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

from 21 to 30 April 2002

The Czech Government has requested the publication the CPT's report on the visit to the Czech Republic in April 2002 (see CPT/Inf (2004) 4) and of its response. The Government's response is set out in this document.

Strasbourg, 12 March 2004

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Report on the Implementation of Recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter only 'CPT') in 2003, resulting from the CPT's visit to the Czech Republic in 2002

The structure of the report prepared for 2003 retains the structure of the Report to the Government of the Czech Republic on the visit to the Czech Republic carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 21 to 30 April 2002 (hereinafter referred to as 'CPT Report'). The report has been thematically broken down into four parts; individual recommendations (or comments and requests for information) and the responses are classified by the number of the corresponding paragraph in the CPT Report which contains the original recommendation. The breakdown into recommendations, comments, and requests for information as detailed in Appendix I to the CPT Report is not taken into consideration in this report.

Part A - Police establishments

1. Ill-treatment

'The CPT recommends that senior police officers remind their subordinates, through appropriate means and at regular intervals, that ill-treatment is not acceptable and will be the subject of severe sanctions. It is particularly important that such a reminder be given to officers of the criminal police' (paragraph 10).

Senior police officers are systematically and regularly trained and warned of the stringent approach applied under the relevant legal provisions, especially the Police Act¹ and the Code of Criminal Procedure.² Complaints lodged against the conduct of police officers reflect a failure of the human factor rather than a system-based error. Complaints are investigated and, if shortcomings are identified among specific officers, disciplinary measures are applied or criminal procedure is commenced.

'The CPT recommends that police officers be continuously reminded that no more force that is strictly necessary must be used when persons are apprehended by the police and that once they have been brought under control, there can never be any justification for them being struck' (paragraph 11).

In order to bring an apprehended person under control, means solely intended to protect the safety of the officers responsible for making the arrest are used. Apprehension is immediately followed by action to treat any wounds and injuries of the parties involved and to document the process. Those involved are instructed, even during an arrest, of the need to respect the legal procedure. The content of this recommendation is communicated to all police officers when they are on duty, at management meetings, and in the scope of in-service training and methodological posts.

¹ Act No 283/1991 Coll., on the Police Force of the Czech Republic, as amended.

² Act No 141/1961 Coll., the Code of Criminal Procedure, as amended.

‘The CPT would like to receive detailed information on the action taken by the Czech authorities and the outcome of any investigation carried out in respect of allegations of ill-treatment inflicted by the police on the occasion of the September 2000 meeting of the International Monetary Fund and World Bank in Prague’ (paragraph 12).

The Inspection Board of the Minister of the Interior, in connection with the security measures adopted for the meetings of the International Monetary Fund and World Bank in Prague, investigated six complaints about illegal conduct of police officers from the Czech Police Force. In three cases, no crime was identified,³ in two cases no perpetrator was identified,⁴ and in one case the matter was passed on in the framework of disciplinary procedure because, according to the findings of the Inspection Board of the Minister of the Interior, a misdemeanour and not a crime had been committed.⁵ The Inspection Board of the Minister of the Interior analyzed the file documents prepared at the Inspection and Complaints Department of the Police Headquarters of the Czech Police Force and the Complaints and Inspection Department of the Czech Police Force for the Prague City Administration (see Appendix No 1).

2. Conditions of detention

‘The CPT recommends that the use of cellular facilities at Prague-Hybernská and Prague-Vyšehradská Police Stations be reviewed, in the light of the remarks in paragraph 14’ (paragraph 14).

At the basic departments of the Czech Police Force’s Praha 1-10 District Headquarters, there are no police cells set up in accordance with the Police Act.⁶ The rooms here which are fitted with bars are, essentially, rooms where persons who have been brought to a police station, apprehended, or detained may be placed for a short period of time, i.e. for the time absolutely necessary to carry out official tasks. These rooms for persons brought to a police station are not used to restrict personal freedom for dozens of hours; they are simply areas designed for the short-term restriction of personal freedom. In accordance with legal regulations⁷ and in accordance with the nature of the case at hand, persons are only placed in these rooms for the time absolutely necessary to carry out official tasks.

The status of these rooms is not currently regulated by any legal regulations. Therefore, the Ministry of the Interior is considering whether to prepare an amendment to the Police Act to cover the terms and conditions of use of such rooms.

³ Section 159a(1) of the Code of Criminal Procedure.

⁴ Section 159a(4) of the Code of Criminal Procedure.

⁵ Section 159a(1)(b) of the Code of Criminal Procedure.

⁶ Section 26 et seq. of the Police Act.

⁷ Section 12(9), Section 14 of the Police Act.

The facilities of the prison-escort department of the Prague administration's patrol and railway police unit are used for the longer-term restriction of the personal freedom of persons apprehended or detained; these facilities carry the status of police cells. Which persons may be placed in a police cell, under what conditions, and the criteria that a police cell must meet are laid down in the Police Act.⁶ Ministry regulations contain further coverage of this area.⁸

'The CPT calls upon the Czech authorities to take steps to ensure that in all police establishments in the Czech Republic, persons obliged to stay overnight in custody are provided with a clean mattress and clean blankets' (paragraph 15).

Given their nature and purpose, rooms for persons brought to a police station cannot be fitted with beds, and therefore they cannot be equipped with mattresses or blankets either, because they are not used for the long-term restriction of the freedom of detained persons. Persons with whom police officers are actively carrying out official tasks are placed in these rooms. In cases where further restrictions of freedom are required, these persons are transferred to police cells set up in accordance with Section 26 of the Police Act.

'The CPT recommends that steps be taken to improve the ventilation in cells at Ostrava Municipal Police Station, Plzeň Regional Police Headquarters and Prague-Hybernská Police Station' (paragraph 15).

Based on previous comments and suggestions, new fans were installed in police cells; these fans currently comply in full with standards in force and ensure that there is proper ventilation and an exchange of air in the police cells.⁸

'The CPT recommends that metal devices to shackle detained persons to the wall be removed from police cells' (paragraph 16).

Based on the CPT's recommendation, metal devices used to shackle detainees to the wall have been removed from the police cells of the prison-escort department. Therefore the police cells are no longer equipped with such devices. Suitable facilities have been installed in rooms for persons brought to a police station in order to shackle such persons; these facilities are used for short-term restrictions of the movement of aggressive persons. These restrictions may not last longer than two hours.⁹

⁸ Fans were installed after the CPT's visit in 2002; the precise date was not ascertained by the Ministry of the Interior.

⁹ Section 16 of the Police Act.

‘Persons detained by the police should be given food at appropriate times, including at least one full meal (i.e. something more substantial than a sandwich) every day’ (paragraph 17).

A hot meal is delivered for all detainees within six hours of the time their freedom is restricted.¹⁰ The next day, detainees regularly receive breakfast, lunch, and an evening meal, which is hot. No cases have been discovered in police cells where detainees have not received a hot meal. In 2002, five complaints were filed concerning failure to provide detainees with food; none of these complaints were upheld as justified complaints. The provision of food is documented in file documents.

3. Safeguards against ill-treatment

‘The CPT recommends that all persons deprived of their liberty by the police - for whatever reason - be granted the right to notify a close relative or third party of their choice of their situation as from the very outset of their deprivation of liberty. The exercise of this right could be made subject to certain exceptions designed to protect the legitimate interests of the police investigation, provided those exceptions are clearly circumscribed in law and made subject to appropriate safeguards (e.g. any delay in notification of custody be recorded in writing with the reasons therefor and to require the approval of a senior police officer unconnected with the case at hand or a public prosecutor)’ (paragraph 19).

When a person who is caught in the act of committing a misdemeanour is brought to a police station, or when a person is **apprehended**, the police officer is obliged to inform a close relative or other person specified by the detained person.¹¹ The police officer is obliged to notify this close relative or third party, at the request of the person brought to a police station or apprehended, without undue delay once the request has been made. In cases where persons deprived of their liberty are less than 18 years old, police officers are obliged to notify the legal guardian of such a person immediately. These persons are therefore entitled to notify a close relative or a third party of their choice of their situation only indirectly, via a police officer.

The right of persons **who are brought to a police station for the purpose of establishing their identity or to give an explanation** to notify a close relative or a third party of their choice from the start of the time they are deprived of their freedom – whether directly or indirectly through a police officer – is not formally covered by the law. In practice the following procedure is applied: the person whose identity is being established must provide the necessary cooperation to establish his/her identity. If this persons requests that a relative or a third party be notified, by this very act the person is providing the required cooperation and there is no need to bring him/her to a police station.¹²

¹⁰ Section 31 of the Police Act.

¹¹ Section 14(4) of the Police Act.

¹² In cases where the identity of a foreigner needs to be established, if there is no other way the foreigner may testify to his identity by means of an affirmation (Article 2(2) of Binding Guideline of the Police President No 61/2003).

In cases where a person is required to provide an explanation to clarify circumstances set out under the law, the very fact that this person has been summoned by the police to report to a police station to give an explanation (usually a written summons) means it can be assumed that other persons have had the opportunity to be informed about the summons to give an explanation. A statement must be drawn up with such persons without undue delay after they have been brought to the police station.

Reasons for the short-term denial of requests to notify close relatives are examined by the supervisory public prosecutor.

‘The CPT recommends that the Czech authorities take steps to ensure that a right of access to a lawyer as defined in paragraph 21 is enjoyed by all persons obliged to remain with police, as from the very outset of their deprivation of liberty. The right of access to a lawyer should be enjoyed not only by criminal suspects, but also by anyone who is under a legal obligation to attend - and stayed at – a police establishment, e.g. as a person whose identity must be established or who is obliged to provide an explanation’ (paragraph 21).

The right of a **detained person** to a lawyer is contained in Section 76(6), Section 179b(2) and (3) of the Code of Criminal procedure. Persons detained in police cells are permitted, if they so request, to telephone their lawyer. Once a detained person has made a request to speak with his lawyer, the lawyer is given access to this person in the police cell.

The right of an **apprehended person** to a lawyer is not formally regulated by the Police Act. In practice, the right to notify a close relative or third party, based on the choice of the apprehended person, may be used for this purpose.¹³ This ‘third party’ is usually a lawyer.

The right of a person who is brought to a police station for the purpose of **establishing his/her identity** to a lawyer is not formally regulated by the Police Act.

The right of a person who is obliged to **provide an explanation** to a lawyer is regulated by the Code of Criminal Procedure, which stipulates that all persons are entitled to the legal assistance of an attorney-at-law when they are required to give an explanation.¹⁴ This right is also covered under a binding instruction of the Police President, which covers the procedure to be applied by the Czech Police Force in fulfilling its tasks in criminal proceedings.¹⁵ A person who is required to give an explanation must be informed of his right to the legal assistance of an attorney-at-law.

In cases when a person is detained or apprehended and held in a police cell, the right to a lawyer will be regulated in a newly proposed internal regulation on police cells.

¹³ Section 14(4) of the Police Act.

¹⁴ Section 158(4) of the Code of Criminal Procedure.

¹⁵ Article 25(5) of Binding Guideline of the Police President No 130/2001.

‘The CPT would like to receive information about the arrangements made in the Czech Republic to provide access to a lawyer for persons who are not in a position to pay for one’ (paragraph 21).

At present, the conditions for the provision of legal assistance and the payment thereof by the state are regulated:

- by the Code of Civil Procedure, especially in relation to parties to proceedings who are exempt from court fees and who are appointed an attorney-at-law by a representative in order to protect their interests;¹⁶
- the Code of Administrative Procedure, for plaintiffs who are exempt from court fees based on evidence that they do not have sufficient funds, and if an attorney-at-law is appointed for them by a representative in order to protect their rights; another condition is that the petition is not patently unsuccessful;¹⁷
- the Code of Criminal Procedure in cases where the accused testifies that he does not have sufficient funds to pay the costs of his defence, and in cases where the injured party testifies to a lack of funds for representation by an attorney;¹⁸
- the Constitutional Court Act in cases where a constitutional complaint is lodged, provided that the personal and property circumstances of the complainant warrant such assistance, in particular if the complainant has insufficient resources to pay the costs connected with representation; another conditions is that the constitutional complaint is not rejected.¹⁹

The conditions and the procedure for the provision of legal assistance in judicial proceedings, especially the appointment of certain criteria used for an objective assessment of the social and property circumstances of applicants, are not covered by a legal regulation, only by an instruction of the Ministry of Justice issued in the framework of the performance of the public administration of the courts. In practice, the costs tend to use the specimen of a form issued in the scope of this instruction.

Beyond the framework of the provision of free legal assistance paid for by the state, free legal assistance may also be provided in accordance with the Act on the Legal Profession, which states that any person who is unable to afford the provision of legal services is entitled to request the Czech Bar Chamber to appoint an attorney-at-law for him.²⁰ The Czech Bar Chamber may, in cases warranted by the social and property circumstances of an applicant, and in the conditions of the provision of a legal service, appoint a specific attorney-at-law to provide a legal service for a reduced fee or for free.²¹

¹⁶ In particular Section 30, Section 31, Section 140(2) and Section 149(2) of Act No 99/1963 Coll., the Code of Civil Procedure, as amended.

¹⁷ In particular Section 35(7) and 36(3) of Act No 150/2002 Coll., the Code of Administrative Procedure, as amended.

¹⁸ In particular Section 33(2) and (3) and Section 51a of Act No 141/1961 Coll., the Code of Criminal Procedure (Penal Code), as amended.

¹⁹ Section 83 of Act No 182/1993 Coll., on the Constitutional Court, as amended.

²⁰ Section 18(2) and Section 45(2)(a) of Act No 85/1996 Coll., on the Legal Profession, as amended.

²¹ Section 12(5) of Regulation of the Ministry of Justice on the Remuneration of Attorneys-at-Law and Compensation of Attorneys-at-Law for the Provision of Legal Services (Legal Rates).

The provisions on the assignment of legal assistance do not cover other areas where legal consulting may be provided by notaries, tax consultants, patient representatives, and executors; it is purely up to the parties, with respect to the interests they wish to assert in the administrative judiciary in particular, whether they conclude a contract on the provision of legal assistance and representation.

One of the problems of providing free legal assistance is that this area of legislation is fragmented; no detailed process has been set for assessments of entitlements to free provision of legal assistance, and the criteria used to evaluate the social and property status of an applicant are insufficient.

Therefore, the Government of the Czech Republic has approved the General Principle of a bill regulating the provision of free legal assistance. The main aim of this piece of legislation is to unify the individual areas of legislation covering this issue while respecting the specific nature of the individual types of judicial proceedings; the intention is to set objective criteria for the procedure of providing legal assistance to persons who, in relation to the costs of proceedings, do not have sufficient funds to ensure the qualified defence of their rights.

This bill will apply to all judicial proceedings, i.e. civil proceedings, criminal proceedings, administrative justice, and proceedings before the Constitutional Court. The bill will regulate not only legal assistance provided in the framework of judicial proceedings which have commenced, but also legal assistance provided during the stage of preparing a petition for the commencement of proceedings. However, it will not include general legal consulting.²²

‘The CPT recommends that a right of persons taken into police custody to be examined or treated by a doctor of their own choice, as stipulated in paragraph 22, be formally guaranteed’ (paragraph 22).

When placing persons in police cells, police officers are obliged to respect the opinion of a doctor or to arrange a medical examination or medical treatment. These obligations of police officers are regulated by the Police Act.²³

Police officers are obliged to arrange for medical treatment and a doctor’s opinion on whether a person may be taken into custody in cases where the person in question is injured, if this person brings attention to any serious illness he may have, or if there is good reason to suspect that this person suffers from such an illness. A person who is patently under the influence of alcohol, drugs, or other intoxicants may only be placed in a police cell if a doctor, after conducting a medical examination, finds no reason to place the person in a sobering-up station or in a health care establishment, or if, after the treatment of this person, there is no longer any reason for this person to be placed in a sobering-up station or health care establishment.

If a person in custody becomes ill, hurts himself, or tries to commit suicide, police officers are obliged, in particular, to provide first aid and call a doctor. The doctor then issues an opinion on whether the person may remain in the cell or whether this person is to be placed in a health care establishment.

²² The legislation under preparation also sets out terms and conditions and the procedure for the provision of free legal assistance in cross-border disputes in accordance with Council Directive 2003/8/EC of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes.

²³ Section 28(2) and (3), Section 32 of the Police Act.

In the cases mentioned above, the doctor invited to attend to a person in custody is a doctor for whom the police station has contact details for these activities. If a person in custody insists on a specific doctor and if this request is not connected with insurmountable difficulties (distance, time, refusal by the doctor, etc.) there is nothing to prevent the selected doctor from attending to this person. Formally, however, the right of persons in custody to a medical examination or to medical treatment by a doctor of their choice is not guaranteed. The Czech government believes that the right of detained persons is sufficiently guaranteed in a different way.

