) until the onset of symptoms, which may be asymptomatic and infectious. Preventing this is one of the most important epidemiological measures, which achieves the desired effect by isolating the potential infectious source. Epidemiologists are well aware that, in the case of COVID, neither testing nor vaccination is a disqualifying condition for a person in isolation not to be an asymptomatic carrier and shed the virus, infecting bystanders. The best way to prevent this process is to reduce this contact.

The epidemiological objections raised by the Delegation are not valid for these reasons. Reducing virus circulation, even outside of an obvious emergency situation, is an important preventive disease control task, which can be achieved through sustained abbreviated epidemiological surveillance. In epidemiological practice, in certain cases, individual interests must take precedence over the community's interest. Despite the application of communicable disease prevention practices, this can happen with the utmost care. This prevention should be a priority in the prison service, thereby protecting other prisoners.

The occasional prolongation of the quarantine period is linked to the method of segregation according to certain characteristics, widely used in epidemiological practice. The limited number of rooms for segregation is necessary to ensure that persons separated for the same purpose can be placed in the same place.

In summary, even the most careful individualised health assessment and evaluation, laboratory or test tests cannot rule out the possibility of communicable diseases in people arriving in closed communities, often from epidemiologically unknown environments or countries. Therefore, it would have been a mistake to ignore the possibility of introducing a dangerous and easily transmitted respiratory and other infectious disease.

Meaningful human contact or communication during isolation is a given. The reintegration and health (psychology) fields pay particular attention to the mental and health well-being of new arrivals and those in isolation.

According to the Hungarian Prison Service Headquarters' professional opinion, it is not advisable to amend the current regulations, there is no health history data available on the risk of outbreaks of epidemic diseases in the detainees to be admitted, and the current migration and war situation is conducive to the spread of epidemic diseases, **so the maintenance of epidemiological surveillance** ("quarantine") **is justified**, and its abandonment could result in a potentially serious public health risk in view of the closed community.

b. segregation for medical purposes

103. The CPT would like to remind the Hungarian authorities that solitary confinement can have an extremely damaging effect on the mental, somatic and social health of those concerned. Therefore, it should only be imposed in exceptional cases and as a last resort, and for the shortest possible period of time.

As repeatedly stressed by the committee in the past, there is no medical justification for the compulsory segregation from the general prison population of an HIV-positive prisoner. Any segregation of an HIV-positive prisoner should be based on free and informed consent.

The fact of HIV infection does not in itself imply individual placement, but in the case of medical segregation, other considerations may arise in addition to the above, due to the health condition of the detainee.

Section 27 of IM Decree 8/2014 (XII. 12.) on the medical care of convicted prisoners and other prisoners held in prison institutions (hereinafter: IM Decree 8/2014) provides for the possibility of non-mandatory placement in a special section of the Tököl National Prison. The request is always granted after an individual examination and after a specialised opinion, and is not considered as a general practice. A further condition for placement in an HIV ward is that it must be at the request of the prisoner.

On 30 May 2023, the detainee concerned was transferred from the Szabolcs-Szatmár-Bereg County Remand Prison to the Tököl National Prison, where the prisoner infected with the acquired immunodeficiency syndrome virus (HIV) was placed in a special ward, taking into account his increased protection, the protection of the community and his particular health condition. **The prisoner has since been released from the prison.**

c. recording and reporting of injuries

106. The CPT reiterates its recommendation to the Hungarian authorities to adopt detailed instructions on the procedure to be followed by healthcare staff across the prison system if injuries are detected upon admission of a prisoner in a prison establishment or following a violent incident in the prison. It is vital that these instructions clearly stipulate that the results of the examination (including any relevant statements made by the prisoner and the doctor's conclusions) must be included in the medical files and made available to the prisoner, who must also be allowed to undergo a forensic medical examination.

If a member of staff notices any external signs of injury on a prisoner in the course of his/her duties or receives information from the detainee, they are obliged to take action, i.e. to accompany the detainee to the medical unit. According to the Annex to Hungarian Prison Service Headquarters Instruction No 18/2022 (VII. 13.) on the on-call activities and reporting procedures of the prison service and on the procedures for prisoner requiring special attention, such a sighting or a medical examination of the detainee is a **reportable event**.

According to point 17 of Hungarian Prison Service Headquarters Instruction 64/2020, "A medical report shall be made in the cases provided for in section 3 paragraph (7) of IM Decree 8/2014 and when the report is requested by an authority (court, prosecutor's office, penitentiary body).".

According to the rules on the provision of primary, outpatient and inpatient health care for prisoners in prison, **the way of taking a medical history is not different from the general practice**, but the frequency and the situations that require taking a medical history are different from the civil practice. Sightings taken must be recorded and kept in a single register.

During the reception, a sighting shall be taken by the doctor if the prisoner shows signs of external injuries. If the detainee arrives with a police medical or other sighting or document, the

sighting need only be repeated if the external injuries described in the document do not correspond to those actually observed.

During detention, a report shall be taken if the detainee complains of or suspects ill-treatment or if coercive means (physical force, handcuffs) are used. In the latter case, and in cases where there is evidence of ill-treatment by staff, a report shall be required even if no injury has occurred, in which case the absence of injury shall be documented in the report.

The prisoner may consult his/her own medical records. In addition, the detainee shall be entitled to receive a copy free of charge and additional copies for a fee.

108. The CPT recommends that, where the results suggest that the prisoner has suffered ill-treatment (whoever the perpetrator(s) might be), the medical personnel should be made aware of a clear independent reporting line and be protected against reprisals by a tailored legal framework for healthcare professionals disclosing information on ill-treatment in prisons. In this context, the CPT would like to enquire about the measures put in place by the Ministry of Health and the national medical association to support and protect medical professionals who report alleged cases of ill-treatment by prison staff.

The CPT recommends that the Hungarian authorities take the necessary steps to ensure that the physical ill-treatment of persons deprived of their liberty by prison officers becomes prosecutable ex officio, irrespective of the prognosis of recovery. To this end, the legal provisions should be amended so that the eight-day threshold no longer applies in such cases.

Further, the Committee recommends that steps be taken by all relevant authorities to ensure that, whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a detained person (or which, even in the absence of allegations, are indicative of ill-treatment), the record is systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned. If necessary, the relevant legal provisions should be amended accordingly.

In addition to the previous point, the additional rules for the taking of a medical opinion are set out in the issued *Uniform Methodological Guide on the Taking of a Medical Opinion* under number 30500-9/194-11/2018.

In the case of an investigation of suspected abuse, the medical speciality is obliged to take a medical report in accordance with the medical-professional rules and to forward the necessary report to the speciality authorised to take action.

The Hungarian Prison Service Headquarters has introduced a number of measures to reduce or eliminate the abuse of prisoners by prison staff. These include **increasing the number of cameras** in the facilities with intelligent surveillance (i.e. only relevant images are monitored), storing video footage for 30-60 days, prisoners' right to complain, requiring medical examination when abuse is reported, close daily monitoring by staff for signs of injury, and training of staff on the prevention of abuse and related punishments.

The Code of Conduct of the prison service clearly prescribes the behaviour and conduct of staff in the course of their duties, with particular emphasis on the treatment of prisoners. The BVOP carries out regular checks on professional and lawful treatment during its inspections.

Chapter XXVIII of Act C of 2012 on the Penal Code - offences in office - ***the offence of assault in official proceedings*** applies to all prison staff, which is why this type of act is punishable by law. **The duration of the cure is irrelevant in this case, and the initiation of ex officio criminal proceedings is mandatory.**

109. The CPT recommends that special training be provided to healthcare professionals working in prisons. In addition to developing the necessary competence in the documentation and interpretation of injuries, as well as ensuring full knowledge of reporting obligations and procedures, the training should cover the technique of interviewing persons who may have been ill-treated.

Pursuant to Section 98 (1) c) of the Punishment Enforcement Act, *"During the execution of the sentence of imprisonment, the prisoner shall be provided, unless otherwise provided by this Act, with health care in accordance with the health care, social security, health insurance legislation in force or the mandatory professional procedure..."*

According to the Hungarian Prison Service Headquarters' professional position, it is not necessary to establish specific rules, and prisoners are also provided with medical care in accordance with the rules of the medical profession in civilian life. The content of the vision is regulated by separate legislation, from which no derogation is possible. The mandatory content of the vision is described in Annex 2 to Decree 47/2004 (V. 11.) of Ministry of Health, Social- and Family Affairs on certain organisational aspects of the continuous operation of health care. [d. access to health care](#)

111. The CPT recommends that the health authorities audit and review the basic package of medication available in prison infirmaries to ensure it is standardised for rapid interventions which are permitted by the prison rules. This should include a small oxygen tank in all medical facilities, as an adjunct to life-saving interventions.

The Committee also recommends that the Hungarian authorities issue a circular reminding all the medical professionals working in prison establishments to respect the rule prohibiting psychotropic injections on a PRN basis in non-designated facilities, and instead referring cases deemed unmanageable to an appropriate place of care. The message should be clear that the undocumented use of these medications is illegal.

The CPT recalls that this method of chemical restraint should have a protocol. Every instance of restraint of a prisoner should be recorded in a specific register established for this purpose (as well as in the prisoner's file). It should be closely monitored and reviewed by competent medical authorities.

In the provision of health care to prisoners, **the prison institutions do not use "chemical coercion"**, which means that the prison organisation does not have a protocol for this.

The list of medicines used in prisons is determined by the primary care doctor of the prison on the basis of the list of active substances in Annex 4 to Prison Service Headquarters' Instruction 23/2020 (19.VI.) on the Rules for the Supply of Medicines and Medical Aids to Prisoners. Psychiatric preparations are administered on the recommendation of a psychiatric specialist.

Oxygen tanks are regularly used in the health institutions of the prison system.

The State Secretariat for Law Enforcement does not have information on whether the health authorities (National Center for Public Health and Pharmacy (NCPHP) and the public health departments of the territorial government agencies) have carried out reviews of the medication of prisoners or issued circular mails reminding health staff of the limitations of the use of PRNbased psychotropic injections.

112. The Committee recalls the Hungarian authorities' obligation to ensure continuity when persons are detained. Moreover, it is axiomatic that all prisoners must have ready access to adequate health-care services free-of-charge on an equivalent basis to those available in the outside community. Furthermore, the CPT recommends that the Hungarian authorities find ways to ensure that persons who are admitted to prison while suffering from a chronic disease, and those who develop such a disease while in prison, have prompt access to

specialised treatment at par with that provided in the community. Hormone treatment for transgender persons should be provided in prison.

Due to overcrowded civilian health care systems following the coronavirus outbreak, specialized care for prisoners was provided by the prison institutions or by the health care facilities **with the same waiting time as the civilian population.**

In the absence of deposit, prisoners are provided with the medicines and medical aids necessary for their treatment by the prison institution, although in the case of medicines, in order to maintain economic viability, it is common practice to issue medicines with the same active ingredient **as recommended by the specialist but at a lower price.** If the prisoner **has deposit money**, he/she contributes to the cost of his medication. In addition, the prisoner may also use his/her deposit money to buy additional non-prescription medicines, subject to the authorisation of the prison doctor.