In 2002, one complaint was issued concerning failure to provide medical treatment; this complaint was not upheld.

‘The CPT recommends that steps be taken to ensure that all medical examinations of persons in police custody are conducted out of the hearing and - unless the doctor concerned expressly requests otherwise in a given case - out of the sight of police officers’ (paragraph 23).

Provided that a person is not aggressive and does not attack medical staff, the presence of police officers during medical treatment is not permitted and a doctor would not allow their presence. The police assist in medical examinations and treatment in exceptional cases only – when the doctor requests because the person being treated is aggressive – and only do so to ensure the safety of the medical staff in such non-standard situations.

‘The CPT recommends that a form setting out the rights of persons in police custody in a straightforward manner be systematically given to such persons at the very outset of their deprivation of liberty. The form should be available in an appropriate range of languages. Further, the persons concerned should be asked to sign a statement attesting that they have been informed of their rights’ (paragraph 24).

All persons interrogated by the police are officially informed in a written document, before the interrogation begins, of their basic rights, including the right to have the interrogation conducted in their mother tongue; they confirm such information with their signature. These documents are kept in the file documentation and are retrievable. An interrogated person may request a copy of the report on the interrogation.

The file documentation of persons not using Czech always contains written information of their rights in a foreign language. Forms in the most frequently used European languages (English, German, plus preparations for Russian are being made) containing written information of rights are currently used at all police stations of the Czech Police Force, but only in cases where a person is deprived of his/her liberty or where a person’s freedom is restricted by the police in accordance with the Code of Criminal Procedure. In cases where a person (most frequently a foreigner) does not speak any of the above-mentioned languages, an interpreter of the language they choose is always present.

The policy of written information on rights at the very outset of any restriction of freedom seems to be a suitable solution for persons speaking Czech too.

‘The CPT recommends taking steps to ensure that custody registers are set up at Plzeň-Perlová Police Station and the detention facilities of the Aliens Police (Escort Department) at Prague-Ruzyně International Airport’ (paragraph 25).

The police cells in Perlová 8 Street in Plzeň are no longer used (as of 1 January 2002) due to hygiene and structural defects. There has obviously been a misunderstanding here and incorrect information has been supplied to the CPT. Records of detention are required and regulated under a directive of the director of the West Bohemian Authority of the Czech Police Force,²⁴ based on which the duty manager is obliged to keep due records of persons who are taken into custody, released from custody, escorted, or brought to a police station to participate in required tasks. No cases have been discovered of any person held in a police cell of the West Bohemian Authority of the Czech Police Force in Plzeň who has not been duly recorded. Records at the alien police’s detention facility at Prague-Ruzyně International Airport are kept in accordance with all legal regulations.

‘The CPT recommends taking steps to ensure that the time persons are held by the police “for identification purposes” or “to give an explanation” is recorded in a register’ (paragraph 25).

The keeping of official records about all persons detained in police cells is regulated under a regulation of the Ministry of the Interior,²⁵ which covers in detail police cells, their establishment, closure, the taking of persons into police custody, the regime in cells, and other circumstances. In cases where persons are brought to a police station to make a statement regarding the submission of an explanation, the police officer is obliged to draw up a written record of this act.²⁶ Police officers are subject to the same obligation when bringing persons to a police station and carrying out official tasks to establish their identity.²⁷ Police pay careful attention to the keeping of file documentation. The inspection and complaints department conducts inspections of service performance. In cases where the procedure laid down under legal regulations is not respected, the police officer who breached the prescribed procedure is disciplined.

‘The CPT would like to receive the 2002 Activity Report of the State Attorney’s Prosecuting Office, and, in particular, information on the number and nature of complaints made against police officers, and the action taken in response thereto’ (paragraph 26).

The first group of the two basic types of complaints concerning ill-treatment on the part of officers from the Czech Police Force comprises complaints of a ‘non-criminal’ nature, the subject of which is mainly reports of various less serious lapses, such as failing to ensure appropriate conditions for persons whose freedom has been restricted, failure to provide food and water or delayed provision thereof, the denial of the possibility to use a telephone, legal or medical assistance, etc.

The allegations made by the complainants are unconfirmed or unproven in the overwhelming majority of cases. In all cases where a breach of the law or internal regulations is discovered, severe action is taken against all responsible officers of the Czech Police Force; in less serious cases they are disciplined, but in more serious cases an officer of the Czech Police Force may be dismissed from the police force.

²⁴ Directive of the Director of the West Bohemian Regional Authority of the Czech Police Force No 17 of 31 March 1995.

²⁵ Regulation of the Ministry of the Interior No 25/1994, in the wording of Regulation of the Ministry of the Interior No 32/1998.

²⁶ Section 12(10) of the Police Act.

²⁷ Section 13(8) of the Police Act.

The second group of complaints concerns complaints of a ‘criminal’ nature, the subject of which is specific circumstances indicating that officers from the Czech Police Force have committed a crime. The report on the activities of the public prosecutor’s office in 2002²⁸ as regards crimes by police officers states that in 2002 the number of officers from the Czech Police Force who were prosecuted fell, but that the number of police officers against whom an action was brought increased. According to the report of the Inspection Board of the Minister of the Interior on its activities in 2002, the total number of officers against whom an action was brought was 444 (i.e. 9.6 per 1,000 police officers).

The most frequent crime committed by police officers in 2002 was ‘abuse of the powers of a public official’, followed by crimes such as insurance fraud, deceit, bodily harm, blackmail, theft, breach of the peace, and embezzlement.²⁹ The incidence of other crimes was isolated.

‘The CPT recommends that all necessary steps be taken to ensure that the inspections of police detention facilities by the State Attorney’s Prosecuting Office becomes effective without delay’ (paragraph 27).³⁰

Under the Public Prosecutor’s Office Act,³¹ the public prosecutor’s office is responsible for supervising the observance of legal relations in places of remand and imprisonment, protective medical treatment, protective or institutional upbringing, and in other places where, by legal authorization, personal freedom is limited, such being in the scope, under the conditions, and in the manner stipulated under separate laws which regulate the regime in all the above-mentioned places. Such provisions are included in laws regulating imprisonment, remand, and institutional or protective upbringing. Other separate laws do not contain these provisions, and therefore it is not possible for this supervision to take place in police establishments without further legislative changes.

Part B – Detention of foreign nationals under aliens legislation

1. Ill-treatment

‘The CPT recommends that police officers at the Bálková Detention Centre for Foreign Nationals be given the clear message that all forms of ill-treatment, including verbal abuse, are not acceptable and will be the subject of severe sanctions’ (paragraph 32).

At regular official meetings in the facilities, and in the framework of specialist training carried out by the Area Headquarters of the Alien and Border Police Force, the attention of those in attendance is repeatedly brought to legal provisions relating to the activities of the police. The management of the Area Headquarters of the Alien and Border Police Force focuses on this issue when it inspects the performance of activities. Police officials from the competent inspection and complaints department of the Czech Police Force are responsible for conducting inspections of the observance of legal regulations.

²⁸ The report on the activities of the public prosecutor’s office in 2002 has been published on the website of the Supreme Public Prosecutor’s Office, at <http://portal.justice.cz/justice/nsz.nsf/Stranky/Soubory>.

²⁹ Sections 158, 250, 221, 222, 235, 247, 202, and 248 of Act No 140/1961 Coll., the Crime Act, as amended

³⁰ Compare text to paragraph 147.

³¹ Section 4(1)(b) of Act No 283/1993 Coll., on the public prosecutor’s office, as amended.

2. Conditions of detention

‘The CPT recommends that the Czech authorities review as a matter of urgency the detention regime at Bálková Detention Centre for Foreign Nationals (as well as in other establishments of this type), in the light of the remarks made in paragraph 36. When, exceptionally, it is necessary to place a detainee under special conditions of detention, the reasons for such placement should be communicated in writing to the person concerned, who should have a right of appeal against that measure’ (paragraph 36).

Because most detained foreigners do not have identity documents, at the time the CPT delegation visited most of the detainees had been placed in the part of the facility with a strict regime. The amendment to the Foreigners Act,³² effective as of 1 January 2004,³³ removed the provision whereby foreigners whose identity cannot be established are placed in a section with a strict regime.³⁴ Therefore, cases where the identity of a foreigner cannot be established are no longer a reason to place the foreigner in a section of the facility with a strict regime. As a result, structural modifications are currently being made to facilities managed by the police with the aim of expanding the capacity of the lenient detention regime at the expense of the strict regime.

At present, another amendment to the Foreigners Act is being prepared, focusing in particular on a change to the conditions in facilities. The aim is to ensure that the detention regime is generally lightened; the strict regime will only be used for the detention of aggressive foreigners or foreigners requiring increased supervision for other reasons, or for the detention of those who fail to heed obligations and breach the internal rules of a facility; it is not expected that foreigners will remain in this regime throughout their detention. At the same time, internal rules will place a greater emphasis on the leisure activities of foreigners and psychological care. Authorization to set up and run facilities will transfer to the Ministry of the Interior; the police will be set tasks, mainly ensuring the external security of the facility and activities which police officers are obliged to carry out in proceedings on administrative deportation.

Decisions on placement in a strict regime are not issued in writing. The planned amendment to the Foreigners Act stipulates that, in connection with detention, foreigners will be placed in a lenient regime; placement in a strict regime is permitted only in set circumstances which might exist at the time of detention or occur during detention. Under the amendment, the verdict on placement in a strict regime should be part of a written decision on detention,³⁵ including justification for this measure. If reasons for placement in a strict regime occur during detention, a separate, reasoned decision will be issued and delivered to the foreigner. As with a decision on detention, this decision on placement in a strict regime will enter into force on delivery; foreigners will be entitled to submit an application for a judicial review of the decision.

³² Act No 326/1999 Coll., on the residence of foreigners on the territory of the Czech Republic and on an amendment to certain laws, as amended.

³³ Act No 222/2003 Coll.

³⁴ Section 132(2)(e) of the Foreigners Act.

³⁵ The police issues decisions on detention in accordance with Section 124 of the Foreigners Act. Foreigners may file a petition against this decision in which they seek proceedings in accordance with a separate legal regulation (Section 200o et seq. of the Code of Civil Procedure), in which the court makes a decision on the duration of the detention and orders the release of the detainee if the legal reasons for the duration of detention have passed. Foreigners are entitled to file this petition at any time during their detention. Repeated petitions are permitted.

‘The CPT recommends that the current practice concerning clothing of foreign nationals held at Bálková be fundamentally revised; in particular, all detainees arriving at the establishment with clean clothes and appropriate footwear should be entitled to wear them during their stay and, when necessary, to have them cleaned and repaired’ (paragraph 37).

Foreigners whose clothing, linen, and footwear do not meet the conditions of hygienic and aesthetic suitability are required to use clothing supplied by the police.³⁶ The hygienic and aesthetic suitability of clothing, linen, and footwear of foreigners is assessed by health care staff at the individual facilities for the detention of foreigners. A report is drawn up on the result of this assessment, and is filed among the file documents of the relevant foreigner. This measure was introduced based on experience from the operation of facilities and based on a recommendation of the Ombudsman.

The planned amendment to the Foreigners Act will enable foreigners to make use primarily of their own clothing. It is expected that extra clothing will be made available for foreigners from the gifts of non-governmental organizations.

‘The CPT recommends that the internal instruction obliging foreign nationals held at Bálková to keep continuously moving in the recreation area during their outdoor exercise to be rescinded; detainees should be allowed to use their outdoor exercise period in the manner they find most relaxing’ (paragraph 38).

The internal rules of the Bálková facility do not include the obligation for foreigners to keep moving in the exercise yard, and therefore foreigners are able to use their exercise period in the manner they themselves choose.

‘The CPT recommends that immediate steps be taken to ensure that all foreign nationals at Bálková (as well as in other such establishments throughout the country) are guaranteed at least one hour of outdoor exercise per day. Outdoor exercise areas should be fitted with means of protection against inclement weather’ (paragraph 38).

All foreigners detained in facilities in the Czech Republic are given the opportunity to exercise at least one hour a day. In order to humanize the stay of foreigners in the facilities, the management of the individual facilities try to extend the exercise time as far as the current possibilities of the facilities allow and as much as the foreigners require.

Foreigners’ exercise time may be reduced or cancelled only if they are placed in the section with a strict regime; a report on the restriction or cancellation of exercise time must be drawn up by the facility manager;³⁷ this report details the reasons for such action. Foreigners have the opportunity of being informed of the reasons for the cancellation of exercise time and may file a complaint against the decision or apply for an interview with the facility manager.³⁸

At present, the exercise yards at the detention facility for foreigners in Frydek-Místek are equipped to cope with bad weather; at the other facilities – Velké Přílepy, Bálková, Poštorná, and Bělá-Jezová, foreigners may spend their exercise periods in replacement areas (e.g. the gym).

³⁶ Section 140 of the Foreigners Act.

³⁷ Section 145(2) of the Foreigners Act.

³⁸ Section 146 of the Foreigners Act.

‘The CPT calls on the Czech authorities to take urgent steps to ensure that detainees at Bálková have ready access to toilet facilities at all times’ (paragraph 39).

Foreigners detained in the Bálková detention facility for foreigners have non-stop access to sanitary facilities; this applies to all other similar facilities too.

‘The CPT recommends that the religious requirements and dietary habits of foreign nationals held at Bálková be taken fully into account’ (paragraph 40).

With regard to the obligation, when selecting meals, to take into account the customs stemming from the religious persuasions of foreigners as far as possible³⁹ and with regard to the recommendations made by the Ombudsman, the management of the Foreigner and Border Police Force Headquarters and the Economic Authority of the Police Headquarters of the Czech Republic have adopted measures aimed at the consistent observance of the cited legal provisions. The facility management presents meal proposals for detained foreigners sufficiently in advance so that there is time to make changes based on the religious structure of the detained foreigners.

‘The CPT recommends that vigorous steps be taken to provide a range of activities for foreign nationals held at Bálková (as well as in other establishments of this kind), in the light of the remarks made in paragraph 34; specific measures should be taken to ensure that minors are offered activities suitable to their age’ (paragraph 41).

Staff at facilities (facility psychologists) lend games, books in foreign languages, newspapers and magazines to foreigners detained in facilities who express an interest in borrowing such materials. Foreigners also have the opportunity of watching television. The management of the individual detention facilities for foreigners cooperate in this respect with non-governmental organizations and charities.

In addition to the opportunities mentioned above, at the **Poštorná** facility, the local Břeclav charity organizes Czech language lessons once a week, foreigners can play board games, read foreign-language periodicals, and have Bibles at their disposal in three different languages. Detained foreigners can carry out their religious practices, although there are no conditions for the performance of religious rituals. They may watch television, listen to the radio, and watch videos (including their own cassettes), as they choose. In their exercise periods – as at other facilities – they can play ball games.

At the **Bělá-Jezová** facility, where families with children have been placed in a single establishment, the children go to school. At the Bělá-Jezová asylum centre, in whose building the detention facility for foreigners is located, preschool children can attend a children’s centre; toys and children’s games are available for all the children.

The planned amendment to the Foreigners Act will create conditions for a wider range of leisure activities; the use of projects by the Czech Catholic Charity, focusing on the organization of special-interest activities for detained foreigners, is also being considered.

³⁹ Section 139 of the Foreigners Act.

‘The CPT would like to be informed of the progress made in transferring detained foreign nationals with children from Bálková to the centre for asylum seekers at Bělá pod Bezdězem-Jezová and the conditions under which they are held there (i.e. accommodation, activities, etc.)’ (paragraph 42).

The detention facility for foreigners in Bělá-Jezová is designed for mothers with children, or for large families with small children, and was set up as an establishment to house families with children on 10 June 2002. The capacity is 56 persons. It is a small-capacity facility with a lenient regime, offering the inhabitants the opportunity of movement throughout the area of the facility. For children who are at an age requiring compulsory school attendance, regular attendance at the school in the neighbouring municipality is arranged. In cases where foreigners’ clothes do not meet appropriate hygiene and aesthetic conditions, the facility management provides them with civil clothing. In this respect, the facility management cooperates with the social service of the Bělá-Jezová asylum centre and the Czech Catholic Charity. Detained foreigners can use a laundry room with an automatic washing machine. The care of the children of detained foreigners and leisure activities are described in the response to paragraph 41.

Foreigners with children are always placed in the Bělá-Jezová facility. If the facility’s capacity is exceeded, foreigners with children may exceptionally be placed in another facility, but only for a maximum period of two or three days.

As regards the transfer of detained foreigners with children to the Bělá-Jezová asylum-seeker facility, this is probably a misunderstanding, because foreigners with children are not and cannot be administratively re-assigned from the Balkova detention facility for foreigners to the Bělá-Jezová asylum-seeker facility, but only to the detention facility for foreigners at Bela-Jezová. Only foreigners seeking asylum may be placed in the asylum-seeker facility.

‘The CPT would like to receive assurances that the outdoor exercise facility at the Reception Centre for Asylum Seekers at Prague-Ruzyně International Airport is fully operational’ (paragraph 44).

An enclosed oblong area of grass with a shelter and benches has been built approximately 500 m away from the reception centre. Because this exercise yard is not adjacent to the centre building (the layout of the airport prevented this), the foreigners are taken to and from the exercise yard every day in vehicles operated by the Foreigners Police. Exercise periods have been in operation on a practically daily basis since the second half of October 2002. The exercise period is 60 minutes, but may be shortened on request of an asylum-seeker. The time of the exercise period and the number of interested persons from among the asylum-seekers are set on a daily basis; the participants can take sports equipment – supplied by the Refugee Facilities Authority – with them. If their clothing is too thin, warm clothes may be loaned. Centre staff, who remain outside the premises during the exercise period, are responsible for supervising exercise periods.

3. Health care

‘The CPT recommends that all medical examinations at the Bálková Detention Centre for Foreign Nationals be conducted out of the hearing and - unless the doctor concerned expressly requests otherwise in a particular case - out of the sight of police officers’ (paragraph 45).

The health care provided to foreigners by doctors at the facilities is given out of the sight and out of the hearing of police officers. Facility police officers are present during medical examinations only at the request of the doctor.

‘The CPT would like to receive the comments of the Czech authorities on complaints about the lack of medicines and the unavailability of appropriate treatment at Bálková, due to the fact that foreign nationals are not covered by health insurance’ (paragraph 46).

During their detention, foreigners are provided with health care to an extent corresponding to the scope of health care fully paid out of resources of public health insurance, and health care in connection with ordered quarantine or other measures associated with the protection of public health.⁴⁰

If health care cannot be administered at the facility, the police shall arrange for this care to be provided at a health care facility.⁴¹ Doctors distributed around the various detention facilities for foreigners are subordinate to the Health Security Division of the Ministry of the Interior.

‘The CPT recommends that steps be taken to ensure that foreign nationals held at Bálková are provided adequate access to the services of a psychiatrist, a gynaecologist, and a paediatrician’ (paragraph 47).

We cannot agree with the conclusion that the facility staff (the psychologists of the Balkova facility) spend most of their time translating. They move among the foreigners throughout the day and help them find solutions to their personal, health, and other problems. If a foreigner shows signs of being mentally disturbed, the facility doctor sends him for a specialist examination. All women admitted to the facility are given a gynaecological examination; regular gynaecological appointments are made for pregnant women. Where necessary, paediatric care in a health care facility is arranged.

‘The CPT recommends that steps be taken to ensure that medical confidentiality is respected at the Reception Centre for Asylum Seekers at Prague-Ruzyně International Airport’ (paragraph 48).

The Refugee Facilities Authority of the Ministry of the Interior arranges health care at the Ruzyně reception centre via the medical service provided by Meditrans, s.r.o. in accordance with a contract on the provision and payment of health care. Employees of the Refugee Facilities Authority only receive information which is necessary for them in the line of duty, but only if the asylum-seeker whom the information concerns gives written permission for such disclosure. On discovering that there may be a breach of legal provisions concerning the compulsory confidentiality of health-care staff, a meeting was held with Meditrans, s.r.o. in October 2003; the company promised to rectify this situation. Since this meeting took place, no complaints in this respect have been registered. On 1 November 2003, an annex to the contract on the provision and payment of health care to resolve this problem was concluded with Meditrans, s.r.o.

⁴⁰ Section 145(4) of the Foreigners Act; Act No 48/1997 Coll., on public health insurance and on an amendment to related laws, as amended.

⁴¹ Section 145(5) of the Foreigners Act.

4. Other problems

‘The CPT recommends that the selection and training of staff assigned to the Bálková Detention Centre for Foreign Nationals (as well as to other establishments of this kind) be reviewed, in the light of the remarks made in paragraph 49’ (paragraph 50).

The selection of police officers for duty in detention facilities for foreigners is an issue which the management of the Area Headquarters of the Foreign and Border Police in Brno, Ostrava, Plzeň, and Prague, in whose staffing competence the police officers belong, pays constant attention to. Since a proven case of a physical attack on a detained foreigner, resolved by the dismissal of the police officer from the police force, no complaints about police behaviour to detained foreigners have been registered. Action was taken on a full scale at all detention facilities for foreigners.

‘The CPT invites the Czech authorities to arrange for the regular presence of interpreters at the Bálková Centre’ (paragraph 50).

The Bálková facility currently has the planned 156 police officers and eight civilian workers. The report incorrectly states that 50% of them were employed in the kitchen and for maintenance tasks. These activities are the responsibility of approximately 50 employees from the Economic Authority of the Police Headquarters of the Czech Republic. The language skills of the police officers at the facilities are sufficient for the day-to-day performance of their duties. Where necessary, interpreters supplied by the Asylum and Migration Policy Division of the Ministry of the Interior can be used to improve communications. Police officers at the Balkova facility took part in special psychological training at the end of 2002, focusing on communication and mutual relations with detained foreigners. This training was provided by a psychologist from the Holešov Secondary Police School of the Ministry of the Interior.

‘The CPT recommends that the Czech authorities take steps to ensure that all foreign nationals held at Bálková are duly informed about the nature and state of the proceedings in their case, as well as of all their rights related thereto’ (paragraph 53).

Based on the CPT’s recommendation, the headquarters of the Foreign and Border Police Force drew up ‘Information for Foreigners’ to ensure the implementation of the right of foreigners to be informed about the possibility of a judicial review of the legitimacy of their detention,⁴² to submit an application for the commencement of proceedings to be released from detention⁴³ and to make a declaration of asylum at a detention facility for foreigners.⁴⁴

‘The CPT trusts that an information brochure providing information on their legal status and rights will be made available without delay - in the most frequently spoken languages - to all asylum seekers held at Prague-Ruzyně International Airport’ (paragraph 54).

At Prague-Ruzyně International Airport, asylum-seekers are informed by an employee of the social service of the Refugee Facilities Authority, during their initial interview, of where they are and what their rights are, and they are supplied with contact information for non-governmental organizations which, if necessary, can provide asylum-seekers with legal advice.

⁴² Section 126(b) of the Foreigners Act.

⁴³ Section 124(3) of the Foreigners Act.

⁴⁴ Section 3b of Act No 325/1999 Coll., on asylum, as amended.

In places accessible to asylum-seekers, leaflets and brochures are available in various languages, including contacts details for relevant institutions. The brochures are supplied by non-governmental organizations. Leaflets containing detailed advice for asylum-seekers are organized by the Ministry of the Interior in all languages so that foreigners seeking asylum at Prague-Ruzyně Airport have this information at their disposal in their mother tongue (e.g. for asylum-seekers from Arabic countries, India, Vietnam, China, and other Asian countries, and in all European languages). Because the clients in this asylum facility are almost exclusively asylum-seekers from Arab-speaking countries, information is mainly required in this language.

Regularly (twice a week), asylum-seekers are visited by workers from the archidiaconal charity, who provide legal counselling and other services. Workers from other non-governmental organizations also have the opportunity of visiting asylum-seekers. Where necessary, they may come to the facility outside the regular visiting hours.

‘The CPT invites the Czech authorities to explore the possibility of installing additional phones for foreign nationals at Bálková’ (paragraph 55).

At the time of the CPT’s visit, one telephone was installed at the Bálková facility. The foreigners detained at the Bálková facility currently have five public telephones at their disposal; these telephones have been distributed on the individual floors of the facility. Public telephones are also available at other facilities. Foreigners also have the opportunity of communicating via their own mobile telephones.

‘The CPT recommends that the visit entitlement for foreign nationals held at Bálková (as well as in other establishments of this type) be significantly increased’ (paragraph 56).

The amendment to the Foreigners Act proposes a change to the frequency of visits for foreigners at facilities from the original one visit per three weeks to once a week; in warranted cases a decision may be made granting more frequent visits and extended visiting hours. The number of visitors will not be restricted. The facility management will make decisions on more frequent visits; in this respect, the management will take into account the capacity of the visiting rooms and the reasons for the visit as notified by the detained foreigner.

‘The CPT recommends taking steps enabling foreign nationals held at the airport reception centre to see a lawyer, a doctor of their choice, representatives of non-governmental organizations and, where appropriate, family members or other persons close to them settled in the Czech Republic’ (paragraph 57).

Responses to the recommendations in this paragraph will be supplied later. The reception centre is located in the transit area of the international airport, where stringent security measures apply. The Refugee Facilities Authority cannot affect these measures and they must be respected. This does not mean that visits are impossible, however, certain procedures are required and visitors must respect them.

In the scope of the process of adaptation the international airport to Schengen standards and the structural and organizational changes this will entail, it is expected that the location of the admissions centre in the transit area will be reviewed and that a new admissions centre will be built with a separate entrance, which would make access to the centre easier. This project is at the stage of preparation and discussion on the project documentation. The Czech Airports Authority has identified an area in the North 2 terminal; another variant, which the Refugee Facilities Authority of the Ministry of the Interior believes is more suitable, is the construction of a separate building. The completion of the construction of the new asylum facility is expected in mid-2005.

Part C - Prisons

1. Preliminary remarks

‘The CPT recommends that an official standards be re-established in the Czech prison system, guaranteeing at least 4 m² per prisoner in multiple-occupancy cells’ (paragraph 60).

The fall in the number of prisoners in 2002 made it possible to recalculate the accommodation capacity of prisons and remand prisons so that in each room intended for permanent occupation there is floor space of 4.5 m² per prisoner. In the second half of 2003, the number of prisoners rose again. According to a forecast by the Prison Service, in the next few years there is unlikely to be a drop in numbers; on the contrary, it is highly likely that there will be another rise in the number of prisoners.⁴⁵

The CPT’s recommendation is taken into account in the planned draft of a regulation of the Ministry of Justice intended to change the Rules of Remand,⁴⁶ in the planned draft of a regulation of the Ministry of Justice intended to change the Rules of Confinement.⁴⁷ The draft stipulates that in a room intended for the accommodation of more than one person, there must be at least 4.0 m² of accommodation space per person and that cells or bedrooms with an accommodation area of less than 6.0 m² cannot be used for the purposes of accommodation. In connection with the approval of the amendment to the Confinement Act⁴⁸ and the amendment to the Remand Act,⁴⁹ the proposed regulations are expected to enter into effect as of 1 July 2004.

‘The CPT invites the Czech authorities to continue to pursue their efforts to bring about a permanent end to overcrowding of prisons; success in this area will require *inter alia* that full use be made of existing possibilities for non-custodial sanctions’ (paragraph 60).

The Czech authorities will continue to strive to end the overcrowding of prisons. At present, bills which should replace the current Penal Code and Code of Criminal Procedure are being discussed. These bills expand the opportunities of imposing alternative sanctions. This should be reflected in a reduction in the number of unconditional prison sentences.

⁴⁵ Report on the fulfilment of system measures in the prison system and the penal policy from the aspect of the reform of the prison system (situation as at 30 June 2003).

⁴⁶ Regulation of the Ministry of Justice No 109/1999 Coll., issuing the Remand Rules, in the wording of Regulation of the Ministry of Justice No 292/2001 Coll.

⁴⁷ Regulation of the Ministry of Justice No 345/1999 Coll., issuing the Confinement Rules.

⁴⁸ Act No 169/1999 Coll., on the Execution of Prison Sentences and on an amendment to some related laws, as amended („Confinement Act”).

⁴⁹ Act No 293/1993 Coll., on the Execution of Pre-trial Detention, as amended (“Remand Act”).

2. Ill-treatment

‘The CPT recommends that prison officers at Valdice Prison be reminded that the force used to control violent and/or recalcitrant prisoners should be no more than is strictly necessary and that, once prisoners have been brought under control, there can be no justification for striking them’ (paragraph 63).

Officers of the Prison Service of the Czech Republic at Valdice prison and in all other prisons and remand prisons are guided by their superiors to act ethically with prisoners. In the division of guard and supervisory shifts, in training of official and professional preparation, due attention is paid to the use of coercive means in the Prison Service; an emphasis is placed on communication with prisoners, and on choosing the correct tactics when intervening against prisoners, including the use of appropriate coercive means.

‘The CPT recommends that senior prison officers in all establishments visited remind their subordinates that verbal abuse is not acceptable and will be punished accordingly’ (paragraph 63).

All employees are aware, and are reminded at operative meetings, at sessions of department heads, at security meetings, at monthly departmental meetings, and at monthly meetings with employees, that any verbal attacks by staff against prisoners are not acceptable and that, if such conduct is discovered and the perpetrators are found guilty, these perpetrators will be subject to sanctions.⁵⁰

‘The CPT would like to receive the following information for 2001 and 2002, in respect of all prisons in the Czech Republic:

- **the number of complaints lodged concerning ill-treatment by prison staff and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;**
- **an account of disciplinary/criminal sanctions imposed on the grounds of ill-treatment by prison staff’ (paragraph 64).**

An overview of complaints in 2001 and 2002, including an overview of the measures adopted in connection with justified complaints, is given in a table in Appendix No 2.

Information from analyses of crime by Czech prison officers reveals that in 2001 two prison officers were investigated for ‘ill-treatment of prisoners’; in both cases the officers were disciplined. In 2002 there were five cases; four officers were disciplined, in one case criminal prosecution was not commenced.⁵¹

⁵⁰ In accordance with Act No 361/2003 Coll., on the service relationship of members of security corps, Act No 65/1965 Coll., the Labour Code, as amended.

⁵¹ This case was discontinued in accordance with Section 159a of the Code of Criminal Procedure.

3. Life-sentenced prisoners

‘The CPT recommends that the regime applicable to life-sentenced prisoners in the Czech Republic be fundamentally revised, in the light of the remarks made in paragraphs 69 and 70’ (paragraph 70).

The draft amendment to the Confinement Act⁵² contains an essential condition for the regime for life sentenced prisoners to be fundamentally revised. Under this amendment, there will be a fundamental change in the concept of the objective of life sentences.⁵³ Other steps leading to a fundamental revision of the way life sentenced prisoners are treated will follow once the changes to the Confinement Act have entered into effect.

‘The CPT can see no justification for keeping life-sentenced prisoners systematically apart from other sentenced prisoners’ (paragraph 70).

The proposed amendment to the Confinement Act should revoke the current legislation which requires that life sentenced prisoners be kept separate from other prisoners.⁵⁴

‘The CPT recommends that the Methodological Ordinance No 13 be amended with a view to allowing life-sentenced prisoners to have open visits, subject to individual risk assessments’ (paragraph 71).

The proposed amendment to the Confinement Act inserts a new provision in the above-mentioned Act⁵⁵ intended to guarantee that visits carried out under closed conditions can be accepted only after an individual evaluation of the security risks. Therefore, as a matter of principle, visits will allow physical contact, and the prison director will only be able to decide in warranted cases that, for security reasons, a visit will take place in a room where the visitor is separated from the prisoner by a partition.

A change in the way in which visits are conducted for life sentenced prisoners is also contained in a draft regulation of the Ministry of Justice which will amend the Rules of Confinement.⁵⁶

An analogical change will also be contained in the amended provisions of the Remand Act.⁵⁷

‘The CPT recommends that the Czech authorities review the use of handcuffs vis-a-vis life-sentenced prisoners at Valdice Prison, in the light of the remarks made in paragraph 72’ (paragraph 72).

The CPT’s visit took place two and a half months after the unit for life sentenced prisoners had been opened at Valdice prison. At the time, the staff had not sufficient experience of life sentenced prisoners and that is why, based on an instruction from the director, handcuffs were used systematically when transferring life sentenced prisoners. The systematic use of handcuffs when transferring life sentenced prisoners at Valdice prison has been discontinued. Handcuffs are currently used on an individual basis in accordance with evaluations of security risks.

⁵² Act No 169/1999 Coll., on confinement and on an amendment to certain related laws, as amended.

⁵³ The abrogation of Section 71(1) of the Confinement Act is proposed.

⁵⁴ The abrogation of Section 7(f) of the Confinement Act is proposed.

⁵⁵ Draft provision of Section 16(6).

⁵⁶ Section 97 of Regulation No 345/1999 Coll., issuing the Confinement Rules.

⁵⁷ Draft provision of Section 14(4).

‘In the CPT’s view, obliging life-sentenced prisoners to remain handcuffed during consultations with the prison doctor or placing them behind metal bars (without handcuffs) during consultations with a psychiatrist are ethically questionable practices which are inimical to a proper doctor-patient relationship’ (paragraph 73).

The use of handcuffs during examinations by the prison doctor and the placement of prisoners behind metal bars without handcuffs during consultations with a psychiatrist depend on the instructions of the doctor or psychiatrist. The Prison Service of the Czech Republic has had experience of health-care staff being taken hostage and of such staff being in imminent danger of their lives.