The current health insurance legislation does not include interventions to change the external sexual characteristics of a person as a preventive treatment which is free of charge under compulsory health insurance, and the partial reimbursement of the intervention is 90 % of the amount which is chargeable to the health insurance company for the treatment, as provided for in the specific legislation, i.e. it is quite expensive.

The prison service is not obliged to provide this service, as it is a fee-based service, mostly for surgeries performed in private clinics or a series of surgeries. According to the provisions of the Punishment Enforcement Act, the head of the prison may authorise it on request, subject to certain conditions, but the prison authorities are not obliged and cannot be obliged to exercise equity.

115. The CPT recommends the creation of protocols, coupled with the necessary training, for the supervision of people in detention considered to be more vulnerable, such as those who have experienced physical, mental and sexual abuse, people with physical and mental disabilities and transgender people.

The CPT urges the Hungarian authorities to ensure that an adequate self-harm and suicide prevention policy is developed and implemented across the prison system. The treatment and care of persons identified as being at risk of self-harm or suicide should be overseen by healthcare staff, and if medical observation is required, prisoners should be placed in suitable facilities.

The CPT recommends that the Hungarian authorities develop a clear policy for transgender prisoners, whereby they are accommodated in a prison unit with the same gender of the population with which they identify, based upon a risk assessment.

The CPT wishes to emphasise that the duty of care which is owed by the prison authorities to prisoners in their charge includes the responsibility to protect them from other prisoners who might wish to cause them harm. The prison authorities must act in a proactive manner to prevent violence and bullying by inmates against other inmates, especially those who might be considered more vulnerable in a prison setting. The CPT would like to receive information from the Hungarian authorities about the placement of the transgender person mentioned above, in a different wing with prisoners and staff of the gender with which they identify.

The activities required in the case of **meal refusal** are described in the *Methodological Guide for the Procedure of Basic, Outpatient and Inpatient Health Care for Prisoners in Prison Inmates*, issued under number 30500-9/163-1/2019., and in Prison Service Headquarters Instruction 18/2020 and Prison Service Headquarters Instruction 20/2021 includes the description of the activities for the **prevention of self-harm and suicide.**

In addition to the above, the following is added in response to paragraph 100 of the Report.

In prison institutions, disciplinary **sanctions are only imposed** in the cases indicated in **disciplinary proceedings if it is proven during the disciplinary proceedings that the prisoner's act was a deliberate health offence against the order and security of the prison institution**. Pursuant to Article 2(2)(a) and (f) of MoJ Decree No. 14/2014 (XII. 17.) on the disciplinary liability of convicted prisoners and other prisoners held in prison (hereinafter: MoJ Decree No. 14/2014), the disciplinary authority may impose disciplinary sanctions for such acts.

In the absence of a legal mandate to ensure the rights of prisoners, **the prison service does not keep a separate record of the sexual orientation of the prisoner**. Prisoners concerned and prisoners who for other reasons require special attention are considered vulnerable for other reasons with regard to their protected characteristics, for which Prison Service Headquarters Instruction 18/2020 is the applicable regulator. Among all prisoners belonging to groups associated with a protected characteristic (e.g. nationality, race, religion, ideological beliefs), **there is no justification for singling out certain groups or treating them differently**.

The rules on the accommodation and segregation of prisoners are also set out in general terms in the Punishment Enforcement Act. The regulation refers to the operation of special units for prisoners with special needs, of which the psychosocial unit is considered as a protective placement option in this case, but other options may also be considered depending on the physical, health and psychological condition of the prisoner during the reception procedure.

In all cases, the placement of transgender persons considered on case by case basis, taking into account the need to protect the physical integrity of the person concerned and others, and to ensure that safe detention is fully achieved. The placement is made in accordance with the sex of the person registered at the time of admission, the rules for which are detailed in the Punishment Enforcement Act. To maintain secure detention, it is necessary to carry out measures (body searches) that can only be carried out by staff of the same sex. Same-sex character is based on gender identity as defined in the records.

The prisoner in question did not report any problems or concerns to the staff of the prison institution regarding his placement in detention, so his placement in another cell was not justified. The prisoner was not subjected to any verbal or physical abuse during his detention. The transgender person previously housed in the Tiszalök Prison was released on 25.07.2023.

According to the Prison Service's professional position, the amendment of the current regulations is not advisable, and the single placement in Tiszalök, cited as an example, prevented both the consequences of the possible impact on the prisoner community and the possible unintended consequences of gender identity abuse (sexual coercion/abuse). In reference to the latter, gender segregation is not supported.

e. medical personnel

116. Official data provided to the delegation indicates that 750 out of the 842 medical positions are filled across the Hungarian prison service. The visit to the three establishments reflected a clear shortage of doctors, and in particular female doctors. The shortage was partially compensated by agreements and contacts with local hospitals and external health care professionals, in order to reach the same quality of care as in the community. Telemedicine was also being tested.

The CPT wishes to emphasise that prison health care service should be able to provide medical treatment and nursing care, as well as appropriate diets, physiotherapy, rehabilitation etc., comparable to those enjoyed by patients in the outside community.

The Committee recommends to the Hungarian authorities that provision in terms of medical, nursing and technical staff be geared accordingly.

Both the heads of the prison institutions and the Prison Service Headquarters will take all measures to ensure that sufficient medical staff are available in each institution.

The quality of health care for prisoners **is equivalent to that provided to civilians** through the specialised clinics within the health institutes maintained by the prison service and civilian health institutions. There is no medical justification for a higher proportion of female doctors.

117. The CPT recommends that at least one additional nurse be hired to prevent strain on the healthcare service in the event of unexpected absences at Székesfehérvár Prison.

The CPT recommends that the Hungarian authorities make all possible efforts to incentivise the open call for an additional doctor at Nyíregyháza Prison.

In the case of unplanned absences at the Middle-Transdanubium National Prison in Székesfehérvár, healthcare can be provided by temporarily reassigning health care workers from other facilities of the prison.

The prison service places particular importance on recruitment (through career guidance activities such as visits to vocational training centres and open days) in all areas of specialisation in order to ensure a skilled human resource.

118. The CPT recommends that the Hungarian authorities make all possible efforts to incentivise the open call for at least three doctors at Tiszalök Prison. Furthermore, the psychiatrist input should be more frequent and the post similarly incentivised.

The heads of the prison institutions and the Prison Service Headquarters will also take all measures to ensure that the right number of medical staff is available in each institutions.

The prison institution places considerable emphasis on recruitment (through career guidance activities such as visits to vocational training centres and open days) in all specialised areas in order to ensure a skilled human resource.

In addition to the medical specialists and health workers on its staff, the prison institution also employs medical specialists and health workers on contract. The number of staff in the institutions is determined on the basis of a staffing table, and the provisions of Act LXXXIV of 2003 on certain aspects of the exercise of health care activities apply to activities subject to an operating licence and their human resources requirements.

f. security issues related to medical examination

120. The CPT would like to stress that a prisoner should never be hand- or ankle cuffed, irrespective of the length of the lead, to fixed objects, during hospitalisation or medical examinations.

The CPT recommends that the Hungarian authorities take the necessary steps to find appropriate means, other than the application of restraints, to meet security needs satisfactorily (for example, by the installation of a call system, the presence of additional healthcare personnel, and the establishment of a secure room).

The restraint is included in the Security Regulations, according to which "the prisoner may be restrained in a specific place by handcuffing in accordance with the provisions of Article 55 (4) of the MoJ Regulation, if it is not possible to prevent further self-harm, assault, escape, break the resistance of the prisoner or ensure the effective completion of the measure by other means".

In such cases, restraints are applied to the extent and for the duration necessary in accordance with the provisions of Governmental Decree 60/2004 (VII.6.) on admission of patients to psychiatric institutions and the use of means of restraint (further referred to as “Decree 60/2004”). The scope of restraints applicable is regulated by Articles 146 and 148 of the Punishment Enforcement Act.

The Hungarian Prison Service Headquarters with the involvement of the Prison Service Health Centre carried out an impact assessment of the single-leg ankle cuff which can be used as a substitute for the two-leg ankle cuff and the single-leg handcuff with a padlock and a guide lock. These methods give the prisoner greater freedom of movement and greatly facilitate the work of medical staff. In addition to this, the modification of the rules makes the disposition differentiated.

The Hungarian Prison Service Headquarters has allocated the prisons the necessary quantity of the restraint equipment.

121. The CPT recommends that the Hungarian authorities ensure:

- (1) healthcare staff stop routinely wearing coercive equipment (batons, handcuffs and teargas) and carrying out escorting duties instead of custodial staff as these unacceptable practices undermine the professional independence of healthcare staff and as such, are contrary to medical ethics and good medical practice. Healthcare staff should only be carrying out escorting duties if there is a need for medical observation during the transit;**
- (2) healthcare personnel wear appropriate medical attire, which can clearly distinguish them from custodial staff.**

Depending on the activity, health professionals are expected to **wear uniform or white protective clothing.**

In 2023, the Hungarian Prison Service Headquarters conducted a data collection on the safety tasks of health care workers, summarising the nature of the safety tasks included in the job description. In accordance with Article 15(1) of Act CVII of 1995 on the Prison Service (hereinafter referred to as the Prison Service Act), a member of the prison service who is a professional staff member is entitled and obliged to use coercive means. If a member of staff serving in the health sector is in a professional capacity, coercive measures may be used. **In the performance of his duties, he/she shall be provided with means of restraint only when he/she is performing a specialised security task (escorting or guarding a prisoner).**

g. medical confidentiality

124. The CPT reiterates its recommendation to the Hungarian authorities to ensure that medical examinations of prisoners are always conducted out of the hearing and – unless the healthcare professional concerned expressly requests otherwise in a given case – out of the sight of staff with no healthcare duties. It recommends that the prison authorities pay particular attention to the way medical care is being provided at the HSR unit at Tiszalök Prison. Medical records should be handled strictly by medical staff only. If necessary, the relevant legal provisions or regulations should be amended accordingly.

According to paragraph 6 of the Instruction 64/2020 of the Prison Service Headquarters, the medical examination may be attended by the bv doctor and medical staff (including medical staff not employed by the prison service).

If justified, a person of the same sex as the prisoner, who is responsible for security, may also be present during the examination and who is obliged to treat the medical data he/she has obtained as confidential in accordance with Act XLVII of 1997 on the Processing and Protection of Medical and Other Related Personal Data and the Prison Service Act. The presence of the personnel of the prison service and the use of restraints are intended to prevent violence against an official and thus to protect the physical integrity and life of the medical personnel.

The presence of security personnel is a procedure in accordance with the law, but not as a general practice, and security personnel are only present during medical examinations when justified, failing which an increase in the number of serious incidents is foreseeable.

5. Other issues

a. prison staff

126. The CPT recommends that the Hungarian authorities ensure that every prison is adequately staffed to guarantee security and operate a meaningful regime. The majority of staff in contact with female prisoners should be female, and any unit dedicated to holding female prisoners should have female custodial staff in sufficient numbers at all times.

The Hungarian prison service also strives to organise its services in a gender-balanced way.

127. The CPT reiterates its recommendation that the Hungarian authorities develop an approach of dynamic security among the prison staff by organising appropriate in-service training courses which focus in particular on inter-personal skills and maintaining positive relationships between staff and prisoners.

Further, guidelines and training on working with children and high security prisoners including those placed in HSR units, should be developed.

The following is added to points 65 and 81.

The Hungarian Police Service Headquarters in cooperation with the National Protective Service, **has developed a practical training programme for the staff** (bloc supervisor), social assistance officers, reintegration officers, specialist nurses) based on the experience gained in the daily provision of services, who, in the course of their day-to-day work, deal directly with prisoners who require **special attention** because of the nature of the offence committed, the way in which it was committed, the prisoner's criminal record, his behaviour in prison, his vulnerability, and the fact that he has been named in the national written or electronic press and has received a high profile.

The training of staff dealing with priority prisoners consists of theoretical and practical modules. In the preparation of the training material, it has been important to include real-life case studies based on actual events. The aim of the programme is to provide the participants of the training, with the help of a qualified trainer and the involvement of the specialised fields related to the individual topics, with the professional knowledge and tools to avoid and prevent the control and influence of prisoners with manipulative personality traits and high intelligence on the staff dealing with priority prisoners in the course of their daily work. The training based on the training programme started on 20 March 2023 with 10 participants per agglomeration. The second module of the training was completed on 6 June 2023 with 50 participants.

However, training for prison staff is ongoing and, in order to explain the circumstances of the incidents that have occurred, the Hungarian Prison Service Headquarters prepares a case study for each incident, which helps to prevent similar incidents from occurring. Pursuant to Article 150(11) of the Punishment Enforcement Act, the recording made by the electronic surveillance device (in a non-personally identifiable manner) is sent to the prison staff for educational purposes.

b. contact with the outside world

130. The CPT once again calls upon the Hungarian authorities to significantly increase the visit entitlements of prisoners. All categories of prisoner (whether sentenced or remand) should have the right to receive the equivalent of at least one visit of one hour per week; they should preferably be able to receive a visit every week. There should also be sufficient flexibility allowing for prisoners who may have missed an appointment for various reasons

to benefit from their entitlements, and accumulate visit entitlements for periods during which no visits have been received. The Hungarian authorities should take the necessary steps, including at legislative level, to ensure that children being detained benefit from a visiting entitlement of more than one hour every week.

Pursuant to Paragraph (1a) of Article 192(1) of Punishment Enforcement Act, juvenile offenders may be classified in categories I to III during the execution of the custodial sentence. **It should be emphasised that the provisions on the frequency and content of contact in these categories have been changed in a substantially positive direction** following the amendment to the Punishment Enforcement Act.

In general, as before, a minimum of 1 hour of **visiting hours** per month will be provided for all prisoners. In addition to those in categories IV and V, all prisoners will have the possibility of 2 or more visits per month. For certain special units, an additional 1 visitation opportunity per quarter is available in addition to the general visitation opportunities. In addition, the legal institution of the **family discussion** has been introduced in the legislation, which provides for a more "direct" visiting possibility for prisoners with young children.

The prison service places particular emphasis on ensuring that prisoners receive visitors in a sufficiently differentiated manner, taking into account security concerns.

Considering that as a result of the amendment to the Punishment Enforcement Act which entered into force on 1 March 2024, the frequency and duration of contact opportunities have increased significantly [Category I: 2 x 90 minutes per month under Article 34 (5) d) of the MoJ Decree; Category II: 2 x 90 minutes per month under Article 34 (4) d) of the MoJ Decree; Category III: 2 x 60 minutes per month under Article 34 (3) d) of the MoJ Decree], no further amendment to the legislation is justified.

131. The CPT reiterates its recommendation that, as a rule, visits should take place under open conditions. The imposition of visits through a plexiglass partition (as well as any other restrictions) should be the exception for all legal categories of prisoners, and should always be based on an individual evidence-based risk assessment. Proper conditions, in particular respect for privacy, and facilities should be provided for family visits. The facilities available for consultations with lawyers should ensure the conditions required to respect the confidentiality of conversations.

Pursuant to the amended provisions of the Punishment Enforcement Act, under the Article 177 (1a) if the convicted person has a minor child - unless the court has prohibited from having contact with the child or the convicted person may receive visitors only in a secure cell or through a bar – **he/she may receive his/her minor children in a family discussion with an adult, at least once every six months, for at least one but not more than two hours**, in accordance with the statutory provisions for each category, but at least once every six months. The family speaker shall be counted as a visitor.

In all prisons, **the conditions for implementing all visiting arrangements are established and applied** by the prison on the basis of an individual risk assessment, in which epidemiological and safety reasons are taken into account as a matter of priority.

In consultation with the guard, the prison shall ensure the personal safety of the guard in accordance with Section 399 (2) of the Punishment Enforcement Act.

134. The CPT reiterates its recommendation that further efforts be made to ensure that video and voice calls are allowed with the maximum possible frequency and privacy, with particular attention to the situation of children and prisoners with children living outside the prison.

The process for approving contact lists should be improved to ensure that prisoners are not left without contacts with the outside world for a lengthy period of time.

The Committee also recommends that prisoners with inadequate incomes, including indigent, unemployed or retired prisoners benefit from special arrangements as regards access to and the use of a phone. This may require making extra allowances or subsidies available.

According to the amended provisions of the Punishment Enforcement Act of 01 March 2024, not only the frequency of receiving visitors, but **also the frequency of contact by telecommunication means has increased for all groups of prisoners.**

A key consideration in amending the Act was that the number and duration of contact frequencies available under the degree of enforcement regime categorisation should not be reduced by the introduction of the categorisation system. For categories I to III, the frequency of contact forms has been significantly increased, with the possibility of providing additional contact forms for certain specialised units (HSR, drug prevention unit, first-time offenders unit, elderly unit) on a weekly (telephone calls), monthly (video calls) and quarterly (visitor reception and package reception) basis.

In all prison institutions, prisoners indicate to the competent reintegration officer when and with which contact person they wish to use the given form of contact. The staff of the detention department shall, on the basis of the requests received, inform the prisoners, separately for each form of contact, whether, taking into account the possibilities offered by the prison, it is possible to use the form of contact on the date indicated or whether it is necessary to reschedule it for another date. Given that contact forms can be provided for all prisoners in the prison institutions, there is **no reason to change the indicated practice**, as this is precisely what guarantees the efficiency of the authorisation process, taking into account the information available.

The prisoner is provided with the possibility to make telephone calls, which is a form of contact. The service contract is concluded between the prisoner and the Service Provider, at the request of the prisoner. The service contract determines the per-minute charges for calls, which the Service Provider also takes into account the additional costs for security reasons. **If the prisoner does not have a deposit, the prison may provide certain forms of contact free of charge**, either by correspondence, telephone or telecommunications.

c. safety

i. restraints and special interventions

135. The CPT recommends that the Hungarian authorities take steps to eliminate the routine use of truncheons.

In the lawful performance of his duties, a member of the professional staff of a prison organisation is entitled and obliged to use the means of coercion provided for in the Organisation Act. To enforce this, it is necessary for authorised personnel to carry the prescribed means of coercion, and the recent increase in the number of cases of violence against officers by detainees confirms this.

137. The CPT further recommends that the Hungarian authorities take steps to ensure that detainees are not automatically handcuffed during transfer from prison to an outside facility. The use of handcuffs (and leg irons) should be based on an individual risk assessment, should last strictly only as long as necessary and should be properly documented. The use of leg cuffs should be recorded separately from the use of handcuffs.

The use of restraining devices is permitted by Article 145 (1) of the Punishment Enforcement Act and its application is provided for in Chapter 28 of the Ministry of Justice Order. The application of a restraint is determined on the basis of individual discretion pursuant to Article 54(1) of the Ministry

of Justice Order. Chapter VI of the Security Regulation sets out the detailed rules for the use of restraints.

Definitions and guidelines on this subject are contained in the Technical Protocol for the implementation of the production of detainees outside the prison service and their custody in a civilian health facility (30500-16/356-2/2024.sec.) and the Technical Protocol for the organisation of the production and transport of detainees outside the prison service (3050016/357-2/2024.sec.). The aforementioned procedures repeatedly **guarantee the use of individualised restraints and also provide for the possibility of their removal**, if the possibility exists on the basis of individual discretion.

139. The CPT recommends that the Hungarian authorities consider disbanding the SRTs in the prisons where they currently operate. Instead, the staffing of SRTs in high-security premises should be increased and a dynamic approach to security should be adopted, taking into account the above comments. Pending the disbanding of SRTs, the CPT recommends that all their interventions be recorded in a register set up for this purpose.

Chapter II of Hungarian Prison Service Headquarters Instruction No. 26/2022 regulates the tasks of the SRTs and various professional protocols (e.g. for the organisation of the production and transport of prisoners outside the police force) specify which security activities require the participation of SRTs. In the light of the above, the presence of operational units is essential in all prison establishments to guarantee a successful intervention in the event of an ad hoc incident (e.g. assault by prisoners on each other). They are also involved in training the specialised security staff of the prison in the tactics required to carry out their duties.

As described above, the activities of the operational units can be planned and monitored, which can also be clearly analysed from the organisation of the service.

ii. body searches

141. The CPT recommends that the Hungarian authorities take all necessary steps to ensure that these principles are effectively applied in all prisons. To this end, the rules and practices governing strip searches, including body searches, should be amended.

The purpose of the security measure of **full strip search** is to prevent the entry or diversion of a prohibited object into a prison body which could be a security risk and which could be used to commit an incident. Once the prisoners have been employed, the implementation of the full strip search is governed by point 499/D of the Security Regulation, subject to the fulfilment of the criteria laid down, and is carried out on a rotating basis, with 30% of the prisoners concerned being subject to this measure. The use of this security measure has significantly reduced the number of cases of illicit objects being found in recent years, which has also reduced the number of incidents.

The practical rules for the implementation of the search and the cases in which this security measure should be applied have been defined at central level.

Hungarian Prison Service Headquarters Instruction No 42/2020 (VII.31) on the detailed rules of entry to and exit from the territory of prison institutions and stay in the territory of prison services Point 11 of Annex 1 (INFORMATION) prescribes **the procedure to be applied in the case of visitors of child age** (including infants) (if the technical device generates a signal during entry /clothing, diapers/, in that case the attention of the accompanying relative or legal representative is repeatedly drawn to the range of objects that cannot be brought in, as well as to the fact that entry cannot be carried out until the technical device is signalled or the situation is clarified).

iii. isolation for security reasons

144. The CPT recommends the Hungarian authorities to immediately renovate and refurbish the three special cells of the Nyíregyházi Prison, as they are neither suitable for disciplinary purposes nor for the normal accommodation of prisoners, especially children. The CPT would like to be informed about the scope and schedule of the planned renovations.

Furthermore, the CPT calls on the Hungarian authorities to pixelate the rooms monitored by the CCTV system, where the sanitary facilities can also be seen, on the screens.