The obligation of a prisoner to be handcuffed during a visit to the doctor and the placement of prisoners behind metal bars during consultations with a psychiatrist are not generally covered by a legal regulation. This issue is connected with the more general problem of restrictive procedures for mentally disturbed persons; increasing attention is being paid to this issue.

‘The CPT invites the Czech authorities to take steps to allow life-sentenced prisoners to create a more personalized environment in their cells at Valdice Prison’ (paragraph 74).

Permission for prisoners to have a number of personal items in their cell is subject to a procedure – the same for all prisoners – in accordance with the generally valid provisions of the regulation under which the Rules of Confinement are issued; there is no provision restricting the number of personal items life sentenced prisoners may have compared with any other group of prisoners. The individual decoration of a cell is permitted in accordance with security and fire prevention regulations.

‘The CPT recommends that the security cell No. 113 at Valdice Prison be equipped with a mattress and a special register be kept concerning its use’ (paragraph 75).

The wooden bed in the security cell number 113 at Valdice prison has been permanently fitted with a mattress since 30 April 2002, and a special log has been introduced to record the use of the cell No. 113. This log contains information about the identification of the prisoner and the period of placement in the cell, including information about who decided on the placement. The maximum length of a stay in this cell has not been set; this issue will be addressed in 2004. At the time of the CPT’s visit, the wooden bed was not permanently fitted with a mattress; the mattress was hanging on a wall in the room No. 113.

‘The CPT would like to receive detailed information about the procedures (e.g. medical supervision) in the event of placement of a person in the security cell No. 113 at Valdice Prison’ (paragraph 75).

The guard duty inspector issues a decision on the placement of a prisoner in this cell and the attachment of restraining straps in cases where there is a deterioration in a prisoner’s mental state and a danger of auto-aggression, or aggressive behaviour in relation to the prisoner’s surroundings, when the prisoner is incapable of remaining in a standard cell and the situation cannot be handled by ordinary means, or in cases when a prisoner inflicts cuts on himself and refuses medical treatment, thus directly threatening his life, e.g. by loss of blood.

A doctor is called for the prisoner immediately. This doctor decides on the procedure to be used and, if necessary, administers tranquilizers. The bed is under direct camera surveillance. At the time appointed by the doctor, the straps are loosened to prevent ischaemia. The prisoner is released from the straps when the reasons for applying them have subsided.

4. Conditions of detention of the general prison population

‘The CPT recommends that steps be taken to develop and implement specific policy in respect of remand prisoners, with a view to offering them adequate programmes of activities, throughout the prison system’ (paragraph 80).

The draft amendment to the Remand Act reflects a change in the treatment of remand prisoners by introducing the obligation of the prison to offer the prisoner the opportunity of participating in preventive educational, training, special-interest, and sports programmes.⁵⁸ Provisions in the draft regulation of the Ministry of Justice, amending the Rules of Remand, also pick up on this change.

‘The CPT calls upon the Czech authorities to take immediate steps to ensure that all inmates, including newly-arrived prisoners and patients whose state of health permits, are offered at least one hour of outdoor exercise per day’ (paragraph 81).

The directors of all prisons and remand prisons adopted measures to ensure the immediate fulfilment of the CPT’s recommendation. To prevent cases where the outdoor exercise of remand prisoners might be restricted or cancelled, in the draft amendment to the Remand Act the power to make decisions on restrictions in exercise is transferred from the prison directors to the Director General of the Prison Service of the Czech Republic.⁵⁹

‘The CPT invites the Czech authorities to review the schedule of outdoor exercise for female prisoners at Plzeň Prison’ (paragraph 81).

Female remand prisoners incorrectly informed the CPT that their exercise periods are fixed at the regular time of 7.00 a.m. The time at which these remand prisoners take their exercise periods varies. Outdoor exercise periods always take place in daylight hours. Therefore it is impossible for exercise periods to begin at 7.00 a.m. in the winter as it is still dark. The time at which exercise periods are to be taken is set in a daily timetable, which is part of the internal rules of the prison; the daily timetable does not allow for outdoor exercise periods before 7.00 a.m. in any season of the year.

‘The CPT invites the Czech authorities to develop projects similar to those referred to in paragraph 82 throughout the prison system’ (paragraph 82).

The Confinement Act currently allows for the establishment of ‘pre-release’ units only in prisons in categories with high security and maximum security. The draft amendment to the Confinement Act enables ‘pre-release’ units to be set up at all types of prison. So far, ‘pre-release’ units have been set up in 20 prisons.

⁵⁸ Draft provision of Section 4a of the Remand Act.

⁵⁹ Draft provision of Section 18(2) of the Remand Act.

‘The CPT would like to receive the comments of the Czech authorities on the fact that only Czech nationals are able to be placed in units such as those referred to in paragraph 82’ (paragraph 82).

Legislation concerning the assignment of prisoners to ‘pre-release’ units and prisons in category with minimum security does not distinguish between foreign prisoners and Czech prisoners. Prisoners are assigned to these units and prisons irrespective of their nationality. The prison director makes decisions on the assignment of a prisoner to a ‘pre-release’ unit based on the recommendation of expert employees (the sentence service department manager, a psychologist, a special-needs teacher, a social worker, an educator). The main criterion for the assignment of a prisoner to a ‘pre-release’ unit is the prisoner’s need for help in creating favourable conditions for an independent way of life. The representation of foreigners in ‘pre-release’ units corresponds with their proportion of the total number of prisoners.

‘The CPT would like to receive the comments of the Czech authorities on the delegation’s observation that the legal requirement that all sentenced prisoners in the Czech Republic had to reimburse the costs of their incarceration to the State authorities seemed to have detrimental effects on the motivation of prisoners to engage in an educational/vocational programme’ (paragraph 83).

The Czech authorities concede that the statutory obligation of all prisoners to cover the cost of serving their sentence can have a detrimental effect on prisoners’ motivation to take part in educational and qualification programmes because participation in education programmes limits the time prisoners can spend in jobs, out of which they can pay for their incarceration. The proposed amendment to the Confinement Act stipulates inter alia that prisoners are relieved of the obligation to cover the cost of their incarceration over the period they are assigned to education or therapeutic programmes where the teaching or therapy time is at least 21 hours a week.⁶⁰

5. Health care

‘The CPT would like to be informed of the progress made in the transfer of the responsibility for prison health care from the Ministry of Justice to the Ministry of Health and, in particular, the procedures envisaged to supervise the work of health care staff in Czech prisons’ (paragraph 85).

The Ministry of Health is currently handling very serious problems concerning the transformation of the civil health service. It would be unrealistic to expect the transfer of responsibility for health care in prisons from the Ministry of Justice to the Ministry of Health to take place by 2005. A draft solution to this issue will be included in the Concept for the Development of the Czech Prison Service up to 2015, which is currently being prepared. It would be expedient for the issue of the supervision of health-care provision in prisons to be resolved in the near future.

⁶⁰ Draft provision of Section 35(2-4) of the Confinement Act.

‘The CPT recommends that steps be taken as a matter of priority to significantly increase the number of nursing staff at Plzeň Prison (this should make it possible, inter alia, to ensure the 24-hour presence of a nurse). It would also be preferable for a doctor to be present on weekends’ (paragraph 87).

The director of Plzeň Prison decided to distribute the working hours of health care staff so that one doctor and four nurses are at the prison from 6.00 a.m. to 6.00 p.m. on working days. Between 6.00 p.m. and 6.00 a.m., at weekends, and on public holidays, first aid is provided by a doctor from a civilian facility – the First Health Centre in Plzeň, and acute cases are handled by the Plzeň ambulance service.

Nurses in the Czech Republic are not trained to act alone, i.e. by assessing the general state of health of a patient or by administering drugs at their own discretion.

A first aid health care service cannot be set up directly in Plzeň Prison because doctors from civilian facilities are not interested; doctors are not interested in working in prisons or remand prisons. What is more, in a situation where the government of the Czech Republic has decided to reduce the number of prison officers and civilian works in the Prison Service, the number of doctors (as Prison Service civilian workers) cannot be increased.

‘The CPT recommends that immediate steps be taken to improve the level of hygiene in the two rooms of the infirmary at Plzeň Prison, in accordance with medical standards’ (paragraph 88).

In the in-patient section of the health centre, there are cells for seven patients. The walls, beds, and bedside tables have been freshly painted. Bed linen is changed at least once a week. Bedside tables, beds, and other interior furnishings and equipment will be replaced in 2004, funds permitting.

‘The CPT recommends that steps be taken to ensure that all prisoners are guaranteed the provision of the medication required by their state of health, which implies that funds allocated to prisons should be sufficient to enable medication to be provided free of charge to those prisoners who do not have the necessary financial means to pay for it themselves’ (paragraph 89).

Prisoners are administered medication as required by their state of health. Prisons are allocated funding sufficient to cover the cost of medication out of the resources of the Czech Prison Service in cases where prisoners (foreigners) have neither health insurance nor money.

At Plzeň Prison, there has never been a situation where a vitally important drug has not been administered to a prisoner whose life would otherwise be in danger, regardless of whether the prisoner is an uninsured foreigner or not.

‘The CPT trusts that the requirement that, save in exceptional circumstances, an initial medical examination of newly-arrived prisoners should take place on the day of admission will be fulfilled once a nursing (and medical) staff presence on weekends is established at Plzeň Prison’ (paragraph 90).

If the prison authorities are able to secure the presence of a doctor at Plzeň Prison at weekends, the requirement that the initial medical examination of newly admitted prisoners take place on the first day of imprisonment, except in exceptional circumstances, will be fulfilled – see also the response to paragraph 87.

‘The CPT recommends that steps be taken to ensure that medical confidentiality is fully guaranteed at Plzeň Prison (as well as in other prison establishments in the Czech Republic); all medical examinations of prisoners (whether on arrival or at a later stage) should be conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of prison officers’ (paragraph 92).

Prison officers are present in the doctor’s surgery only if the doctor or nurse expressly requests their presence. In this respect, the Czech Medical Chamber has informed the Prison Service that prison officers may be present in the doctor’s surgery provided that they are bound by the obligation to keep confidential all matters of which they learn in the course of their professional duties, in which case the doctor is not in breach of medical confidentiality if these prison officers are present during a medical consultation/examination.

Systematic guarantees against the abuse of information about the state of health of a prisoner on the part of prison officers are ensured by acquainting all prison officers – in a demonstrable manner – of the relevant laws⁶¹ and by testing their knowledge of these laws on a regular basis. All prison officers have signed a pledge of confidentiality, in which they undertake not to disclose to unauthorized persons any personal or other information of which they learn. In this statement, they are warned that breach of this obligation will be considered a particularly serious breach of service duties, with possible labour-law or penal consequences.

6. Other issues

‘The CPT recommends that steps be taken at Plzeň Prison to put an end to the practice of requiring prisoners to stand facing a wall whilst waiting for prison staff to attend to them’ (paragraph 93).

The practice where prisoners are obliged to stand facing a wall while waiting to be escorted from their cell is not applied universally. When escorting a prisoner from a cell, the responsible prison officer is obliged to conduct a personal examination of the prisoner; the only suitable position for such an examination is where the prisoner faces the wall with legs apart and hands against the wall. The possibility of physical attack from an aggressive individual is reduced considerably if the prisoner is facing the wall. This issue needs to be handled on a case-by-case basis; it cannot be resolved by a general ban prohibiting a policy where prisoners are forced to stand facing the wall. The Prison Service takes care to ensure that prisoners are required to face the wall only in individual cases, i.e. in the exceptional cases where heightened security is diagnosed for particular prisoners.

⁶¹ Act No 555/1992 Coll., on the Prison Service and Justice Guard of the Czech Republic, as amended; Act No 101/2000 Coll., on personal data protection and on an amendment to certain laws, as amended.

‘The CPT recommends that steps be taken as a matter of priority to fill the vacant posts of custodial staff at Plzeň Prison’ (paragraph 94).

The prison director has adopted a set of tasks intended to fill prison warden vacancies at Plzeň Prison. These tasks require active cooperation with labour offices in the Plzeň region, the publication of job offers in the media, cooperation with military units (information and meetings with soldiers who are completing their military service), and material incentives for prison service employees in the selection of applicants seeking work with the prison service.

Unemployment in Plzeň, as in other large industrial centres such as Liberec and Prague, is not so high as to make a job with the Prison Service attractive enough for men. The Czech Republic does not have the resources to ensure that the very demanding work of prison wardens, which is right at the bottom of the ladder in terms of social prestige, is financially rewarded to the extent these employees deserve.

‘The CPT would like to receive the comments of the Czech authorities on the remarks made in paragraph 95 about restrictions on visits to sentenced prisoners. The CPT has serious misgivings about the restrictions on visits to sentenced prisoners, set out in the new legislation. Such prisoners may receive visits from persons other than next of kin only ‘for serious reasons’. Unless specific security requirements dictate otherwise, visits from persons other than next of kin should, as a rule, be authorised. Further, the present wording of the relevant legislation leaves a large discretion to prison staff as to the effective duration of visits accorded to a particular detainee’ (paragraph 95).

Although the Czech authorities have not met with a case where a specific sentenced prisoner has been permitted visits totalling fewer than three hours in a single calendar month, they concluded that such a case is theoretical under the law. With this in mind, the draft amendment to the Confinement Act stipulates that a sentenced prisoner is entitled to receive visits totalling three hours in a single calendar month. No authority will be able to issue a decision restricting this visit entitlement.

Under the proposed amendment to the Remand Act, the entitlement of remand prisoners to visits will be extended from the original one hour every two weeks to three hours a month. The scope of the visit entitlement will therefore be the same for sentenced and remand prisoners. Again, no authority will be able to issue a decision restricting this visit entitlement for remand prisoners.

However, the amendment does not contain a proposal to expand visits in the sense that persons other than next of kin would be able to visit prisoners without serious reasons.

‘The CPT recommends that both remand and sentenced prisoners in Czech prisons be granted regular access to a telephone’ (paragraph 96).

The amendment to the Remand Act contains a provision which enables remand prisoners in non-collusive custody to use a telephone to contact their next of kin under the same terms and conditions as current legislation permits sentenced prisoners to use a telephone. In justified cases, a remand prisoner in non-collusive custody will be able to use a telephone to contact his/her next of kin; a remand prisoner may be allowed to use a telephone to call persons other than next of kin for serious reasons.⁶²

⁶² Draft provision of Section 13a of the Remand Act.

Because sentenced prisoners are (and remand prisoners will be) allowed to telephone close relatives only 'in justified cases' and other persons 'for serious reasons', this provision does not fully respect the CPT's requirement of guaranteed regular access to a telephone. Therefore, it would be expedient to amend legal regulations in this respect.

Installing several hundred telephones with the possibility of call monitoring is not feasible at present because of the lack of funds. The Czech Prison Service is not expected to have enough funds to install hundreds of telephones with call monitoring equipment in prisons until after 2007.

'The CPT recommends that steps be taken to remedy the shortcomings of the disciplinary cells at Plzeň Prison, in the light of the remarks made in paragraph 98 (e.g. poor ventilation, mould on the walls)' (paragraph 98).

During the renovation programme in 1994-2002, the 60 cm x 60 cm windows in the disciplinary cells at Plzeň Prison were replaced by 100 cm x 98 cm double-glazed Perspex pivotal windows which provide sufficient daylight and ventilation. The concrete blocks are fitted with a single-piece seat during the day. The cells are heated at all times via the prison's central heating; heating defects are fixed promptly. The cells are not damp. They are whitewashed regularly as required (at least once a year). Other technical health equipment and fittings are of a standard design and comply with Czech (CSN) standards and valid hygiene regulations.

'The CPT would like to receive the comments of the Czech authorities on the delegation's observation that no revision of the list of authorised means of coercion has been carried out, as recommended by the CPT in its report on the 1997 visit' (paragraph 99).

Electric shock devices as a possible means of coercion were removed from the Act on the Prison Service and the Judicial Guard of the Czech Republic⁶³ in 2000⁶⁴ and since 1 January 2001 their use has been prohibited.

Hitting with the butt of a weapon may still be used as a means of coercion, although in practice it is not applied. The Czech authorities believe that this means of coercion is justified in serious situations where a decision is being made on whether to use a firearm in an emergency, where shots could threaten the health and lives of persons. If the immediate incapacitate of an offender is necessary, hitting him with the butt of a weapon is decidedly more human than immediately firing shots from a firearm.

Explosive devices are a means of coercion which are not commonly used. Situations where their use may be considered are extremely rare. This corresponds to the CPT opinion contained in the report on its visit to the Czech Republic in 1997.

Incapacitating gas cannot be used as a means of coercion in the Czech Republic; this was evidently an incorrect translation of the term 'tear gas'.

⁶³ Act No 555/1992 Coll., on the Prison Service and Judicial Guard of the Czech Republic, as amended.

⁶⁴ Act No 460/2000 Coll.