The possibilities of renovating the security/disciplinary cells were examined in the Győr-Ménfőcsanak-Sopron County Remand Prison. Until the complete renovation is completed, the technical condition of the security/disciplinary cells will be checked by the prison institute tries to improve and maintain it with continuous maintenance. The prison institutes, to the extent possible, continuously carry out the maintenance of the cells and equipment.

Article 150 (1) of Punishment Enforcement Act provides the possibility of placing the electronic monitoring device, and subsection (4) states where such a device cannot be used (doctor's office, room for medical diagnostic and other health care, the toilet and the bathroom). Hungarian Prison Service Headquarters Order No. 28/2021 (V. 19.) on the optimization of the use of camera systems and the monitoring of camera images, as well as the duties of the technical system manager is the guiding principle, in the case of cells where an electronic monitoring device has been installed. In these cases, in accordance with the law, the toilets are covered with a software solution that cannot be removed in retrospect. The implementation of this is regularly checked by Hungarian Prison Service Headquarters during on-site inspections.

146. Given the potentially serious adverse effects of segregation, the CPT reiterates its recommendation to the Hungarian authorities to take steps to ensure that the reasons for taking such a measure are strictly limited to security concerns. There should be a clear distinction between disciplinary segregation and the disciplinary sanction of segregation.

Disciplinary segregation should not be used as a substitute for or to completely circumvent formal disciplinary procedures. Legislation should be revised accordingly.

The CPT recommends that the Hungarian authorities closely ensure that prisoners in security isolation receive the necessary safeguards in full. Placement must be regularly reviewed based on a thorough risk assessment, and inmates must be informed in writing of the reasons for segregation. The CPT recommends that the Hungarian authorities ensure that prisoners in security isolation are checked daily by medical staff.

First of all, it is necessary to separate the different legal institutions that entail separation.

1. **Private confinement** is the most severe form of punishment. Private confinement may last up to twenty-five days in Categories IV and V, twenty days in Category III, and ten days in Categories I and II, during which time the prisoner may be allowed to work or attend school. If the prisoner is working, private confinement may be for a shorter period of 20 days in categories IV and V, 15 days in category III and five days in categories I and II. Private detention may not be imposed on pregnant women and women with young children.

The duration of the private confinement shall be expressed in days and the start and end of the enforcement shall be calculated precisely to the day and hour. The period of disciplinary segregation shall not be included in the duration of the private confinement.

Prior to the commencement of private confinement, a medical examination of the detainee shall be carried out in accordance with Article 169 (6) of the Punishment Enforcement Act. In the course of this, the prison doctor, with the involvement of a psychologist in cases of high risk of suicidal or self-

harming behaviour, and in the case of juveniles, or, in other cases, as necessary, before the start of the solitary confinement and during its implementation, shall examine the prisoner at a statutory frequency and shall repeat this examination at least once a week during the implementation of the solitary confinement, and shall also ensure that the prisoner's health is checked in between the examinations.

2. According to Article 146 (1) of the Punishment Enforcement Act the security segregation of a convicted person may take place, if

- a) he seriously violates or endangers the order and security of the penitentiary,
- b) is involved in group disobedience,
- c) refuses to carry out orders or to work; or
- d) engages in conduct which is dangerous to himself or to the public.

The governor of the prison or a member of staff authorised by him shall have the power to order and lift the security separation. Security segregation shall last only until the circumstances giving rise to the order have ceased to exist, but for a maximum of ten days, which may be extended once by the governor of the prison for a maximum of ten days.

The prison doctor, if necessary with the assistance of a psychologist, shall examine the prisoner before the start of the secure segregation, but no later than seventy-two hours after the start of the segregation, and at regular intervals during the period of secure segregation, as provided by law. If the prison doctor or the psychologist does not recommend the commencement or continuation of secure segregation on the grounds of the prisoner's state of health, the prisoner shall not be placed in or shall be removed from secure segregation.

According to Article 52 (4) of the Ministry of Justice Decree, the commander of the detention facility or a person acting in his/her authority shall review the justification for the security segregation as necessary, but at least every three days, which shall be documented in the detainee records. The prison institution shall inform the detainees in writing pursuant to Article 52 (5) of the Ministry of Justice Decree. The information on the introduction of restrictive measures during the period of security segregation and on the detainee's rights and obligations is set out in Annex 6/A of the Security Regulations.

3. In a disciplinary case, the isolation of the detainee subject to the procedure can be ordered if it is justified for the sake of a successful investigation. Its main purpose is to prevent those involved in the disciplinary case from influencing the outcome of the proceedings (for example, colluding, influencing each other's statements). Disciplinary segregation may last for the duration of the first-degree proceedings, but for a maximum of twenty days, during which time the prisoner may not come into contact with the other perpetrators of the disciplinary violation, the witnesses and the victims, regarding your rights as defined in Act. The exerciser of the disciplinary authority may extend the deadline of the first-degree disciplinary procedure by a maximum of ten days, if he deems further investigation necessary in terms of establishing the facts. Disciplinary proceedings must be suspended if, due to the health condition of the detainee subject to disciplinary proceedings, the proceedings cannot be continued or his personal interview is not possible.

148. The CPT recommends the Hungarian authorities to stop using disciplinary/security isolation cells in detention facilities - especially if they also have ligature points - to accommodate prisoners in a state of severe tension. Seclusion is not a substitute for developing and implementing an appropriate protocol to prevent self-harm and suicide (see also subsection 113).

In addition to what is stated in point 144, **the medical field is involved in the decision-making on private confinement in terms of assessing the medical enforceability of private confinement**, it is also possible to terminate the isolation based on the prisoner's health condition.

The Hungarian Prison Service Headquarters also developed detailed regulations regarding the prevention of suicide and self-harm in Hungarian Prison Service Headquarters instruction No.18/2020.

150. The CPT recommends that the Hungarian authorities ensure that security segregation does not prevent prisoners from engaging in meaningful relationships and meaningful activities, including at least one hour of outdoor exercise per day. They should also stop the disruptive practice of removing the mattress during the day without a proper individual risk assessment.

The bloc supervisor on duty carries out his/her inspection activities in accordance with the Security Regulations. While on furlough, contact is restricted due to prohibited objects and prohibited contact (e.g. accomplices), and therefore only prisoners working together in the exercise yard may talk to each other.

Hungarian Prison Service Headquarters examined the professional and lawful application of security segregation as a legal measure for security from 29 January 2024 to 19 February 2024 within the framework of a thematic audit. On the basis of the experiences, the Hungarian Prison Service Headquarters has called for full compliance with the provisions of the legislation and the necessary guidance has been given to correct the type errors found during the audit. In this context, **the attention of the institutions was also drawn to the restriction of the use of confinement equipment - mats - according to the justification.** The removal or restriction of the mat is still justified as a preventive measure in cases where the detainee concerned has committed or is planning to commit an incident while using the lock-up equipment.

Prisoners are also entitled to **at least 1 hour** of free air per day during the period of security segregation, according to Article 122 (ea) of the Hungarian Prison Service Headquarters.

153. The CPT welcomes these efforts to ensure meaningful human contact and access to meaningful activities, taking into account the special security measures necessary to protect the detainee. The Committee would like to be informed of any review of the detainee's situation (including placement and regime) since the last communication from the authorities. The prisoner has been in the Tököl National Prison his prison sentence since December 4, 2023. He is placed in a cell intended for the accommodation of several prisoners, and currently has 5 cellmates. The prisoner was also involved in employment and a reintegration program. He requested to be placed in the Article for those sentenced to imprisonment for the first time. Given that the prisoner met the conditions for placement pursuant to Article 109/B of the Punishment Enforcement Act, he will be placed in the special Article. On the basis of the amended provisions of the Punishment Enforcement Act. The prisoner is affected by the category and credit system pursuant to the amended provisions of the Punishment Enforcement Act. On 04 April 2024, he was classified in category III pursuant to Article 436/B (1)-(2) of the Punishment Enforcement Act.

d. disciplinary measures

165. The CPT recalls that any disciplinary sanction must be governed by the principle of proportionality. Prisoners should receive a copy of the disciplinary decision to which they are subject as soon as possible and should be given simple information about their rights, including the reasons for the decision and the possibilities of appeal. Prisoners must confirm in writing that they have received a copy of the decision.

The disciplinary sanction must be imposed within a few days of the offence being committed, not weeks.

The CPT recommends the following to the Hungarian authorities:

1. Private confinement as a disciplinary sanction should last for a maximum of 14 days for a given offence, but should preferably be shorter;
2. Isolation during the outcome of the disciplinary proceedings shall be counted towards the total time spent in disciplinary solitary confinement;
3. Medical staff should never be involved (or appear to be involved) in any stage of the decision-making process leading to any type of solitary confinement, unless the measure is used for medical reasons;
4. The self-harm and attempted suicide should no longer be subject to disciplinary sanctions in prisons;
5. Prisoners should be able to serve their sentence in the prison where the offence was committed;
6. The range of permitted reading should be extended and not limited to religious works only;
7. Mats should not be removed during the day;
8. Prisoners should be allowed one hour of outdoor exercise every day;
9. Any restrictions on visits and telephone calls should be strictly limited to the requirements of the case, applied for the shortest possible period of time and for a specified duration.

The relevant legislation must be amended accordingly.

In addition to the above, the CPT also recommends that the Hungarian authorities keep a separate record of each private confinement, which includes the name of the prisoner concerned, the reasons for the measure, the starting and ending date and time of the measure, the decision-making authority, and the exact location of the segregated prisoner's placement , as well as the date of the daily inspection of the medical staff.

According to Article 3 (3) of Ministry of Justice Decree No. 14/2014, "*When imposing a punishment, the individual circumstances of the offender and the offence shall be taken into consideration.*"

In all disciplinary proceedings, an individual decision is taken, in which the disciplinary offence, the circumstances of the offence, the previous disciplinary record, aggravating and mitigating circumstances are assessed in each case, so that the principle of proportionality is also taken into account. In this respect, the centrally established rules of procedure also **include the requirement of proportionality as expressed by the CPT.**

According to Article 8 (1) of Ministry of Justice Decree No.14/2014, "*The disciplinary liability of a prisoner shall be established by the prison institute by a decision taken in the course of the procedure specified in this - pursuant to Article 22 of the Punishment Enforcement Act.*

*The operative part of the disciplinary **decision shall contain** the following with regard to the decision*

- a) *the name of the established breach of discipline,*
- b) *the type of disciplinary measure imposed and its duration and amount, both in figures and in letters,*
- (c) *in the case of the imposition of a disciplinary sanction of solitary confinement, the number of credits deducted, both in figures and in letters; and*

(d) a statement, if the credit deduction has been suspended, indicating the duration of the suspension, in both figures and letters."