‘The CPT encourages the Czech authorities to set up consultative councils throughout the prison system’ (paragraph 102).

The Czech authorities does not know who supplied incorrect information to the CPT that consultative councils had only been appointed for a small number of prisons by the date of the visit. On the date of the visit, consultative councils had been set up in most prisons (72%). Under the proposed amendment to the Confinement Act, the directors of all prisons will be obliged to set up a consultative council.⁶⁵

‘The CPT would like to receive detailed information on the Ombudsman’s powers and activities as regards visits to prison establishments and the processing of prisoners’ complaints’ (paragraph 102).⁶⁶

The Ombudsman and his office, which is responsible for the professional, organizational, and technical aspects of his activities, operate in the Czech Republic in accordance with a special law⁶⁷ as an institution which is independent and separate from public administration and the judiciary. The Ombudsman has been active since 2001, and his task is to provide protection to citizens from the conduct of authorities and other institutions specified in the Ombudsman Act in cases where this conduct is an infringement of the law and fails to comply with the principles of democratic rule of law and best administration practice.

In the scope of competence outlined above, the Ombudsman deals inter alia with the activities and procedures of facilities for remand and sentenced prisoners, institutions for the protective rehabilitation of young offenders, special treatment institutions, and institutions for protective medical treatment. In this respect, it should be noted that the Ombudsman does not carry out systematic preventive external inspections of these facilities. In most cases inspections are only carried out after a complaint has been filed. Investigations launched by the Ombudsman without a preceding complaint, i.e. investigations conducted on the Ombudsman’s own initiative, tend to be an exception and are usually based on some sort of warning signal, e.g. information from a nongovernmental organization, a report in the media, etc.

Incarcerated persons have the right to contact the Ombudsman with written complaints, which must not be subjected to official inspection.

In order to accomplish his mission effectively, the Ombudsman wields the necessary ‘investigative authorizations’, which he uses to determine whether there has been a breach of legal regulations or other lapse in a specific case. In this respect, two groups of authorization can be distinguished:

1) authorization to carry out certain (permitted) activities on the premises of an authority as part of a local investigation (e.g. the Ombudsman may peruse files, ask individual employees questions, interview the persons affected in the matter with no third parties in attendance);

⁶⁵ Draft provision of Section 4 of the Confinement Act.

⁶⁶ See also the text to paragraph 147.

⁶⁷ Act No 349/1999 Coll., on the Ombudsman, as amended.

2) the right to place demands on an authority (for example, authorities are obliged to give explanations and information, produce files and other written documents, provide written opinions on factual or legal issues, or furnish evidence proposed by the Ombudsman).

If the Ombudsman discovers a breach of legal regulations or other lapse he may propose commensurate remedial action. However, such a proposal is of an initiative nature only, because the Ombudsman is not entitled to intervene directly in the activities and decision-making of authorities. Nevertheless, in cases where defects are not remedied accordingly the Ombudsman notifies the superior authority or the government of the Czech Republic, and may publish ('medialize') the issue. If the situation is still not duly rectified, the Ombudsman is obliged to inform the Chamber of Deputies of the Parliament of the Czech Republic.

In addition to the General Inspectorate of the Ministry of Justice and the public prosecutor's office, the Ombudsman is another element in the system of external inspections of terms of imprisonment and remand at prisons and remand prisons. With regard to the role of the public prosecutor's office in criminal proceedings, and with regard to the fact that the system of public prosecutors' offices and the General Inspectorate is subordinate to the Ministry of Justice, in effect only the Ombudsman conducts external inspections on prisons and remand prisons.

As part of his investigations of individual complaints, the Ombudsman (or his delegated employees from the Ombudsman's Office) has visited many prisons and remand prisons in the Czech Republic, including Prague-Ruzyně Remand Prison, Brno Remand Prison, Kuřim Prison, Mírov Prison, Valdice Prison, Rýnovice Prison, Příbram Prison, Horní Slavkov Prison, and Světlá nad Sázavou Prison. Local investigations at prisons and remand prisons are carried out in accordance with the investigative authorizations vested in the Ombudsman by law.

In the field of the prison system, the Ombudsman most frequently encounters requests from prisoners for help in transferring to another prisons which is closer to their family and the place where they live. In their complaints, sentenced prisoners do not agree when the prison management fails to comply with, or sometimes even reply to, their request. The most frequent reason given for denying a transfer request is capacity; most sentenced prisoners request a transfer to Moravia, where there are fewer prisons and accommodation units than in Bohemia.

Considering the knowledge gained in handling this type of complaint, it can be stated that the whole system would benefit enormously if electronic records were drawn up of sentenced prisoners requesting transfers, both for the requirements of the General Headquarters of the Czech Prison Service and for the needs of individual prisons. These records would process the data entered on a sentenced prisoner, compare then with the criteria set for transfers, and a 'waiting list' would be formed, which sentenced prisoners would be kept informed of. This would simplify the administrative work of prisons required to handle requests, and those who, at least relatively, are most in need would have their transfer requests granted.

Another large group of complaints is complaints about the living conditions and regime in prisons and remand prisons. In this respect, the Ombudsman has dealt, for example, with the following issues:

- the provision of due health care to incarcerated persons, and the problems concerning perusal of medical documentation;
- respect for the food requirements and customs of various groups of prisoners (e.g. prisoners who are practising Muslims);
- the treatment of life sentenced prisoners and life sentences, especially the marked isolation of these persons, which is based in large measure on current legislation;⁶⁸
- the placement of remand and sentenced prisoners into a regime of measures for the remand and imprisonment of very dangerous persons from the world of organized crime (i.e. a 'special regime');
- the terms and conditions of pregnant women and mothers of minors in remand or serving a sentence;
- the imposition of a disciplinary punishment, mainly relating to the choice and effectiveness of the type of disciplinary punishment;
- the serving of expulsion remand and the punishment of expulsion;
- problems of 'pre-release' units, especially the criteria for the placement of sentenced prisoners in these units, based not on the principle of need, but on merit;
- the employment of prisoners and the appointment of sufficient and fair remuneration.

The Ombudsman has also taken the opportunity of recommending changes to legislation; based on the Ombudsman's initiative, the government has proposed new provisions in the amendment to the Remand Act, regulating the separate placement of persons in expulsion remand and their placement in the low security remand unit.⁶⁹ Foreigners who are to be expelled are a different group from sentenced prisoners; they require different treatment and they should have different rights and duties (e.g. as regards the extent to which their freedom of movement is restricted and their contact with the outside world).

⁶⁸ In this respect, it is necessary to bring attention to the initiative of the Prison Service of the Czech Republic aimed at amending the legislation on the separate placement of life sentenced prisoners (Parliamentary Press No 353).

⁶⁹ For more details, see Part Three, Section III(2) and (15) of the Government Bill amending Act No 169/1999 Coll., on confinement and an amendment to certain related laws, as amended, and certain other laws (Parliamentary Press No 353).

Part D – Psychiatric establishments

1. Patients'/residents' living conditions

'The CPT trusts that the Czech authorities will take steps to improve the living conditions in certain pavilions (especially No. 6, 11 and 20) at Opava Psychiatric Hospital, in the light of the remarks made in paragraph 109' (paragraph 109).

Unfortunately, certain pavilions remain overcrowded, and a change can only occur if new pavilions are built or if some of the patients are transferred to social welfare facilities; however, these facilities consider the clients with a psychiatric diagnosis contraindicated for them. In station 20B, lockable cupboards and other bedroom furniture for patients cannot be installed because of the degree of the patients' mental illness.

'The CPT invites the Czech authorities to provide at Opava Psychiatric Hospital the possibility for patients who so wish to have access to their room during the day' (paragraph 110).

In accordance with the CPT recommendation, patients who want, and who have not been prescribed activation therapy, can remain in their rooms during the day based on a guideline issued by the hospital director.

'The CPT recommends that steps be taken to offer a minimum of one hour of outdoor exercise per day to all patients at Opava Psychiatric Hospital whose state of health so permits' (paragraph 111).

Organization and personnel measures by the hospital director have modified the regime of pavilions at the Opava Psychiatric Hospital so that patients from closed wards who are fit enough can have daily outdoor exercise in the courtyards of the wards and in the gardens.

'The CPT recommends that all non-bedridden patients at Opava Psychiatric Hospital be allowed and, if necessary, be encouraged to wear their own clothes during the day or be provided with appropriate non-uniform garments' (paragraph 112).

All patients may now wear their own clothing during the day, and are encouraged to do so by staff. However, the efforts of the hospital staff are sometimes frustrated by the legal representatives or guardians of the patients, who refuse to provide resources to buy individual clothing. If patients do not have their own clothing and their guardians refuse to cooperate in this matter, the hospital obtains suitable non-uniform clothing for patients. This is simple daywear and nightwear; other types of clothing come from staff donations or sponsorship, because health insurance per treatment day rather neglects the clothing requirements of patients.

‘The CPT invites the Czech authorities to take steps to provide residents in Units 1 and 3 of the Ostravice Social Welfare Home with a more personalised environment’ (paragraph 113).

When fostering a less impersonal environment, it is necessary to take into account the mental state of clients from stations 1 and 3; the mental state of these residents leads them to damage and destroy – systematically and constantly – all ornamentation, furnishings, and equipment in the rooms. Therefore the institution’s staff are forced to repair and repaint these rooms and corridors on a more frequent basis. Rooms are painted as required; no health standard has been issued yet. Despite the above-mentioned difficulties, the staff are trying to create a pleasant environment for clients from wards 1 and 3.

‘The CPT would like to be informed of the progress made in the implementation of the plans to construct by 2004 new facilities for the Ostravice Social Welfare Home in Frýdek-Místek’ (paragraph 115).

The construction of a new complex for the Social Welfare Home in Pržno is progressing according to the plan for 2003; completion is scheduled for the end of 2004. The rough structures of all the buildings have been completed (except the outdoor amphitheatre and the outdoor sports complex). The distribution systems for water, gas, electricity, and sewage, along with windows etc., are now being installed.

The complex will include a ward for clients who are confined to bed, immobile, or severely mentally disabled, a children’s ward, a ward for clients with light to moderate mental disabilities, a unit for sheltered housing, a building for occupational and educational therapy, a building for agricultural therapy, an outdoor amphitheatre, and an outdoor sports complex.

At this stage of construction, practically a year before completion, the institution is preparing an application for funding out of the European Union’s Structural Funds. These resources would be used to round off the construction of the facilities, and in particular would be channelled into a project to expand the complex by including an essential ward for clients with severe psychosomatic disorders.

2. Staff and treatment

‘The CPT recommends that the nursing staff levels at Opava Psychiatric Hospital be reviewed’ (paragraph 116).

Considering the economic situation of the health-care facility, where wages account for more than 60% of the hospital budget, the number of staff can only be improved very slowly. That said, there has been a rise in the number of doctors, psychologists, therapists, and administrative workers. However, the numbers of health-care staff are still insufficient, especially among lower and ancillary staff.

Psychiatric hospitals are financed out of resources from the Public Health Insurance Fund. The share of the contribution from the central government budget (i.e. from the founder) is 0.6%. The Ministry of Health appoints neither staff numbers nor staff structure at subordinate contributory organizations connected to payments out of Public Health Insurance resources. Contributory organizations set their staff numbers and structure themselves. According to a statement from the hospital director, Opava Psychiatric Hospital is not capable of increasing staff out of the current income from health insurance companies.

‘The CPT invites the Czech authorities to strive to further develop psychotherapy and psychosocial rehabilitative activities at Opava Psychiatric Hospital’ (paragraph 117).

Neither the hospital management nor the Ministry of Health shares the CPT opinion that psychotherapy is only used to a limited extent at Opava Psychiatric Hospital. Opava Psychiatric Hospital is one of the hospitals with the highest proportion of such therapy, especially among psychotics. The activation methods of the treatment at the chronic closed station 20B have been expanded since the time of the inspection to the furthest extent possible considering the severity of the patients’ mental disorders.

‘The CPT recommends that recourse to electroconvulsive therapy (ECT) be recorded in detail in a specific register at Opava Psychiatric Hospital’ (paragraph 118).

Electroconvulsive therapy at Opava Psychiatric Hospital is carried out at a quality level complying with set standards. In accordance with the CPT’s recommendation, a separate log has been introduced to document this therapy in the individual wards.

A separate ECT log is kept at all centres applying electroconvulsive therapy; the anaesthetist is responsible for log summaries and the hospital director is responsible for inspecting the logs. ECT logs had been kept by individual stations several years before the CPT’s inspection. In the wake of the CPT’s recommendation and following a meeting of the hospital’s chief physicians, the hospital director ensured that these ECT logs were formally unified.

‘The CPT would like to be informed of the precise procedures concerning biomedical research projects followed at Opava Psychiatric Hospital and in other mental health care institutions in the Czech Republic’ (paragraph 119).

Medical research, like other branches of research, is currently organized and carried out in accordance with the Act on Research and Development Support.⁷⁰ At the time of the CPT’s visit, there was no separate legal regulation in the Czech Republic for medical research. Nevertheless, the government of the Czech Republic has approved the internationally recognized biomedicine code. Based on ratification of this code, the Ministry of Health is preparing the aggregate processing of this issue in the framework of the Health Care Bill.

⁷⁰ Act No 130/2002 Coll., on the support of research and development out of public resources and on an amendment to certain related laws (the Act on Research and Development Support), as amended; the issue of research into biomedicine is also regulated by Section 27b of Act No 20/1966 Coll., on care for human health, as amended, the Convention on Human Rights and Biomedicine (Articles 15 – 18), Act No 79/1997 Coll., on drugs and on an amendment to certain related laws, as amended (the testing of a pharmaceutical on humans), and Act No 123/2000 Coll., on healthcare resources and on an amendment to certain related laws, as amended (the testing of healthcare equipment).

As for research carried out at Opava Psychiatric Hospital, the research here is conducted in accordance with international standards. The clinical evaluations of certain anti-psychotic drugs, anti-depressants, and other drugs, and other biomedical research projects are carried out in accordance with the procedures discussed and approved by the State Drug Control Centre and the local Ethics Committee, in accordance with GCP principles, and with the informed written consent of the patient; this work is carried out solely by the hospital's most qualified staff. At Opava Psychiatric Hospital, there are no research projects sponsored by the Internal Grant Agency of the Ministry of Health ('IGA MZ') or by any other similar institution, nor is there a research plan for the institutional support of research at the health centre.

As regards research at other mental health facilities, we note that at the mental health clinics of teaching hospitals there are research projects supported by the IGA MZ, the discussions of which is governed by the Act on Research and Development Support and other legal regulations.⁷¹ These legal standards comply with international practices for the assessment of research projects. The projects include an opinion from the Ethics Committee, and the consent of patients is requested before their treatment in the scope of these projects. All pharmacological studies must be approved by the State Drug Control Centre. The Prague Mental Health Centre, a ministry-run centre, receives institutional financial aid to handle research plans.⁷²

'The CPT recommends that steps be taken at the Ostravice Social Welfare Home to ensure that:

- **the number of nursing staff present during night-shifts is increased;**
- **the presence of the general practitioner and the psychiatrist is enhanced;**
- **rehabilitative services (psychology, physiotherapy, etc.) are provided'**
(paragraph 120).

The number of health care staff at the Ostravice Social Welfare Home has been increased by one worker to the current total of 33 (middle-level health-care personnel: 19; lower health care personnel: 6; ancillary health care personnel: 8). Five nurses completed a specialized post-*maturita* (i.e. college) course of psychiatry. The CPT recommendation regarding a higher number of health-care staff on night duty was taken into account in the necessary organizational measures; the number of health-care staff on night duty was increased to two workers at station 3. The institution also exploits the opportunity of taking on those on replacement civil service (non-military national service), and students from secondary schools and universities also come to the Institution for work experience.

As regards reinforcing the presence of the general practitioner and psychiatrist, it should be noted that these are private doctors and we cannot order them to take on a heavier workload. Generally speaking, it is very difficult to ensure the medical care required, especially at facilities far from district towns where the public transport – as in this case – is limited. Even in this situation, the staff at the Institution try to adapt to the standards of quality in the sphere of social welfare.

⁷¹ Government Decree No 461/2002 Coll., on the purposeful support of research and development out of public resources and on tenders in research and development, as amended; IGA MZ rules (approved by the Ministry of Health).

⁷² Government Decree No 462/2002 Coll., on the institutional support of research and development out of public resources and on the assessment of research plans, as amended.

Issues concerning a rise in the number of staff, the reinforcement of the presence of doctors, rehabilitation, and the development of therapeutic activities will be handled at the end of 2003 and then in 2004 with the bodies of the founder and health insurance companies in connection with the opening of the new facility in Pržno.

‘The CPT recommends that steps be taken as a matter of priority to ensure that all residents at Ostravice are provided adequate psychosocial and occupational therapeutic activities, according to their mental capacity and physical mobility’ (paragraph 122).