According to Article 22 of the Punishment Enforcement Act

*(1) If this Act prescribes the adoption of a decision, the **decision shall contain:***

a) the name of the acting organisation and the name of the person entitled to make a decision, the registration number and the object of the case,

b) the personal details of the convict or the person detained on other grounds (family and given name, family and given name at birth, place and date of birth, mother's family and given name at birth) their address, as well as the registration number of the convict in custody and the person detained on other grounds, and the name and address of possible other affected persons, c) in the operative part, the decision, as well as the information on the possibility of legal remedy,

d) in the explanation, the identified facts and the evidence behind them, and the statutes supporting the decision,

e) the place and the date of making the decision, the name, the position and the signature of the person making the decision, and the official stamp of the organisation.

(2) It is not necessary to explain the decision that approves a request.

(3) The decision shall be recorded on the file or in minutes. The decision shall be formulated on a separate sheet, if it is communicated through delivery. In this case, the decision shall be put into writing within the deadline stipulated for making it. In the case of a decision recorded on the file or in minutes, the data defined in Article (2) a) and b) shall not be indicated, if they are obvious from the file.

(4) The decision shall be communicated by announcement or delivery. The announcement of the decision shall be confirmed in writing. The date of communicating the decision is the day on which it was announced or delivered.

(5) If the decision is subject to a judicial review, the decision must also be delivered to the person entitled to appeal."

The prisoner receives the decision, and he signs to acknowledge receipt of a copy.

According to Article 10 (2) of Ministry of Justice Order No.14/2014, "Disciplinary proceedings in first instance shall be concluded, with the exception of the provisions of Article 18(1)(a) and (b), within twenty days of the order, by a decision on the merits of the disciplinary liability".

According to the Hungarian Prison Service Headquarters' professional position, **reducing the time of the disciplinary procedure is not justified**, as this time is suitable - and in most cases necessary - for the circumstances of the disciplinary offense to be investigated beyond doubt, and the inmate affected by the incident can also assert his right to defense.

On the basis Article 168, subsection (1), point f) of Punishment Enforcement Act, it is possible to impose private confinement as a form of disciplinary punishment. According to Section 169 (1) of Punishment Enforcement Act, private confinement can last up to 25 days. The inmate's participation in employment also has an impact on the imposition of private confinement, given that IV-V. in the case of inmates classified into categories, the punishment may last a maximum of 25 days, if it affects an employed inmate, then it may be a maximum of 20 days.

In 2022/2023, in terms of the length of private confinements, it can be established that in 69.42% of cases in 2022, 1-5 days, 21.23% 6-10 days, 6.3% 11-15 days, in 2.51% of them 1620 days, and in 0.53% of them between 21-25 days were imposed.

In 2023, 1-5 days in 66.95%, 6-10 days in 24.6%, 11-15 days in 5.33%, 16-20 days in 2.82%, and 0, in 31% of them 21-25 days of private confinement were imposed.

Based on the Hungarian Prison Service Headquarters' professional opinion, there is no reason to change the regulation, since the period of solitary confinement, which is a disciplinary sanction, also serves to prevent further disciplinary acts from occurring and to refrain from committing them. In more than 90% of cases, the prison service applies the disciplinary sanction of solitary confinement for a period of less than 14 days, which is less than the maximum of 14 days recommended by the CPT.

The period of disciplinary segregation is not included in the duration of the period of solitary confinement that may be imposed by a final disciplinary sanction, since disciplinary segregation itself does not serve the same purpose as any disciplinary sanction imposed on disciplinary responsibility under the disciplinary procedure.

Under Hungarian Prison Service Headquarters Instruction number 64/2020, the physiological and mental state of the detainee is assessed by a medical and psychological examination carried out by the police prior to the solitary confinement, and the detainee's condition is monitored continuously during the implementation of the solitary confinement. If the monitoring is not carried out at the specified frequency, the circumstances of the possible failure and the responsible party are investigated.

Medical documentation indicating an impediment to the implementation of solitary confinement - or the lack thereof - is also in the detainee's interest, and in its absence, solitary confinement would be implemented even in the absence of a medical disqualification.

The medical speciality is involved in the decision on solitary confinement with regard to the assessment of the medical enforceability of solitary confinement, and according to Hungarian Prison Service Headquarters Instruction 64/2020, during the implementation of solitary confinement, the condition of the detainee is continuously **monitored and documented**.

In prison institutions, disciplinary sanctions are only imposed in cases of self-harm and attempted suicide if it is proven in the course of the disciplinary proceedings that the prisoner's act was a deliberate act of harm to health which was directed **against the order and security of the prison institution**. Pursuant to Article 2(2)(a) and (f) of IM Decree 14/2014, it is possible for the disciplinary authority to impose disciplinary sanctions for such acts. We do not consider a different regulation to be justified.

Prisoners shall **serve the disciplinary sanction of solitary confinement in another prison institution** - in principle in the agglomeration where the disciplinary offence was committed - only if serving it in the prison institution otherwise designated for the disciplinary offence is prevented and its execution within a foreseeable period is not possible.

Failure to enforce the disciplinary sanction for several weeks or months would jeopardise the enforceability of the sanction and the objectives pursued by the sanction.

The legislation in force **does not allow** a prisoner to keep in his possession, during the period of solitary confinement, any **reading material** which is essentially for entertainment purposes, other than religious works suitable for **individual spiritual care**. It is a deterrent to the commission of disciplinary offences that during the disciplinary sanction of solitary confinement the prisoner may not keep magazines or books on his person or read them during the disciplinary sanction.

The **restriction of the use of the mattress during the day, if necessary**, is still justified, which is also of great importance in the prevention of self-harming acts committed by the detainee during the occurrence of incidents (e.g.: starting a fire). The restriction of the use of the mattress during the day, where necessary, is still justified, which is also of great importance to prevent self-harm by the

detainee in the event of an incident (e.g. starting a fire). In this context, the Hungarian Prison Service has provided for the amendment of the Security Regulations. Following the amendment, point 148/A was added to the instructions, guaranteeing individual discretion in the use of the personal equipment ("... it may be restricted only if the detainee's behaviour indicates an intention to commit an incident with the personal equipment indicated or if previous information on the incident is available...").

The daily free air time is guaranteed to all detainees, regardless of placement or punishment.

The legislation in force does not allow for the general rules on contact during solitary confinement, which is limited to contact with a lawyer and individual psychological care. This does not apply to the period of disciplinary segregation during the period preceding solitary confinement as a disciplinary sanction. The fact that during the disciplinary sanction of solitary confinement, the prisoner is not allowed to exercise any form of private contact is a deterrent to committing disciplinary offences.

In all cases, the information indicated by the CPT is recorded in the prisoner's record.

e. complaints procedures

167. The CPT recommends that the Hungarian authorities ensure that all prisoners (both remand and sentenced), throughout the penitentiary system, are informed about avenues available to them to complain and have safe and confidential access to the bodies authorised to receive complaints. The CPT also recommends that prison staff receive the clear message that any kind of threats or intimidating action against a prisoner who has complained of ill-treatment, or attempts to prevent complaints or requests from reaching the relevant supervisory bodies, will not be tolerated and will be severely punished. The internal complaints system should ensure that prisoners receive, within a reasonable time, written acknowledgement of every complaint they make, and reasoned answers in writing to written complaints and that a proper record is maintained of every complaint.

All detainees are informed of their rights to make requests and complaints when they are admitted, and are also informed of the outcome of decisions on their requests when they are dealt with.

The handling of prisoners' complaints is carried out in accordance with Article 21 of the Punishment Enforcement Act. All complaints must be recorded in the prisoners' register. Pursuant to Section 21(5) of the Punishment Enforcement Act.

This period may be extended by 30 days in duly justified cases. The convicted person and the person detained on other grounds or the complainant shall be informed in writing of the decision on the complaint and of the extension of the time limit. No further appeal shall lie against the decision on the complaint.

The Hungarian Prison Service Headquarters carries out continuous professional control of the complaint handling and has developed a procedure for its legal and professional implementation (prisoner number 30500-17/164-27/2023).

In addition, in the context of application and complaint handling, last year Hungarian Prison Service Headquarters provided local assistance to the relevant departments in all the conurbation centres.

Detainees can submit their requests and complaints not only through the so-called "command box" or the reintegration officer, but also through the KIOSZK terminals, which do not require staff intervention.

Given that each complaint has to be examined individually, it is the view of the Hungarian Prison Service Headquarters that no conclusions can be drawn from the proportion of complaints rejected.

Practical experience shows that the vast majority of complaints are aimed at forcing or influencing some measure which is favourable to the detainee but not legally binding, and that it is common for complaints to be submitted as complaints without taking some or all of the necessary remedial steps, which could otherwise be treated as requests.

C. Judicial Observation and Psychiatric Institute (IMEI)

1. Preliminary remarks

169. Given the aforementioned reservations and the structural shortcomings described in paragraphs 175 and 176, the CPT remains of the view that it is desirable to re-locate IMEI to new premises. The Committee underlines once again that this would help to ensure that persons placed in the establishment are offered a suitable therapeutic and caring environment, including milieu therapy, in which a medical, rather than a penal, ethos prevails. Placing the establishment under the primary responsibility of healthcare authorities would facilitate these efforts.¹⁰

Further, the Committee would like to receive more detailed information on the planned renovation of the current premises of IMEI, including its budget and timeframe for its implementation.

In its sectoral concept for the public works investment framework programme until 31 December 2035 and in its sectoral investment plan, the prison service includes the renovation of the IMEI façade, including thermal insulation and renovation of the façade ornaments, which is justified by the poor energy performance. The commissioning of the energy design documentation is under way and could be a prerequisite for a successful energy tender in the future. Within the framework of the tender, the renovation of the facades of the buildings could also be fully implemented.

The possibility of restructuring or relocating IMEI is being examined by the Ministry of Interior and the Hungarian Prison Service Headquarters to ensure full compliance and enforcement of the rights and obligations under the legislation.

170. The CPT recommends that the Hungarian authorities take urgent steps to end their policy of placing children in IMEI. Further, as an immediate and temporary measure, for as long as child patients are placed in IMEI, the CPT recommends that staff continue their efforts to provide them with meaningful human contact and with therapies tailored to their specific needs.

The court decides whether to order compulsory treatment, given that according to Section 326 (1) of the Punishment Enforcement Act, compulsory treatment can only be carried out in the IMEI, so there is no other place of execution. Compulsory treatment may arise in the case of juveniles, an age group for which the medical and psychological staff of IMEI is qualified.

2. Ill-treatment

171. It is also positive that in an incident which occurred on 1 May 2023, immediate action was taken against a male auxiliary nurse who pulled the hair of an agitated female patient. The case was registered in an incident logbook and the auxiliary nurse concerned was subsequently dismissed. Criminal proceedings which had been initiated against the nurse were pending at the time of the visit. The CPT would like to be informed of the outcome of the criminal investigation, including the sanctions imposed, if any.

¹⁰ At the time of the visit, there was no Ministry of Health in Hungary and healthcare related issues were under the responsibility of the Ministry of the Interior.

In relation to point 171, it is noted that the administrative status of the law enforcement administrative employee, nursing assistant, was terminated on 15 May 2023.

172. However, the delegation did receive a few allegations of verbal abuse of patients by staff (such as shouting). **The CPT recommends that the management of IMEI reiterate to all staff that any form of ill-treatment of patients, including verbal abuse, is unlawful, unprofessional and unacceptable, and will be dealt with accordingly.**

Chapter 18 of the Decree of the Ministry of Justice 21/1997 (VII.8.) "Conduct of professional staff members with prisoners", lays down the rules of verbal communication, the observance of which is a priority management task, and all heads of departments pay special attention to this during their daily duties and inspections.

Any complaints from prisoners on this matter will always be investigated. In addition to the investigation of prisoner reports of possible ill-treatment by staff members, criminal charges are also brought in cases of suspected ill-treatment in official proceedings, of which 32 cases were reported in 2023. In the absence of detailed information, this finding can no longer be objectively verified. Given that no staff members have been interviewed in relation to the allegation, it can be concluded that it is based solely on the testimony of detainees.

3. Patients' living conditions

175. The CPT recommends that the Hungarian authorities take steps to ensure that, where relevant, patients' rooms at IMEI are partitioned so that patients are accommodated in smaller rooms, respecting their privacy and providing an appropriate therapeutic environment; the aim should be to ensure that no room accommodates more than four patients.

176. The CPT once again recommends that the Hungarian authorities make efforts to provide more congenial and personalised surroundings for patients at IMEI, in particular to those accommodated in Building II.

In addition to what has been stated in point 169, there are 60 wards available in the institute, in which the living space stipulated in Article 121 (1) of the Decree of the Ministry of Justice is ensured, there is no overcrowding. The aim of the panel institution is to have no more than four patients in any room, but this entails a significant reduction in capacity in view of the architectural features. The prison will endeavour to create small ward communities depending on the number of patients.

During the reintegration and creative sessions, works and creations made by patients were displayed on the bulletin boards in the wards and on the walls of the corridors. **The maintenance and replacement of ward furniture, including beds, is also on schedule**, and new bed mattresses were purchased in 2023. In Building II, the construction of a modern ward with accessibility for 6 patients is underway. All wards in Building II have been cleaned and the safety ward in the building has been completely renovated with life-zone enhancement.

Building II is used for the accommodation of detained and committed prisoners, whose safe detention is ensured by the metal ward doors and the partitioning grids in the corridors.

177. The CPT recommends that the Hungarian authorities end the blanket use of CCTV cameras within patients' rooms at IMEI. **If continuous supervision of a patient is considered necessary on the basis of an individual risk assessment, the patient concerned should be preferably placed in a dedicated observation room.**

Pursuant to Paragraph 4 of Article 150 of the Punishment Enforcement Act, **electronic monitoring devices are used in the wards of health care institutions** (electronic monitoring devices may not be used for the monitoring of medical practices, medical diagnostic and - with the exception of the rooms for other health care services, toilets and bathrooms specified in this Act. Electronic monitoring devices may be placed in the wards and sickrooms of prison institutions for the purpose of monitoring prisoners who have previously attempted suicide or committed an offence against their own or others' physical integrity, with the minimum of disturbance to the persons in the care who are not directly affected by the order for monitoring). **Their use is necessary** for the prevention of an incident or the reconstruction of an incident that has occurred.

178. On a more positive note, most premises seen by the delegation at IMEI were clean and in an acceptable state of repair, and the delegation was informed that maintenance and refurbishment was taking place on an ongoing basis.¹²⁷ Access to natural light, artificial lighting and ventilation were adequate.

Patients' rooms in Buildings I and III were equipped with beds, bedside tables and a washbasin, and most patients had a personal lockable wardrobe, either located in their room or in the corridor nearby. Patients in these buildings were free to move within the wards and access communal areas equipped with tables and chairs, as well as communal sanitary facilities. However, the showers did not have a curtain and therefore lacked privacy. This deficiency should be remedied.

The showers are **fitted with privacy walls**, but the prisons are concerned about the hygiene and safety of the shower curtains. In the year 2023, several bathrooms and washrooms have been renovated.

179. The CPT recommends that patients' rooms in Building II be equipped with tables and chairs commensurate with the number of patients accommodated in the room and with storage space where patients could store their personal belongings.

The **number of seats in the wards is ensured** in accordance with the number of detainees accommodated, with a table available in the quantities required for the number of detainees accommodated. Personal belongings are stored in lockers in the corridor and in bedside lockers in the wards.

180. The CPT once again recommends that steps be taken to enable IMEI patients accommodated in Building II to wear their own clothes, irrespective of their formal legal status. If necessary, patients should be provided with appropriate non-uniform clothing.

The IMEI Director General's measure 3/2024 on the care and accommodation of detainees contains the following in relation to the uniform:

- Detainees housed in the Neuropsychiatric and Diagnostic Unit shall be provided with hospital gowns, and those undergoing compulsory treatment and those undergoing preliminary compulsory treatment shall be provided with brown jamboli clothes.
- The possibility of wearing their own clothes is provided for by law for patients in the institution and is proposed by the Psychoeducational Sub-Department in conjunction with the Nursing Department and approved by the Director-General.
- If the patient is unable to keep his/her own clothes clean, he/she must be provided with a uniform (brown tunic).
- Arrested prisoners admitted to the Neuropsychiatric and Diagnostic Unit who have been referred shall be informed by the nurse of the wearing and care of their own clothing. The declaration shall be given by the nursing speciality to the registration speciality and shall be filed in the admission record.
- The clothing of patients in uniform in the institution must also take account of the change of seasons (winter and spring).

181. The CPT recommends that the Hungarian authorities take steps to increase access to outdoor exercise for IMEI patients. The aim should be to ensure that all patients benefit from unrestricted access to outdoor exercise during the day unless scheduled activities require them to be present on the ward. Further, all yards should be equipped with a means of rest and a shelter against inclement weather.

In addition, the Committee invites the Hungarian authorities to explore ways in which the outdoor yard adjacent to Building II could be rendered more welcoming, for example by installing equipment for patients to use (as is the case in the other two yards) and fitting the yard with plants and shrubs.

Canopies have been constructed in Buildings II and III, and the prison institution is continuously exploring further options.

4. Treatment

182. The CPT would like to receive confirmation that staff members specialised in the provision of psychosocial activities to patients with learning disabilities have been hired at IMEI. Further, the Committee recommends that the Hungarian authorities continue their efforts to provide as many patients at IMEI as possible with a range of therapeutic and recreational activities, tailored to the specific needs of various categories of patient. Particular attention should be paid to patients with learning disabilities and patients accommodated in Building II.

As regards the participation of patients in organised activities at IMEI, participation in the programmes is based on voluntary participation. The health and psychology staff at IMEI are well trained, even to coordinate activities adapted to the specific needs of patients with intellectual disabilities.

IMEI has applied for and been granted the status of a body capable of carrying out the above tasks and its establishment plan has been amended accordingly. Last year, it was not possible to recruit any new staff to this status, but due to a successful recruitment and hiring activity this year, the recruitment of one person is in progress.

183. The CPT recommends that the Hungarian authorities take steps to ensure that, with the involvement of the patient concerned, a comprehensive individual treatment plan is drawn up and regularly reviewed for every patient at IMEI, in light of the aforementioned principles.

Individual treatment is provided within the framework of the specialised psychiatric and neurological care provided at IMEI.

5. Staff and security-related issues

185. The CPT welcomes these steps and recommends that the Hungarian authorities continue their efforts to ensure that all vacant posts of nursing staff are filled at IMEI.

The Prison Service places particular emphasis on recruitment (through career guidance activities such as visits to vocational training centres and open days) in all fields to ensure a skilled human resource.

186. The CPT recommends that prison officers deployed at IMEI do not routinely carry such equipment in detention areas.

More generally, the CPT would like to receive information on any specific training provided to prison officers deployed at IMEI in working with persons with mental health problems.

In accordance with Article 15 (1) of the Organisation Law, a member of the Prison Services who is a professional staff member is entitled and obliged to use coercive means, which is justified due to the unpredictable behaviour of the detainees being treated, and is also justified by the recent (in the year 2023) incident of violence against an official. In the case of problem detainees, the specific security standard will be used as a guideline, in which the provisions relating to their treatment will also be set out.

In the training of the Prison Service's Training, Further Training and Rehabilitation Centre for Organisers, the treatment of prisoners with psychological and mental disorders is taught from both a theoretical and practical (case study) point of view within the framework of psychology education.

There is no accredited training for IMEI staff on the above subject, but all briefings and periodic, but at least annual, internal training courses focus on the inclusion of training to assist staff members in their daily work in dealing with detainees with mental health problems.

According to the Hungarian Prison Service Headquarters' professional opinion, there is no need to amend the regulations, in order to preserve the mental health of the staff, during the periodic psychological fitness tests, the psychologist dealing with the staff has the opportunity to assess the mental state, on the basis of which he can indicate care, where he can individually support the person concerned in processing his difficulties, while at the same time adaptively coping in the work environment. If necessary, you may also be able to develop a group work plan, where you can work together on a more general topic (e.g. assertiveness, stress management).

187. The CPT recommends that the Hungarian authorities put an end to the practice whereby IMEI patients staying overnight in an external medical facility are fixated to their hospital bed for custodial reasons, in light of the aforementioned considerations.

In the case of prisoners under compulsory treatment, the use of restraints is justified because of their unpredictable behaviour.

The Hungarian Prison Service Headquarters, with the involvement of the Central Hospital of the Prison Service, has carried out an impact assessment of the one-piece leg restraints that can replace the two-piece leg restraint and the one-piece handcuffs with a padlock and a guide lock, which will provide prisoners with greater freedom of movement.

The possibility of differentiated use, mitigation or complete removal of restraints is provided for in the professional protocol for the implementation of the extra-convict transfer of detainees and their detention in a civilian health facility (30500-16/356-2/2024..), based on individual discretion.

6. Means of restraint

188. The CPT recommends that the Hungarian authorities take steps to ensure that, at IMEI:

- **the duration of use of means of mechanical restraint is as short as possible (usually minutes rather than hours), and is terminated when the underlying reasons for their use have ceased;**
- **every patient who is subjected to mechanical restraint is under continuous supervision – a qualified member of staff should be permanently present in the room in order to maintain a therapeutic alliance with the patient and provide them with assistance; clearly, video surveillance cannot replace continuous staff presence. Putting patients in adult nappies or having them use a bedpan in view of other patients may, in the CPT's view, amount to degrading treatment.**
- **patients are not subjected to mechanical restraint in the view of other patients;**

- once the means of restraint have been removed, a debriefing of the patient takes place, to explain the reasons for the restraint, reduce the psychological trauma of the experience and restore the doctor-patient relationship. This also provides an opportunity for the patient, together with staff, to find alternative means to maintain control over him/herself, thereby possibly preventing future eruptions of violence and subsequent restraint;
- all instances of recourse to means of restraint (whether manual, mechanical or chemical) are recorded in a specific register, in addition to the records contained in the patients' personal medical files.

The restraint is included in the Security Regulations, according to which "the detainee may be restrained in a specific place by handcuffing in accordance with the provisions of Article 55 (4) of the IM Regulation, if it is not possible to prevent further self-harm, assault, escape, break the resistance of the detainee or ensure the effective completion of the measure by other means".