Clients from all wards, including wards 1 and 3, are involved in educational activities, with consideration for their disorder and the corresponding possibilities of therapy. The condition of each client is comprehensively assessed case by case, based on a regular psychosomatic examination. If the result of an examination reveals only the capability of simple manipulation, walking, board games, etc., these clients cannot be included in other special-interest therapeutic activities.

3. Restrictions in the movement of agitated and/or aggressive clients/patients

‘The CPT recommends that steps be taken to ensure that the procedures followed at Ostravice Social Welfare Home regarding the use of means of restraint are brought into line with the requirements set out in paragraph 123’ (paragraph 125).

‘The CPT recommends that specific registers of the use of means of physical restraint be set up at Opava Psychiatric Hospital and Ostravice Social Welfare Home’ (paragraph 125).

At the Psychiatric Hospital in **Opava**, a guideline of the director of 18 March 2003 ordered that Logs for the Recording of Restrictions were to be introduced at all stations; the middle-level health-care personnel on duty enter prescribed restrictions in these logs. The first name(s) and surname of the patient, the date, and the method and duration of the restriction are entered in the log.

At the social welfare home in **Ostravice**, a Nursing Standard entitled ‘Coping with Acute Mental States among Residents who are Agitated or Aggressive’ came into force on 15 September 2003. This is a binding internal standard explaining how to proceed when such a situation occurs. This Nursing Standard was created by the institution’s staff.

The reason for, and duration (start and end time) of, the application of restrictive means – beds for the agitated or straitjackets – are recorded in the official document entitled ‘Nurse Reports’. This record is also kept in the client’s history. Depending on the seriousness of the situation, the attending physician (psychiatrist) is informed of the measure or, in his absence, the doctor on first aid duty. The practitioner is only informed of the client’s somatic condition.

The existence of beds for the agitated (with a cage or net) are considered essential at the Ostravice Social Welfare Home, considering the psychiatric diagnoses of clients. If clients have an aggressive fit, they must be placed in the cage (net) for the necessary time until the doctor (psychiatrist) – or in his absence the doctor on first aid duty – can be reached by telephone. After this telephone consultation on the state of health of the client, an i.m. injection is applied to handle the distraught nature of the client or instructions are given for the transfer of the client to a psychiatric hospital, depending on the doctor's decision. All doctors are up to 20 km away from the institution and therefore an aggressive client cannot be left to endanger the safety of other clients, staff, or himself. In 2002, the psychiatrist issued a decision cancelling all injections of psycho-drugs; these injections may only be administered if prescribed by the doctor.

‘The CPT recommends that steps be taken at Ostravice Social Welfare Home to ensure that:

- **the material conditions in both seclusion rooms are reviewed;**
- **all residents placed in seclusion, whose state of health permits, are offered at least one hour of outdoor exercise every day;**
- **a special effort is made that residents who are subject to long-term seclusion benefit from appropriate human contact.**

‘The CPT would also like to be informed of the long-term care plans vis-a-vis the two residents held in the seclusion rooms’ (paragraph 126).

As far as the material conditions in the seclusion rooms are concerned, the staff at the institution work on the basis of the psychiatrist's recommendation that there is no other possibility for the housing of these clients, i.e. the only possibility is separate housing in rooms with limited furnishings and equipment and an individual approach from staff. Considering the state of health of the first client (eats items, takes equipment and furnishings apart), the opportunities of furnishing his room are very limited; the condition of the other client is sufficient for his room to be furnished to a greater degree. The current material conditions in the solitary rooms are fully in line with the state of health and psychiatric diagnosis of the two clients.

Where possible, the first client is allowed outside in the presence of one member of staff. The second client is not denied the opportunity to be outside either, although in this case the client's current mental state must be taken into consideration and a decision made accordingly. The resident refuses the offers of taking outdoor exercise with a member of staff on almost all occasions, even though the offer is made several times a day.

If their state of health permits, both clients are allowed out of their rooms to take part in social activities with other clients.

The state of health of both clients is regularly examined by a doctor – psychiatrist, who has stated that neither medication nor any other means can improve their health. In the scope of the institution's current possibilities, maximum care is provided to these clients because of their state of health.

‘The CPT recommends that cage-beds be immediately withdrawn from service and that net-beds cease to be used as a tool for managing patients/residents in a state of agitation as soon as possible’ (paragraph 128).

The number of beds fitted with nets at the **Opava** Psychiatric Hospital has been reduced. These beds are only used as a humane means of protecting patients from serious injury in cases of sudden agitation at night.

The information about **Ostravice** Social Welfare Home is given under paragraph 125.

‘The CPT recommends that measures be taken, for as long as net-beds remain in use, to ensure that persons placed in such facilities are not exposed to the view of other patients/residents and are subject to appropriate supervision by staff; this recommendation should be applied mutatis mutandis to other means of restraint, such as straight-jackets or fixation; this should not preclude persons subject to means of restraint being visited by fellow patients/residents, if this is advisable from a medical standpoint’ (paragraph 128).

‘The CPT believes that more suitable means than net-beds can be found to ensure the safety of persons with impaired mobility or nocturnal disorders (e.g. disorientation or sleepwalking)’ (paragraph 128).

‘The CPT trusts that its recommendations made in paragraphs 125 and 128 will be taken into account in the preparation of draft standards on the use of means of restraint applicable in in-patient psychiatric institutions in the Czech Republic’ (paragraph 129).

The use of restrictive means in providing health care to patients at in-patient mental health facilities must be precisely defined by an internal regulation of the facility director, as stems from the statements by directors of psychiatric hospitals. This legal regulation must also specify the duration of application and expediency in the interests of treating the patient. A record of the measures taken is then drawn up and filed in health care documentation, including a report on the termination of the use of restrictive means. As for the use of net beds, these are only used in isolated cases, especially for geriatric patients, and only for the period required, as a humane way of protecting the patient from serious injury during sudden cases of amentia at night.

Considering the current level of staffing at hospitals, the use of net-beds cannot be discontinued entirely because this is a measure which prevents patient injury, as mentioned above, especially in geronto-psychiatric wards where a disoriented and confused patient is in danger of falling, which could cause unpleasant complications, especially a fractured collum of the femur. Placement in a net-bed is a temporary measure, usually during the critical evening and nighttime hours when the disorder intensifies. The measure must be indicated by a doctor and specified in the health-care documentation. Calming the patient by this means is often safer than applying high doses of drugs with possible side effects and complications or than tying an agitated patient to the bed, where the subjective feeling of restriction is bound to be more unpleasant and where there is a certain risk of surface injury to the skin. However, even in cases of agitation, especially among psychotic patients, this method cannot be replaced.

In connection with what is mentioned above, we note that beds fitted with nets cannot be removed from psychiatric hospitals immediately. The Ministry of Health, in cooperation with the Czech Psychiatric Society, is preparing standards for the application of net-beds, which will be published in the Ministry of Health Bulletin.

‘The CPT would like to be informed of the progress made in the introduction of guidelines on the quality of social services and an obligatory registration and inspections of social care institutions as well as of standards on the use of means of restraint applicable in in-patient psychiatric institutions in the Czech Republic’ (paragraph 129).

The social services department of the Ministry of Labour and Social Affairs treats reports on the abuse of restrictive measures very seriously and with the responsibility this issue merits, with regard to the protection of vulnerable groups of the population and respect for human rights. One of the positive results of the process of protecting vulnerable groups against undignified treatment is the creation of **Social Service Quality Standards**, a practical means of maintaining quality in social services. These standards were published in April 2002 and their primary aim is to protect the rights of social service users. At present, a number of regions are developing these standards for the different types of facilities in the regional service network.

In cooperation with experts, the social services department of the Ministry of Labour and Social Affairs is currently trying to find solutions to the issue of the use of beds fitted with nets and cages in residential social service facilities. The use of these beds in facilities is regulated by internal guidelines; the quality of records and the existence of records on the use of net and cage beds varies. The Ministry of Labour and Social Affairs has embraced the following way of handling the problem of using net and cage beds and other restrictive measures:

1. In the framework of the Ministry of Labour and Social Affairs, a **methodological measure for the approach to the exceptional use of net and cage beds in residential social service facilities** is being prepared; the purpose of this measure is to take the first step in finding a solution to the problem of using these beds. The working version of the methodological guideline permits the use of net and cage beds in exceptional circumstances only, i.e. when the health and life of the client or another person is at risk, and only for the period absolutely necessary, while respecting the strict rules of record-keeping in the client’s file and in the log documenting the use of these beds. At the same time, the guideline covers responsibility for the use of these beds and inspections by the founder when these types of beds are used repeatedly for the same client, with respect for an assessment of the expediency of this treatment by an independent expert.

2. Bearing in mind the complexity and sensitivity of the problem of the use of restrictive measures in residential social service facilities, a **project aimed at conducting a detailed investigation of the problem in the field**, with co-participation from social service providers, representatives of the users of social services, representatives of the Ministry of Labour and Social Affairs, and specialists is being prepared, again in cooperation with experts. The idea of this project is to contribute, with provider support, to a reduction in restrictive measures and to meet the human requirements of those social service users who are exposed to the risk of restrictive measures in residential facilities.

4. Safeguards

‘The CPT would like to know whether it is intended to make provision for a procedure outside emergency situations, whereby a patient could be hospitalized against his/her will after a court decision has been taken, in the context of the ongoing reform of the Czech mental health legislation’ (paragraph 132).

The Health Care Bill, which is being prepared and has been presented to the government, inter alia in the framework of defining the rights and duties of healthcare facilities and patients during the provision of health care, contains a separate provision entitled ‘Care for Patients in a Special Regime’. This provision appoints a treatment regime and treatment plan, imposed by the chief physician of the relevant department at the health care facility, in the interests of protecting a patient who has been unable to give consent to in-patient care,⁷³ or a patient who has been placed into protective treatment or compulsory treatment by a court,⁷⁴ or a patient who is a ‘psychiatric’ patient.

The treatment plan appointed for patients varies from case to case, but in particular will contain a plan for the provision of diagnostic, therapeutic, and rehabilitation care, including a list of the diagnostic and therapeutic methods used and the possible alternative methods, with a stress on any need to use physical restrictive means or invasive action. The treatment regime will contain, in particular, an appointment of the regime of visits and outdoor exercise, or restrictions in visits or outdoor exercise and the reasons for such restrictions, the reasons for placing a patient in a closed ward or in isolation in cases where a patient is placed here, and the opportunities for the patient to use personal property (e.g. a mobile telephone). The treatment regime includes a regime of ‘work for an unfit citizen’.

The patient and, depending on the nature of the case, other persons or entities (e.g. the legal guardian, the ethics committee at the health-care facility, the regional ethics committee) will be informed of the treatment plan and regime. The written consent of the patient or the legal guardian to the treatment plan and treatment regime will be part of the health care documentation.

If the patient or patient’s legal guardian or foster parent, or an individual to whom a child has been entrusted for upbringing, a close relative, or a person authorized by the patient, or the ethics committee does not agree with the proposed treatment plan or regime as notified, they may file objections with the Ministry of Health or a complaint with the administrative authority which granted the healthcare facility its operating licence.

Current legal regulations do not contain a provision of this kind.

⁷³ The new term for ‘institutional care’.

⁷⁴ Act No 258/2000 Coll., on the protection of public health, as amended.

‘The CPT trusts that the three-month deadline fixed by law for the court to pronounce itself on the admissibility of continued detention of a patient in the institution will be respected in the future at Opava Psychiatric Hospital’ (paragraph 134).

The three-month time limit for the declaration of a verdict on the admissibility of the further holding of a patient, counted as of the date of the decision to permit the placement of the patient in the institution,⁷⁵ is exceeded in isolated cases only. This happens in cases where the expert fails to submit an expert opinion in time or in a situation where a new guardian must be appointed and the proceedings have to be suspended. It should be added in this respect that the expert competent to submit an opinion on the admissibility of the further holding of a patient may only be a doctor who does not work at the hospital. In cases where there is only one doctor outside the hospital, as is the case in Opava, and as an expert this doctor is required to submit several opinions in a set interval of time, then there is a possibility that the set time limit will be exceeded.

The problem of respecting the three-month time limit for the issue of a verdict on the admissibility of continuing to hold a patient in an institution has been included among the priority tasks of the Commission for the Implementation of the Psychiatric Care Concept, a new advisory body of the Ministry of Health.

‘The CPT recommends that steps be taken to review the current practice at Opava Psychiatric Hospital as regards the delivery of court decisions to the patients concerned’ (paragraph 135).

Straight after the CPT’s visit, the Opava Psychiatric Hospital introduced the practice of submitting a copy of the resolution on compulsory placement into institutional care to all the relevant patients.

‘The CPT would like to receive the Czech authorities’ views on the CPT’s remark that the exercise of patients’ rights could be enhanced if provision was made for the designation of an independent adviser to assist the persons concerned in involuntary admission procedures’ (paragraph 136).⁷⁶

The Ministry of Justice has set up a working committee to prepare an amendment to the Code of Civil Procedure; this amendment will cover the procedure for stating the permissibility of admitting or holding a person in a health care institution and proceedings for depriving a person of his/her legal capacity. The amendment to this Act should take into account inter alia the principle that the person whose rights are the subject of the decision will have the right to appoint an independent legal representative, not only for the proceedings as a whole, but also for sub-issues, such as appeals against a preliminary measure, appeals against proposed treatment, etc.

Preparations are also under way for the establishment of a state supervisory body to oversee institutions which hold persons deprived of their legal capacity; this body will check the obligation of institutions to report the presence of such persons to a court in cases where these persons are alone, without a ‘representative for decision-making on health care’ or without a ‘representative for the inspection of the observance of rights’.⁷⁷

⁷⁵ Section 191d(3) of Act No 99/1963 Coll., the Code of Civil Procedure, as amended.

⁷⁶ see also the text to paragraph 144.

⁷⁷ The proposal to introduce the terms ‘representative for decision-making on health care’ and ‘representative for the inspection of the observance of rights’ was presented to the working committee and has been discussed so that, if adopted, these terms are precisely defined.

Discussions are also being held on whether to set up a body to inspect guardians; this body would be responsible for keeping a central register of court decisions concerning restrictions in or the deprivation of legal capacity, and for monitoring whether the appointed guardians duly manage the property of the affected persons or whether they take due care of the personal matters of the individual, i.e. whether they respect regulations and heed the wishes and basic rights of the individual.

‘The CPT would like to receive the Czech authorities’ comments on the CPT’s remark that it is a highly questionable practice that incapacitated persons are detained in psychiatric hospitals, without benefiting from the procedural safeguards otherwise provided for by law’ (paragraph 137).

It is expected that, under the amendment to the Code of Civil Procedure being prepared by the Ministry of Justice, there will be a specification of the rights of persons deprived of legal capacity which the guardian will be able to decide on only with the permission of the court. The court’s permission will be required inter alia in cases where a person deprived of legal capacity is to be placed into institutional care.

‘The CPT recommends that immediate steps be taken to ensure that a judicial review is carried out, at regular intervals, of the involuntary placement of all patients present at Opava Psychiatric Hospital who had been admitted to the hospital prior to 1991’ (paragraph 138).

Under legislation in force, a review of involuntary admission can only be provided in the form of a new investigation.⁷⁸ This can be initiated by a person held in an institution, provided he has legal capacity, his representative (guardian), or a close relative.

In the future there should be an amendment reducing the period over which a person may be held in an institution. The issue of introducing regular judicial review will be taken into consideration in the preparation of the amendment to the Code of Civil Procedure.

‘The CPT recommends that steps be taken to provide an automatic review at regular intervals of placement measures ordering protective treatment in all psychiatric establishments in the Czech Republic; this review procedure should offer guarantees of independence and impartiality as well as of objective medical expertise’ (paragraph 139).

At present, a court decides whether to release a patient from protective treatment or whether to terminate protective treatment based on a petition from the public prosecutor, the accused (the patient), or the healthcare facility, or without such a petition, although there is currently no system of regular automatic review by the court. The court is only obliged to request that the healthcare facility provide it with a report without delay on whether there is good reason for the further duration of protective treatment.

The Ministry of Health is considering the introduction of a procedure where health-care facilities would be obliged to make regular assessments of the state of health of a patient, and the manner and purpose of protective treatment appointed by the court, for the purposes of ending protective treatment at the appropriate time.

⁷⁸ Section 191f of the Code of Civil Procedure.

The state of health of patients who have been ordered to undergo protective treatment in institutions is reviewed once a year, in the framework of a Ministry inspection, by psychiatry experts delegated by the Ministry of Health, such being from the aspect of the observance of regulations in force for protective treatment in healthcare facilities. This supervision is not, however, focused on a review from the aspect of whether the reasons for the protective treatment still exist.⁷⁹

‘The CPT would like to receive the Czech authorities’ comments on the CPT’s remark that it is a highly questionable state of affairs for persons to remain deprived of their liberty in psychiatric hospitals as a result of the absence of appropriate external facilities’ (paragraph 140).