The presence of supervision is also governed by the Security Regulations (checks on the detainee's activities must be carried out at intervals of no more than 2 hours), with the Director General of IMEI being able to order more frequent checks if justified.

The health restrictions applied in IMEI are based on Article 4 of Decree No 60/2004 of the Council of Ministers, which, according to Article 4(6), provides that the restriction may only be applied for as long as the reason for it exists.

The medical restraint is basically implemented in the designated ward (several have been designated), where there is single accommodation for patients. In exceptional cases, where the movement of a detainee poses a high risk because of his behaviour, it may be that a medical restraint has been applied in a multiple accommodation, but in all cases the possibility of transferring the detainees in the ward has been examined and the restraint is lifted as soon as possible.

When the medical restraint is in place, there is continuous medical supervision to ensure that the task is carried out professionally, but for the entire duration of the restraint, due to other activities of the medical staff, direct presence is not guaranteed, but monitoring by CCTV is.

Under the Security Regulations, the staff who apply the restraint must prepare a report and, in the case of application on instruction, the person who ordered the restraint must issue a written order. In all cases, the head of the police service or his or her delegate shall carry out an assessment of the justification for the restraint. The recording of the use of the device is checked by the Hungarian Prison Service Headquarters, after which the relevant data are recorded in the prisoner's register.

189. The CPT reiterates its recommendation that every placement of a patient in the seclusion room be recorded in a special form/register established for that purpose (in addition to the patient's file), which is used for monitoring recourse to seclusion.

The relevant data are recorded in the prisoner register.

190. By letter of 28 July 2023, the Hungarian authorities acknowledged that the conditions in the room were inappropriate and stated that the necessary refurbishment would be implemented.

The CPT welcomes these plans and would like to receive more detailed information on the refurbishment that has been carried out.

The complete maintenance of the security ward (room 13) on the first floor of building II was carried out in February 2024. The ward has been designed to comply with the legislation in terms of living space (6 m²). The entire flooring and masonry (plastering, painting) have been repaired.

7. Garanciák

193. The CPT welcomes the commitment of the Hungarian authorities and recommends that they continue their efforts, involving all relevant interlocutors and services, to ensure that patients who no longer require compulsory medical treatment at IMEI, including those who cannot cater for their own needs, can be discharged and, if necessary, placed in an appropriate establishment.

IMEI has 251 places for compulsory treatment and as a specialised inpatient health care institution, it operates as a separate unit. After the end of compulsory treatment, civilian institutions, mainly social and psychiatric social homes, are used to accommodate a large proportion of former patients, which is a bottleneck and therefore a major problem for rehabilitation.

The termination of compulsory treatment as a measure can be decided by the competent prison judge on the basis of a psychiatric expert's statement, with the support of the patient's treating doctor, and on the basis of a medical professional opinion.

According to the IMEI report, 36 patients were concerned by the termination of compulsory treatment, the out-of-hospital placement of patients, to be monitored in 2023. IMEI is in contact with 38 institutions nationwide where psychiatric patients can be placed. The Hungarian Prison Service Headquarters and IMEI held a technical coordination meeting with the Department of Social and Child Welfare Services of the Ministry of the Interior, the Directorate General for Social Affairs and Child Protection, the Health Policy Department of the State Secretariat for Health of the Ministry of the Interior and the National Directorate General for Hospitals to address this issue in 2023. A technical conference was organised by the Directorate General for Social Affairs and Child Protection, with the participation of representatives of the social sector, IMEI and the Hungarian Prison Service Headquarters, followed by a technical presentation by IMEI to the social sector representatives to strengthen cooperation and showcase its activities.

It was agreed that IMEI should keep a permanent record of the redundancy process and report relevant information to Hungarian Prison Service Headquarters.

Overall, in 2023, 55 patients will have been discharged from compulsory treatment. As a result of a mutually informed relationship with external health institutions, the possibility of transferring more patients is underway in 2024.

194. The CPT recommends that the Hungarian authorities take steps to ensure that these precepts are effectively implemented in practice at IMEI. The legal practice and, if necessary, the relevant legislation, should be changed accordingly.

195. The CPT recommends that an information brochure setting out the facility's routine and patients' rights in a simple and accessible language – including information on legal assistance, review of placement (and the patient's right to challenge this), consent to treatment, and complaints procedures – be drawn up and issued to all patients on admission, as well as to their families. Patients unable to understand this brochure should receive appropriate assistance including, where necessary, using alternative modes, means and formats of communication.

In relation to the provision of information to patients during health care, health care personnel shall act in accordance with the provisions of Article 16 (5) of the Health Care Act and shall provide the detainee and the guardian of the incapacitated patient with the fullest possible information on the diagnosis, the therapy ordered and the treatment, in order to obtain informed consent.

The patient may not refuse treatment and his right to self-determination may be restricted, subject to § 158 of the Punishment Enforcement Act. The prisoner's right of self-determination to refuse

medical treatment may be restricted in the event of a dangerous or imminently dangerous condition, in urgent cases of need and in the interests of public health and public health. The prisoner's right of self-determination to refuse medical treatment may be restricted in the event of a dangerous or imminently dangerous condition, in urgent cases of need and in the interests of public health and public health.

Patients are informed in a documented manner on all subjects in the prison. Relatives may contact the IMEI for information on the subject.

196. The CPT considers that “open” visits should be the rule and partitioned visits the exception, based on an individual assessment of the risk which the persons concerned may present. **The CPT recommends that these precepts be effectively implemented at IMEI in respect of all categories of patient. Further, the physical layout of the visiting facility should be reviewed to ensure that the privacy of patients and visitors is respected.**

Pursuant to Section 332 (1) (b) of the Punishment Enforcement Act, compulsory treatment patients may receive visitors at least once a week.

In the IMEI, the reception of visitors is carried out in a room with a partition as a standard practice, but the need and possibility of family speakers is assessed for each person during each visit. If a specific security arrangement is required for a patient, it will specify how the patient may receive visitors.

D. Psychiatric establishments

2. Ill-treatment

200. However, at Flór Ferenc Hospital, the delegation heard a few allegations of verbal abuse of patients by staff. **The CPT recommends that the management of Flór Ferenc Hospital reiterate to all staff that any form of ill-treatment of patients, including verbal abuse, is unlawful, unprofessional, and unacceptable and will be dealt with accordingly.**

Verbal information on verbal and non-verbal abuse and appropriate communication, including metacommunication issues, is still provided to staff in the department. Following the CPT's suggestion, documented training on this will be introduced in the department's operating rules for all new employees, regardless of their job title.

201. Further, it became clear from interviews with various categories of staff members that they were not sure to whom possible allegations of ill-treatment of patients (for example, by fellow staff members or police officers when escorting patients to the hospital) should be reported. **The CPT recommends that the Hungarian authorities put in place a clear reporting line for allegations of ill-treatment of patients and adopt whistle-blower protective measures (that is, a framework for the legal protection of individuals who disclose information on ill-treatment and other malpractice, including inadequate provision of nursing care, inappropriate use of means of restraint and a lack of patients' access to outdoor areas).**

Reference is made to paragraphs 206, 215 to 216 and 221

The introduction of the use of the Incident Log at the University of Debrecen Clinical Centre is currently being assessed.

In the case of the Flór Ferenc Hospital, police abuse is part of the medical documentation, which is reported at the judicial review, where a guardian ad litem (lawyer) represents the patient's interests, and it is up to him/her or the court to take further action.

202. Episodes of inter-patient violence were very rare at Gróf Tisza István Hospital.

At Flór Ferenc Hospital, some instances of minor physical conflicts between patients occurred. If staff became aware of these, they reacted rapidly and adequately. However, the information gathered during the visit indicates that, given the low staffing levels and inadequate presence of staff on the wards (see paragraph 219), this was not always the case and some episodes remained unnoticed by staff. Further, some female patients on the closed ward indicated that they were afraid of male patients freely entering their rooms.

The CPT recommends that the Hungarian authorities take steps to ensure that staff at Flór Ferenc Hospital are in a position to protect patients from other patients who might cause them harm, in light of the above remarks. Particular efforts should be made to ensure that female patients feel safe in the establishment.

Despite the current low staffing levels, the staff is ordered to spend as much time as possible with patients to detect and prevent aggressive patient-patient interactions.

3. Patients' living conditions

204. The CPT recommends that the Hungarian authorities continue their efforts to provide more congenial and personalised environment for patients at Flór Ferenc and Gróf Tisza István Hospitals.

Further, **the CPT recommends that the large nine-bed dormitories at Gróf Tisza István Hospital be partitioned so that patients are accommodated in smaller rooms respecting their privacy and providing an appropriate therapeutic environment; the aim should be to ensure that no room accommodates more than four patients. Consideration could be given to transforming these large dormitories into multi-purpose communal rooms, with direct access to outdoor yards (see also paragraph 206), in which patients could spend time associating with fellow patients and receiving visitors, and in which group therapeutic and recreational activities could take place.**¹⁴⁴ This would imply decreasing the overall capacity of the establishment accordingly.

Efforts will continue to provide a more pleasant and personalised environment for patients in the Gróf Tisza István Hospital. Conversion of the large wards will require reconstructing, renovation, and possibly a new building to replace the current 51-year-old one - or, at the cost of reduction the number of beds, the conversion of the large ward into an outpatient care facility.

In the closed part of the Flór Ferenc Hospital, the decoration has been removed from the walls because of the planned painting. From now on, in the wards, patients' personal belongings, photos, pictures sent by their families, drawings, paintings, and sculptures made by them during a session or on their own will be returned to the wards according to the patients' needs. All this is the responsibility of the staff members who deal with the patients, whose duties are set out in their job descriptions.

205. The Committee recommends that the Hungarian authorities take steps to ensure that patients accommodated on the closed wards at Flór Ferenc and Gróf Tisza István Hospitals are allowed to wear their own clothes (if necessary, patients should be provided with appropriate non-uniform clothing) and are provided with cutlery to eat their meals.

Further, steps should be taken at Flór Ferenc Hospital to ensure that the capacity of the dining room on the closed ward is sufficient for all patients. Finally, patients on the closed ward at Gróf Tisza István Hospital should be provided with personal lockable storage space, to foster their sense of security and autonomy.

In the case of the Gróf Tisza István Hospital in general, the number of patients who are unable to keep their clothes clean and who are rarely or never visited by a relative is much higher in the closed

wards. In the interests of hygiene, hospital clothing (hospital pyjamas) can be the basis of order in the closed ward.

To ensure patient safety, stabbing or cutting instruments are not allowed in the Flór Ferenc Hospital. This is also laid down in the professional protocol and the department's operating rules.

The ward cubature does not allow patients to be fed at the same time. This can be done in two rounds depending on the number of patients.

206. The CPT recommends that the Hungarian authorities take urgent steps to ensure that patients on the closed wards at Flór Ferenc and Gróf Tisza István Hospitals benefit from daily access to outdoor areas. The aim should be to ensure that all patients benefit from unrestricted access to outdoor exercise during the day unless scheduled activities require them to be present on the ward. Appropriate clothing and footwear should be made available to patients in order to enable them to go outside in all seasons.