The Czech authorities do not have information at its disposal proving that persons have remained in psychiatric hospitals for the above-mentioned reasons. According to the information available to the Czech authorities, the incidence of such cases is isolated. These cases occur when a hospital discovers that a patient needs specific care and assistance but there is no one to help the patient after his release from hospital (e.g. he has no family). These are exclusively people with high social needs and usually do not have the required material security. The provision of social care in healthcare facilities in cases where the patient, considering his state of health, cannot take care of himself and no other care has been secured for him, is made possible under the Social Security Act.⁸⁰ This institution in effect resolves the capacity and economic possibilities of the ‘social sphere’ at the expense of health care.

The emergence and development of social services corresponding to the requirements of users is supported by the Ministry of Labour and Social Affairs in the framework of community planning in particular. The creation of an accessible, efficient system of social services reflecting the needs of society is the main goal set out in the General Principles of the Social Services Act.

‘The CPT would like to know whether, according to Czech legislation, the involvement of an independent doctor with professional qualifications in psychiatry is required in the context of the procedure for depriving a person of his/her legal capacity’ (paragraph 142).

Because the Code of Civil Procedure, which regulates proceedings on legal capacity, does not require, apart from an independent expert (who is always examined by the court), the participation of an independent doctor specializing in psychiatry in proceedings, the court has no reason to demand the participation of another independent psychiatrist in the proceedings. The participation of this extra doctor would be considered only if there are doubts about the expert opinion which has been submitted, in which cases another doctor is appointed as an expert.

⁷⁹ The Control Department of the Ministry of Health had records of fifteen complaints concerning psychiatric hospitals (conditions in the hospitals, medical care, non-provision of consent to placement in a psychiatric hospital, non-provision of consent to the deprivation of legal capacity, etc.). In fourteen cases, the complaints were judged to be unfounded. In one case, the result is not yet known (an action has been filed). Of the given number, two complaints concern Opava Psychiatric Hospital. The first was judged to be unfounded (the patient was deprived of legal capacity – he is still hospitalized). In the second case, the complaint was submitted due to the administration of toxic substances by injection and an action was brought; the Ministry of Health does not yet have news of the result.

⁶⁸ Section 73b of Act No 100/1988 Coll., on social security, as amended.

‘The CPT recommends that steps be taken to ensure that the need for placement in a social welfare institution is reviewed by an appropriate authority at regular intervals’ (paragraph 143).

Reviews of stays in social welfare institutions are possible in practice inter alia as part of an evaluation of plans for the development of the service of a particular client; these plans are often drawn up on the basis of a civil-law contract on service provision concluded, in particular, in the framework of private providers. In the scope of the changes planned in the legislation, the reinforcement of these civil-law contractual elements is being considered.

In this respect, it should be mentioned that on the part of the client of the social welfare institution and his immediate surroundings, voluntary resignation to the possibility of ending a stay is not unusual (especially among seniors).

‘The CPT recommends that the Czech authorities strive to find alternative solutions which would better guarantee the independence and impartiality of guardians’ (paragraph 144).

In the draft amendment being prepared for the Code of Civil Procedure, there will be a specification of basic requirements for guardianship and a definition of situations where the court will be obliged to recall the guardian or review the scope of his rights and duties. It will not be possible to appoint someone a guardian if a conflict of interests can be expected (e.g. a person with a connection to the institution in which the person deprived of legal capacity resides). The change prepared for the Code of Civil Procedure should also introduce the principle that a guardian will be appointed for a fixed period, which should help verify his eligibility and reliability.

Discussions are also being held on whether to set up a body to inspect guardians; this body would be responsible for keeping a central register of court decisions concerning restrictions in or the deprivation of legal capacity, and for monitoring whether the appointed guardians duly manage the property of the affected persons or whether they take due care of the personal matters of the individual, i.e. whether they respect regulations and heed the wishes and basic rights of the individual.

‘The CPT recommends that introductory brochures for newly-admitted patients be issued without delay at Opava Psychiatric Hospital’ (paragraph 145).

Information leaflets and notice boards are available to all patients; a central information brochure is being prepared and will be ready for publication soon (there has been a delay because of the financial demands of this project).

‘The CPT recommends that an introductory leaflet/brochure be issued to each resident at Ostravice Social Welfare Home and his/her legal representative/parents’ (paragraph 145).

See the response to paragraph 146 for information.

‘The CPT recommends that patients/residents at Opava Psychiatric Hospital and Ostravice Social Welfare Home be informed in the introductory leaflet/brochure issued upon admission of their rights as well as of the modalities to lodge complaints; complaints addressed to the establishment’s administration should be recorded in a specific register’ (paragraph 146).

At the **Ostravice** Social Welfare Home, with regard to the above mentioned CPT4S recommendations, informative material has been prepared for clients which contains basic information about the institution, its operations, and the care and services it provides. The material includes the procedure for the filing and settlement of complaints. Complaints are entered in a complaints log, which is available at each ward of the institution. Entries in the complaints log must contain the date the complaint is filed, information about the complainant, the content of the complaint, and a specification of what the complainant is requesting or expecting. A report is drawn up on the handling of the complaint, and a copy is delivered to the complainant.

At the **Opava** Psychiatric Hospital, patients are informed of how they can submit a complaint in a leaflet, the house rules, and directly by staff on admission to the hospital. Complaints are settled by the directorate of the hospital if it is informed of the complaint. Some complaints are handled directly in the ward by the chief physicians.

‘The CPT would like to receive detailed information on the Ombudsman’s powers and activities in respect of the processing of patients’/residents’ complaints’ (paragraph 146).⁸¹

In the given sphere, except for certain internal inspections, there is no transparent control mechanism. Complainants mainly contact the Ombudsman with complaints concerning the conditions and care in psychiatric facilities, the conduct of specialist staff, the treatment regime in wards where protective treatment takes place, and the process of admission and holding in a psychiatric facility in cases of involuntary hospitalization.

Some complaints are not in the competence of the Ombudsman (e.g. non-consent to involuntary hospitalization) and some are unfounded. However, in many cases still under investigation the Ombudsman has found lapses. The Ombudsman has conducted investigations into the following facilities: Horní Beřkovice Psychiatric Hospital, Dobřany Psychiatric Hospital, Brno–Černovice Psychiatric Hospital, Louny Children’s Psychiatric Hospital, the Psychiatric Ward of the Olomouc Teaching Hospital.

Complaints covered by the Ombudsman can generally be split into four areas:

1. living conditions and the staff approach to patients in gerontological wards;
2. complaints about the course of treatment and the regime in the units for protective treatment;
3. comprehensive complaints about conditions in a psychiatric hospital, the course of treatment, the approach of specialist staff, etc.
4. care for children suffering from behavioural disorders who are in psychiatric hospitals.

⁸¹ As regards the powers of the Ombudsman, cf. the text to paragraph 102.

During local investigations, the Ombudsman is entitled to enter all the premises of a facility, talk in private with patients and staff, and peruse healthcare documentation (it is not unusual for this entitlement to be refused, with staff referring to the obligation of confidentiality of medical personnel).

In the scope of investigations into the above-mentioned four areas, the Ombudsman has dealt with, or is currently dealing with, areas such as:

- how much of a distinction there is between whether a patient is voluntarily or involuntarily hospitalized;
- respect of the facility's obligation to report to a court within 24 hours that a patient has been hospitalized in the healthcare facility against his will;
- whether patients are informed of the course of treatment on admission, whether they sign an informed consent for each serious treatment (e.g. electric shocks), and whether such treatment is recorded in the healthcare documentation;
- the manner used to record the use of restrictive means and whether these means are used for preventive reasons (e.g. net-beds in gerontological wards);
- the suitability of the location of net-beds, beds with straps, or cage-beds;
- whether specialist staff have been trained in patients' rights and whether patients are informed of their rights;
- the content of a facility's internal regulations and their accessibility;
- the locking of rooms, reportedly due to disruptions in sleep and the possibility of disturbing other patients during the night;
- overcrowding, limited access to liquids and sanitary facilities, compulsory wearing of state-supplied clothing;
- the absence of a specialized facility for children with behavioural disorders and excessive medication and transfers of children from one facility to another without the corresponding therapy.

'The CPT recommends that steps be taken to ensure that all psychiatric establishments in the Czech Republic – including social welfare homes – are visited on a regular basis by an independent outside body (e.g. a judge or a supervisory committee) which is responsible for the inspection of patients'/residents' care. This body should be authorised, in particular, to talk privately with patients/residents, receive directly any complaints which they might have and make any necessary recommendations' (paragraph 147).

The draft amendment to the Ombudsman Act proposes expanding the competence of the Ombudsman as an independent control body to include the task of making systematic and preventive visits to places where there are persons who are restricted in their liberty *de jure* or *de facto*; the Ombudsman will determine how these people are treated. The aim of the proposed amendment is to reinforce the protection of these persons from ill-treatment. During these visits of inspection, the Ombudsman will be entitled to speak to persons placed in the facilities without other persons being present. The amendment to the Act is expected to enter into force on 1 January 2005.

Appendix No 1 (Part A, paragraph 12)

Overview of complaints submitted to the inspection departments of the Czech Police Force:

At the **PP PČR inspections and complaints department**, 71 reference numbers were registered in connection with the investigation of unlawful conduct by police officers during the meetings of the IMF and WB in Prague; as a rule, each of these files contained several complaints (a total of 591), which, by content, can be broken down into:

- 1) complaints made by persons not involved directly, containing general, non-specific information about violence during the IMF conference, accompanied by a request to withdraw actions and release arrested persons (246 complaints included in 69 files)
- 2) complaints referring to violence at MOP Hybernská Police Station, Praha 1 (1 separate reference number)
- 3) multiple complaints, some received directly, others passed on from the Inspection Board of the Ministry of the Interior, referring to the conduct of police officers in the Balková detention facility (1 separate reference number).

The above-mentioned complaints were handled as follows:

forwarded to OSK PČR, City of Prague Authority – 178

- a) forwarded to the Municipal Public Prosecutor's Office – 179
- b) forwarded to Prague Municipal Court – 199
- c) forwarded to the Ministry of Justice – 25
- d) ended by a letter to the author and filed – 8
- e) internal investigation - 2 (MOP Hybernská – discontinued in accordance with Section 159(1) of the Penal Code, Balková detention facility – still under investigation)

At the **Czech Police Force's City of Prague Authority Complaints and Inspection Department**, 46 reference numbers were registered in connection with the investigation of unlawful conduct by police officers during the meetings of the IMF and WB in Prague; as a rule, each of these files contained several complaints (a total of 444), which, by content, can be broken down into:

- 1) entirely general and non-specific complaints concerning the IMF – 219
- 2) police intervention on the streets - 68
- 3) the conduct of police officers during escorts - 20
- 4) conduct at an unspecified police station - 26
- 5) conduct at the Praha 1-Centrum Police Station - 1
- 6) conduct at MOP Jižní Město II - 9
- 7) conduct at MOP Pankrác - 1
- 8) conduct at MOP Lhotka - 2
- 9) conduct at MOP Braník - 7
- 10) conduct at MOP Nusle - 1
- 11) conduct at MOP Vysočany - 2
- 12) conduct at OŽP Praha 7, Bubny - 4
- 13) conduct at OŽP Praha 2, Wilsonovo nádraží - 1
- 14) conduct at MOP Prosek - 3

- 15) conduct at MOP Bartolomějská - 2
- 16) conduct at MOP Vokovice - 2
- 17) conduct at MOP Stodůlky - 1
- 18) conduct at MOP Vinohrady - 1
- 19) conduct at MOP Hostivař - 3
- 20) conduct at MOP Kyje - 3
- 21) conduct at MOP Žižkov - 1
- 22) conduct at VEO Správy hl.m. Prahy - 2
- 23) conduct at RS Perštýn - 8
- 24) conduct by foreign police in general - 4
- 25) conduct at OCP Praha 3 - Olšanská - 30
- 26) conduct at OCP Praha 6 - Ruzyně - 1
- 27) conduct at the Balková detention facility - 29

The above-mentioned complaints were handled administratively as follows:

- a) sample investigations - 7 – closed with no proof of lapse
- b) investigated as a formal complaint – 21
 - of which justified: 2
 - of which unfounded: 16
 - of which transferred: 1
 - of which passed on for criminal investigation: 1
 - of which under investigation: 1
- c) investigated as a notification - 1 – evaluated as unfounded
- d) investigated as a petition - 2 - evaluated as ‘no lapse’
- e) investigated as a different submission - 3 – evaluated as ‘no lapse’
- f) handled as criminal investigations - 12
 - of which discontinued in accordance with Section 159(1) of the Penal Code: 6
 - of which submitted in accordance with Section 159(1)(b) of the Penal Code: 1
 - of which passed on to the Inspection Board of the Ministry of the Interior: 4
 - of which under investigation: 1

At individual district headquarters of the Czech Police Force within the City of Prague Authority, five reference numbers were registered in connection with the investigation of unlawful conduct by police officers during the meetings of the IMF and WB in Prague; as a rule, each of these files contained several complaints (a total of 10), which, by content, can be broken down into:

- 1) police intervention on the streets - 4
- 2) the conduct of police officers during escorts - 2
- 3) conduct at MOP Černý Most - 1
- 4) conduct at MOP Letná - 1
- 5) conduct at OŽP Praha 7, Bubny - 1
- 6) conduct at MOP Libeň - 1

All the complaints were evaluated as ‘unfounded’.

Justified complaints investigated at OSK PČR, City of Prague Authority:

Ref. No: PSP-577/OSK-St-2000 – unauthorized taking of fingerprints of JK, a person brought into the police station MOP Braník

Ref. No: PSP-711/OSK-St-2000 – inactivity by the manager of the police station MOP Vokovice in respect of JU, a person brought into the police station

Submission of a case from criminal investigation to disciplinary procedure (Section 159(1)(b) of the Penal Code):

Ref. No: PSP-116/OSK-TČ-2000 – a lapse was discovered by a police officer (SPJ) and subsequently by another police officer (OŽP Wilsonovo nádraží) in the bringing of a person into a police station and subsequent takeover of the person without sufficient completion of the form ‘record on a person brought into a police station and handed over’.

Appendix No 2 (Part C, paragraph 64)
Complaints by prisoners handled within the Prison Service of the Czech Republic
between 1 January 2001 and 31 December 2001

By organizational component of the Prison Service of the Czech Republic

| Code of organizational component of the Prison Service | Organizational component of the Prison Service | Complaints | | | |
|--|--|------------|------------------------------|-------------|-------------|
| | | Upheld | Upheld for objective reasons | Unfounded | Total |
| 01 | Praha No 1 | 6 | 1 | 50 | 57 |
| 02 | Praha No 2 | 15 | 7 | 106 | 128 |
| 03 | Říčany | 0 | 0 | 1 | 1 |
| 04 | Příbram | 4 | 1 | 27 | 32 |
| 05 | Vinařice | 5 | 2 | 65 | 72 |
| 07 | Ostrov | 5 | 2 | 155 | 162 |
| 08 | Horní Slavkov | 2 | 0 | 52 | 54 |
| 09 | Liberec | 0 | 0 | 16 | 16 |
| 10 | České Budějovice | 7 | 0 | 52 | 59 |
| 11 | Plzeň | 3 | 1 | 141 | 145 |
| 12 | Rýnovice | 7 | 1 | 38 | 46 |
| 13 | Stráž pod Ralskem | 4 | 0 | 29 | 33 |
| 14 | Litoměřice | 0 | 0 | 39 | 39 |
| 15 | Teplice | 0 | 0 | 6 | 6 |
| 16 | Řepy | 0 | 0 | 0 | 0 |
| 17 | Všehrdy | 11 | 2 | 28 | 41 |
| 18 | Bělušice | 4 | 3 | 33 | 40 |
| 19 | Nové Sedlo | 0 | 0 | 14 | 14 |
| 20 | Hradec Králové | 3 | 0 | 35 | 38 |
| 21 | Pardubice | 2 | 0 | 16 | 18 |
| 22 | Valdice | 0 | 4 | 144 | 148 |
| 23 | Světlá nad Sázavou | 0 | 0 | 6 | 6 |
| 24 | Jiřice | 6 | 2 | 57 | 65 |
| 25 | Odolov | 0 | 0 | 2 | 2 |
| 26 | Oráčov | 2 | 7 | 52 | 61 |
| 27 | Kynšperk | 0 | 0 | 41 | 41 |
| 29 | Karviná | 3 | 0 | 26 | 29 |
| 30 | Brno | 2 | 0 | 57 | 59 |
| 31 | Ostrava | 1 | 0 | 31 | 32 |
| 32 | Opava | 4 | 0 | 17 | 21 |
| 33 | Kuřim | 1 | 7 | 50 | 58 |
| 34 | Training institute | 0 | 0 | 0 | 0 |
| 35 | Heřmanice | 1 | 0 | 38 | 39 |
| 36 | Mírov | 4 | 4 | 45 | 53 |
| 37 | Olomouc | 3 | 0 | 31 | 34 |
| 38 | Břeclav | 2 | 0 | 14 | 16 |
| 39 | Znojmo | 0 | 0 | 2 | 2 |
| 50 | Prison Service Headquarters | 0 | 0 | 10 | 10 |
| 52 | ZOT Praha - Květnice | 0 | 0 | 0 | 0 |
| 53 | ZOT Pracov | 0 | 0 | 0 | 0 |
| 54 | ZOT Šlovice | 0 | 0 | 0 | 0 |
| 55 | ZOT Přední Labská | 0 | 0 | 0 | 0 |
| 90 | Discontinued prisons | 1 | 0 | 0 | 1 |
| TOTAL | | 108 | 44 | 1526 | 1678 |