Patient supervision is provided in the closed wards for daily ventilation.

207. The CPT recommends that the Hungarian authorities take steps to ensure that the arrangements for the admission of new patients at Flór Ferenc Hospital are reviewed, in light of the aforementioned remarks. In particular, newly arriving patients should not be brought in through the outdoor yard adjacent to the closed ward and should not be made to wait in the corridor before their admission medical examination.

The construction of a new ambulance entrance would entail a substantial reduction in capacity due to the infrastructure, which cannot be undertaken at present. Where possible, in the absence of a separate waiting room, an empty ward is used to accommodate arriving patients until the doctor arrives.

208. The communal toilets and shower rooms were in an acceptable state of repair and clean in both establishments. However, most showers seen by the delegation did not have a curtain which would separate them from the rest of the shower room and therefore lacked privacy. This deficiency should be remedied.

Shower curtains are being installed in both hospitals.

4. Treatment and care

214. The CPT recommends that the Hungarian authorities take the necessary steps to ensure that these principles are effectively implemented in practice at Flór Ferenc and Gróf Tisza István Hospitals, and in particular:

- **therapeutic options should be further developed, particular attention being paid to the needs of acute patients; to begin with, and as an absolute minimum, every patient, including those on the closed acute wards, should be offered the opportunity to participate in one organised activity every day and should be motivated by staff to participate;**
- **individual treatment plans should be drawn up for all patients, with the involvement of the patient concerned; a multi-disciplinary approach to the treatment of patients should be adopted and various categories of clinical staff should meet regularly in order to share information and discuss patients' needs and therapeutic progress.**

Further, **the Committee recommends that the necessary arrangement be made on the closed ward of Flór Ferenc Hospital to ensure that patients have a dedicated communal room where they can associate with fellow patients during the day.**

Gróf Tisza István Hospital has expanded its therapeutic, rehabilitation, and recreational activities (small group sessions, individual psychotherapy sessions). Once a week and during daily ward rounds, a multidisciplinary team holds meetings.

In the Flór Ferenc Hospital, patients in the closed ward cannot participate in thematic, guided sessions. This is due to a lack of medicinal therapists and sociotherapists. They can play independently with board games and draw, and books can be provided on request. Patients whose condition allows it are escorted out of the group sessions in the open section and back to the closed section by the therapist after the group has finished.

For each patient, a personalised treatment plan is drawn up in the medical chart on admission, the aim of which changes as the patient's condition changes.

If the human resources are adequate, organised activities will be introduced for patients in the closed ward, which will be set out in the treatment plan.

215. With regard to nursing care, at Gróf Tisza István Hospital, there were approximately 14 patients who were confined to their beds, 24 who used adult nappies continually and several patients who required mealtime assistance by nursing staff. These patients were accommodated on all wards.

While the nursing staff made considerable efforts to provide them with the necessary care, it was clear that, given the low staffing levels described below, attending to the very basic needs of these patients occupied a considerable amount of their time. The nursing staff were thus unable to provide sufficient attention and support to other patients, most notably those in the acute phase or recovering from the acute phase. Reference is made to the recommendation set out in paragraph 219 concerning the need to increase staff resources.

Moreover, as acknowledged by staff, patients were assisting nurses in taking care of other patients, including helping with changing adult nappies. The CPT has serious misgivings about the involvement of patients in taking care of other patients, in particular when this concerns such an intimate task as changing adult nappies. The Committee recommends that this practice be stopped.

The Hospital is making repeated and sustained efforts to ensure that kind and similar incidents do not happen. Regular awareness-raising, hands-on training, and education are provided. Individual liability is not permitted.

216. The CPT recommends that the Hungarian authorities take urgent steps to ensure that a sufficient quantity of adult nappies is available at Gróf Tisza István Hospital and that they are changed whenever necessary.

Sufficient number of adult diapers are provided and changed as needed.

5. Staff

219. The CPT recommends that the Hungarian authorities continue their efforts to address staff shortages at Flór Ferenc and Gróf Tisza István Hospitals. The staffing levels of nursing staff should be thoroughly reviewed and increased, and the vacant posts of nurses at Flór Ferenc Hospital should be filled.

The number of doctors at István Gróf Tisza Hospital has increased, with six specialists, one trainee specialist, one resident, and one specialist on maternity leave. In 2022 and 2023, there was a

renewed request for an additional eight nurses for the Psychiatric Unit due to the increase in the number of patients requiring full care. Five to six of these staff are close to retirement age, and their replacement needs to be ensured.

The pay raise has been implemented.

At the Flór Ferenc Hospital, patients are not involved in the care of patients in the ward. Unfilled vacancies are advertised on an ongoing basis and are filled as and when applications are received.

6. Means of restraint

223. The CPT recommends that the Hungarian authorities take the necessary steps to ensure that, at Flór Ferenc and Gróf Tisza István Hospitals, as well as, where appropriate, in other psychiatric establishments in Hungary:

- **patients are only restrained as a measure of last resort to prevent imminent harm to themselves or others. The duration of the use of means of mechanical restraint should be for the shortest possible time (usually minutes rather than hours), and should always be terminated when the underlying reasons for their use have ceased. Means of restraint should never be used for the mere convenience of staff, because of staff shortages or to replace proper care or treatment.**
- **every patient who is subjected to mechanical restraint is under continuous supervision – a qualified member of staff should be permanently present in the room in order to maintain a therapeutic alliance with the patient and provide them with assistance. Such assistance may include escorting the patient to a toilet facility or, in the exceptional case where the measure of restraint cannot be brought to an end in a matter of minutes, helping them to consume water and food. Clearly, video surveillance cannot replace such a continuous staff presence. Putting patients in adult nappies or having them use a bedpan in view of other patients may, in the CPT’s view, amount to degrading treatment.**
- **patients are not subjected to mechanical restraint in view of other patients;**
- **once the means of restraint have been removed, a debriefing of the patient takes place, to explain the reasons for the restraint, reduce the psychological trauma of the experience and restore the doctor-patient relationship. This also provides an opportunity for the patient, together with staff, to find alternative means to maintain control over him/herself, thereby possibly preventing future eruptions of violence and subsequent restraint.**
- **a specific register is established to record all instances of recourse to means of restraint (including chemical restraint). This will greatly facilitate the management of such incidents, the oversight into the extent of their occurrence and the prevention of similar incidents in the future. This would be in addition to the records contained within the patient’s personal medical file. The entries in the register should include the time at which the measure began and ended; the circumstances of the case; the reasons for resorting to the measure; the name of the doctor who ordered or approved it; staff who participated in the application of the measure; and an account of any injuries sustained by patients or staff.¹⁵⁴**

Further, the Committee once again invites the Hungarian authorities to introduce a uniform recording system of any resort to means of restraint in psychiatric establishments.

Education is necessary, and repeated and continuous awareness-raising on the importance of traumatic restraint is justified.

Records have been available in the Deputy Director of Nursing's Office for many years. Annual summaries and statistics are compiled and sent to the Patient Rights Representative by the Deputy Director of Nursing. A single record of copies of individual documents is kept on Campus.

7. Safeguards

225. The CPT recommends that the Hungarian authorities take the necessary steps to ensure that at Gróf Tisza István Hospital and, where appropriate, in other psychiatric establishments in Hungary:

- **if the provision of in-patient care to a voluntary patient who wishes to leave the psychiatric establishment is considered necessary, the appropriate involuntary placement procedure provided by the relevant legislation is fully applied;**
- **if the application of restraint to a voluntary patient is deemed necessary and the patient disagrees, the legal status of the patient is reviewed.**

Further, **the Committee considers that, in the context of involuntary placement in a psychiatric establishment and, at reasonable intervals, of its review, commissioning a psychiatric expert opinion independent of the hospital in which the patient is held would offer an additional important safeguard. This is of all the more relevance in respect of patients who have already spent lengthy periods of time in that hospital.**

The COVID-19 hygiene measure led to patients being admitted to a locked ward, which is no longer the case since it has not been in force. Patients admitted daily are not routinely admitted to the locked ward or only on professional grounds for conditions requiring close observation.

Outpatient care is also provided in the closed unit area, where voluntary patients are admitted during on-call hours and then admitted to another ward during working hours.

Repeated training is provided on the need to bring an action to initiate judicial review on the appropriate procedures provided for in the relevant legislation.

226. The CPT recommends that the Hungarian authorities take steps to ensure that the above precepts are effectively implemented in practice at Flór Ferenc and Gróf Tisza István Hospitals, as well as, where appropriate, in other psychiatric establishments in Hungary. In particular, all categories of psychiatric patient, be they voluntary or involuntary, civil or forensic, with legal capacity or legally incapacitated, should be placed in a position to give their free and informed consent to treatment.

Patients have a fundamental right to appeal the decision of the Court of Justice, and they are informed of this orally and in writing, and in some cases, this is done.

At the Flór Ferenc Hospital, written consent is not required for psychiatric stays in acute cases, which is consistent with the law. Consent to treatment is documented in the medical record by the attending physician at admission.

The forensic mental health expert also interviews the patient as a mandatory element and records his/ her answer in the results of the expert examination, as does the court.

The patient has a right of appeal, which the hospital will help him/her with if necessary if one has forgotten to notice the appeal at the hearing.

227. The CPT recommends that at Flór Ferenc and Gróf Tisza István Hospitals, as well as, where appropriate, in other psychiatric establishments in Hungary, an information brochure setting out the facility's routine and patients' rights in a simple and accessible language – including information on legal assistance, review of placement (and the patient's right to challenge this), consent to treatment and complaints procedures – be drawn up and issued to all patients on admission, as well as to their families. Patients unable to understand this brochure should receive appropriate assistance, including, where necessary, using alternative modes, means and formats of communication.

Further, the Committee would like to receive a copy of the report on the October 2022 visit to Gróf Tisza István Hospital carried out by the NPM.

The general house rules of the University of Debrecen Clinical Centre and the Psychiatry Department Rules of the István Tisza Campus are posted in a readable place, accessible to patients. A comprehensive, informative brochure is not currently available.

228. The CPT recommends that steps be taken at Flór Ferenc and Gróf Tisza István Hospitals to set up appropriate facilities in which patients can receive visits.

In the Gróf Tisza István Hospital, there are suitable rooms on the upper floors of the building, and on the ground floor of the closed ward, the dining room of the ward can be made suitable for visiting during visiting hours, if it is not for bedridden, lying patients.

229. The CPT recommends that the Hungarian authorities ensure that all psychiatric patients are allowed access to a phone or their mobile phone on a daily basis, unless there are serious security contraindications, or there is a lawful and reasoned doctor's order based on an individual risk assessment, or a court order to the contrary. Furthermore, steps should be taken to ensure that there are clear, written and accessible ward-level policies in psychiatric establishments in Hungary.

Patients in open wards have full access to a telephone or their mobile phone. In closed wards, patients' mobile phones need to be treated as valuables for security reasons (personnel or property). Daily access to it is restricted based on a justified medical prescription.