**Complaints by prisoners handled within the Prison Service of the Czech Republic
between 1 January 2001 and 31 December 2001**

By subject

| Code of subject | Subject | Complaints | | | |
|-----------------|--|------------|------------------------------|-------------|-------------|
| | | Upheld | Upheld objective reasons for | Unfounded | Total |
| 01 | alimony | 0 | 0 | 1 | 1 |
| 02 | children's benefits | 0 | 0 | 0 | 0 |
| 03 | cash of remand and sentenced prisoners (pocket money, storage charges, etc.) | 3 | 1 | 36 | 40 |
| 04 | remand and sentence costs | 3 | 0 | 24 | 27 |
| 05 | sickness insurance and pension insurance | 0 | 0 | 2 | 2 |
| 06 | other financial matters | 0 | 0 | 14 | 14 |
| 07 | medical care | 4 | 2 | 373 | 379 |
| 08 | hygiene and cleaning | 0 | 10 | 16 | 26 |
| 09 | work placement | 2 | 0 | 28 | 30 |
| 10 | overtime work | 0 | 0 | 1 | 1 |
| 11 | compensation for damage suffered by remand and sentenced prisoners | 2 | 1 | 4 | 7 |
| 12 | work remuneration | 0 | 1 | 2 | 3 |
| 13 | safety and health at work | 0 | 0 | 0 | 0 |
| 14 | compensation for industrial accidents and diseases | 1 | 0 | 1 | 2 |
| 15 | board | 3 | 3 | 64 | 70 |
| 16 | lodging | 0 | 15 | 38 | 53 |
| 17 | outfit | 2 | 2 | 11 | 15 |
| 18 | outdoor exercise, basic physical training | 4 | 0 | 23 | 27 |
| 19 | free time | 0 | 0 | 1 | 1 |
| 20 | cutting | 1 | 0 | 2 | 3 |
| 21 | visits | 2 | 2 | 67 | 71 |
| 22 | correspondence | 16 | 0 | 53 | 69 |
| 23 | packages | 9 | 0 | 29 | 38 |
| 24 | personal belongings and searches of personal belongings | 15 | 0 | 69 | 84 |
| 25 | purchase of personal items | 2 | 0 | 14 | 16 |
| 26 | daily press and books | 2 | 0 | 6 | 8 |
| 27 | cultural and educational activities | 0 | 0 | 9 | 9 |
| 28 | rest | 0 | 1 | 7 | 8 |
| 29 | disciplinary measures | 5 | 1 | 77 | 83 |
| 30 | physical attack by prison officers | 0 | 0 | 45 | 45 |
| 31 | inappropriate and insulting statements by prison officers | 1 | 0 | 84 | 85 |
| 32 | other improper conduct by prison officers | 9 | 0 | 127 | 136 |
| 33 | improper conduct by civilian workers | 15 | 0 | 91 | 106 |
| 34 | improper conduct or physical attack by func. prisoners | 0 | 1 | 1 | 2 |
| 35 | improper conduct or physical attack by other prisoners | 1 | 4 | 21 | 26 |
| 36 | unsent, unsettled, incorrectly handled requests, complaints | 4 | 0 | 78 | 82 |
| 37 | protective treatment | 0 | 0 | 0 | 0 |
| 38 | contact with lawyer | 0 | 0 | 1 | 1 |
| 39 | assessment | 1 | 0 | 11 | 12 |
| 40 | non-suspension of punishment | 0 | 0 | 2 | 2 |
| 41 | non-release from remand or sentence | 0 | 0 | 5 | 5 |
| 42 | transfer or non-transfer | 0 | 0 | 61 | 61 |
| 50 | other | 1 | 0 | 27 | 28 |
| | TOTAL | 108 | 44 | 1526 | 1678 |

**Complaints by prisoners handled within the Prison Service of the Czech Republic
between 1 January 2001 and 31 December 2001**

By complainant type

| Code of complainant type | Complainant type | Complaints | | | |
|--------------------------|--|------------|------------------------------|-------------|-------------|
| | | Upheld | Upheld for objective reasons | Unfounded | Total |
| 05 | remand (former) | 30 | 7 | 453 | 490 |
| 06 | sentenced (former) | 70 | 35 | 979 | 1084 |
| 07 | civilian in a remand matter | 5 | 0 | 31 | 36 |
| 08 | civilian in the matter of a sentenced prisoner | 3 | 2 | 63 | 68 |
| TOTAL | | 108 | 44 | 1526 | 1678 |

Overview of measures taken in respect of justified complaints by individual organizational components of the Prison Service of the Czech Republic in 2001

| Organizational component of the Prison Service | Interview | Rebuke | Reprimand | Letter of rebuke | Reduced pay or personal allowance | Action compensation | Compensation | Other action | Total |
|--|-----------|----------|-----------|------------------|-----------------------------------|---------------------|--------------|--------------|------------|
| 01 Praha No 1 | 6 | | 2 | 3 | | | 2 | 3 | 16 |
| 02 Praha No 2 | 16 | 1 | | | | | 4 | 5 | 26 |
| 03 Říčany | | | | | | | | | 0 |
| 04 Příbram | | | | 2 | 1 | | 1 | | 4 |
| 05 Vinařice | 4 | 1 | 1 | 1 | | | | 2 | 9 |
| 07 Ostrov nad Ohří | 7 | | | 3 | 1 | | | | 11 |
| 08 Horní Slavkov | 1 | 1 | 2 | | | | | | 4 |
| 09 Liberec | | | | 1 | | | | | 1 |
| 10 České Budějovice | 5 | | | | 1 | | | | 6 |
| 11 Plzeň | 4 | | | | | | | 1 | 5 |
| 12 Rýnovice | 2 | 1 | | 2 | 2 | | | 1 | 8 |
| 13 Stráž pod Ralskem | 1 | | | 4 | | | | | 5 |
| 14 Litoměřice | | | | | | | | | 0 |
| 15 Teplice | | | | | | | | | 0 |
| 16 Drahonice | | | | | | | | | 0 |
| 17 Všehrdy | 13 | | 1 | | | | | 3 | 17 |
| 18 Bělušice | 4 | | | | | | | | 4 |
| 19 Nové Sedlo | | | | | | | | | 0 |
| 20 Hradec Králové | 3 | | | | | | | | 3 |
| 21 Pardubice | 3 | | | 1 | | | | 1 | 5 |
| 22 Valdice | | | | | | | | | 0 |
| 24 Jiřice | 5 | | 1 | | | | 2 | | 8 |
| 25 Odolov | | | | | | | | | 0 |
| 26 Oráčov | 3 | | | | | | | | 3 |
| 27 Kynšperk | | | | | | | | | 0 |
| 29 Karviná | | | 1 | 1 | | | | 1 | 3 |
| 30 Brno | | 2 | 1 | 2 | | | 2 | | 7 |
| 31 Ostrava | | | 1 | | | | | | 1 |
| 32 Opava | 1 | | 1 | | 2 | | 1 | | 5 |
| 33 Kuřim | | | | | | | | 1 | 1 |
| 34 Training institute | | | | | | | | | 0 |
| 35 Heřmanice | | | | | 1 | | | | 1 |
| 36 Mírov | 6 | | | | | | 2 | 1 | 9 |
| 37 Olomouc | 2 | | 1 | 1 | | | | 1 | 5 |
| 38 Břeclav | 1 | 1 | | 1 | | | | | 3 |
| 39 Znojmo | | | | | | | | | 0 |
| 50 Prison Service Headquarters | | | | | | | | | 0 |
| 52 ZOT Praha - Květnice | | | | | | | | | 0 |
| 53 ZOT Pracov | | | | | | | | | 0 |
| 54 ZOT Šlovice | | | | | | | | | 0 |
| 55 ZOT Přední Labská | | | | | | | | | 0 |
| 90 Discontinued prisons | | | | | | | | | 0 |
| Total | 87 | 7 | 12 | 22 | 8 | 0 | 14 | 20 | 170 |

Complaints by prisoners handled within the Prison Service of the Czech Republic between 1 January 2002 and 31 December 2002

By organizational component of the Prison Service of the Czech Republic

| Code of organizational component of the Prison Service | Organizational component of the Prison Service | Complaints | | | |
|--|--|------------|------------------------------|-------------|-------------|
| | | Upheld | Upheld for objective reasons | Unfounded | Total |
| 01 | Praha No 1 | 0 | 0 | 14 | 14 |
| 02 | Praha No 2 | 14 | 6 | 70 | 90 |
| 04 | Příbram | 1 | 0 | 17 | 18 |
| 05 | Vinařice | 4 | 2 | 30 | 36 |
| 07 | Ostrov | 3 | 4 | 82 | 89 |
| 08 | Horní Slavkov | 3 | 0 | 47 | 50 |
| 09 | Liberec | 0 | 0 | 11 | 11 |
| 10 | České Budějovice | 4 | 0 | 29 | 33 |
| 11 | Plzeň | 5 | 1 | 74 | 80 |
| 12 | Rýnovice | 0 | 0 | 25 | 25 |
| 13 | Stráž pod Ralskem | 2 | 1 | 32 | 35 |
| 14 | Litoměřice | 1 | 0 | 39 | 40 |
| 15 | Teplice | 3 | 0 | 33 | 36 |
| 16 | Drahonice | 3 | 0 | 15 | 18 |
| 17 | Všehrady | 1 | 0 | 16 | 17 |
| 18 | Bělušice | 3 | 2 | 25 | 30 |
| 19 | Nové Sedlo | 0 | 1 | 17 | 18 |
| 20 | Hradec Králové | 2 | 0 | 34 | 36 |
| 21 | Pardubice | 1 | 2 | 47 | 50 |
| 22 | Valdice | 3 | 0 | 117 | 120 |
| 23 | Světlá nad Sázavou | 1 | 0 | 3 | 4 |
| 24 | Jiřice | 3 | 3 | 44 | 50 |
| 25 | Odolov | 0 | 0 | 0 | 0 |
| 26 | Oráčov | 1 | 0 | 28 | 29 |
| 27 | Kynšperk | 1 | 0 | 19 | 20 |
| 29 | Karviná | 1 | 0 | 41 | 42 |
| 30 | Brno | 4 | 0 | 35 | 39 |
| 31 | Ostrava | 1 | 0 | 14 | 15 |
| 32 | Opava | 0 | 0 | 17 | 17 |
| 33 | Kuřim | 0 | 1 | 62 | 63 |
| 34 | Training institute | 0 | 0 | 0 | 0 |
| 35 | Heřmanice | 4 | 2 | 39 | 45 |
| 36 | Mírov | 0 | 1 | 41 | 42 |
| 37 | Olomouc | 2 | 0 | 20 | 22 |
| 38 | Břeclav | 2 | 2 | 10 | 14 |
| 39 | Znojmo | 0 | 0 | 1 | 1 |
| 50 | Prison Service Headquarters | 1 | 0 | 12 | 13 |
| 52 | ZOT Praha - Květnice | 0 | 0 | 0 | 0 |
| 53 | ZOT Pracov | 0 | 0 | 0 | 0 |
| 54 | ZOT Šlovice | 0 | 0 | 0 | 0 |
| 55 | ZOT Přední Labská | 0 | 0 | 0 | 0 |
| 90 | Discontinued prisons | 0 | 0 | 0 | 0 |
| | TOTAL | 74 | 28 | 1160 | 1262 |

Complaints by prisoners handled within the Prison Service of the Czech Republic between 1 January 2002 and 31 December 2002

By subject

| Code of subject | Subject | Complaints | | | |
|-----------------|--|------------|------------------------------|-------------|-------------|
| | | Upheld | Upheld for objective reasons | Unfounded | Total |
| 01 | alimony | 0 | 0 | 1 | 1 |
| 02 | children's benefits | 0 | 0 | 0 | 0 |
| 03 | cash of remand and sentenced prisoners (pocket money, storage charges, etc.) | 2 | 0 | 29 | 31 |
| 04 | remand and sentence costs | 0 | 0 | 19 | 19 |
| 05 | sickness insurance and pension insurance | 0 | 0 | 1 | 1 |
| 06 | other financial matters | 1 | 1 | 10 | 12 |
| 07 | medical care | 3 | 1 | 269 | 273 |
| 08 | hygiene and cleaning | 0 | 3 | 9 | 12 |
| 09 | work placement | 1 | 0 | 30 | 31 |
| 10 | overtime work | 0 | 0 | 2 | 2 |
| 11 | compensation for damage suffered by remand and sentenced prisoners | 0 | 0 | 1 | 1 |
| 12 | work remuneration | 0 | 0 | 7 | 7 |
| 13 | safety and health at work | 0 | 1 | 4 | 5 |
| 14 | compensation for industrial accidents and diseases | 1 | 0 | 3 | 4 |
| 15 | board | 3 | 2 | 37 | 42 |
| 16 | lodging | 1 | 2 | 38 | 41 |
| 17 | outfit | 1 | 0 | 6 | 7 |
| 18 | outdoor exercise, basic physical training | 2 | 1 | 6 | 9 |
| 19 | free time | 0 | 0 | 3 | 3 |
| 20 | cutting | 0 | 0 | 0 | 0 |
| 21 | visits | 2 | 3 | 37 | 42 |
| 22 | correspondence | 11 | 2 | 41 | 54 |
| 23 | packages | 5 | 1 | 24 | 30 |
| 24 | personal belongings and searches of personal belongings | 15 | 1 | 57 | 73 |
| 25 | purchase of personal items | 2 | 4 | 11 | 17 |
| 26 | daily press and books | 0 | 2 | 2 | 4 |
| 27 | cultural and educational activities | 0 | 0 | 7 | 7 |
| 28 | rest | 0 | 0 | 5 | 5 |
| 29 | disciplinary measures | 2 | 0 | 65 | 67 |
| 30 | physical attack by prison officers | 1 | 0 | 43 | 44 |
| 31 | inappropriate and insulting statements by prison officers | 0 | 0 | 51 | 51 |
| 32 | other improper conduct by prison officers | 5 | 0 | 99 | 104 |
| 33 | improper conduct by civilian workers | 7 | 0 | 62 | 69 |
| 34 | improper conduct or physical attack by func. prisoners | 0 | 0 | 4 | 4 |
| 35 | improper conduct or physical attack by other prisoners | 0 | 2 | 32 | 34 |
| 36 | unsent, unsettled, incorrectly handled requests, complaints | 3 | 1 | 70 | 74 |
| 37 | protective treatment | 0 | 0 | 1 | 1 |
| 38 | contact with lawyer | 1 | 1 | 0 | 2 |
| 39 | assessment | 3 | 0 | 10 | 13 |
| 40 | non-suspension of punishment | 0 | 0 | 2 | 2 |
| 41 | non-release from remand or sentence | 0 | 0 | 0 | 0 |
| 42 | transfer or non-transfer | 1 | 0 | 54 | 55 |
| 50 | other | 1 | 0 | 8 | 9 |
| | TOTAL | 74 | 28 | 1160 | 1262 |

Complaints by prisoners handled within the Prison Service of the Czech Republic between 1 January 2002 and 31 December 2002

By complainant type

| Code of complainant type | Complainant type | Complaints | | | |
|--------------------------|--|------------|------------------------------|-------------|-------------|
| | | Upheld | Upheld for objective reasons | Unfounded | Total |
| 05 | remand (former) | 24 | 4 | 280 | 308 |
| 06 | sentenced (former) | 47 | 23 | 800 | 870 |
| 07 | civilian in a remand matter | 1 | 0 | 28 | 29 |
| 08 | civilian in the matter of a sentenced prisoner | 2 | 1 | 52 | 55 |
| TOTAL | | 74 | 28 | 1160 | 1262 |

Overview of measures taken in respect of justified complaints by individual organizational components of the Prison Service of the Czech Republic in 2002

| Organizational component of the Prison Service | | Interview | Rebuke | Reprimand | Letter of rebuke | Reduced pay or personal allowance | Action or compensation | + Compensation | Other action | Total |
|--|-----------------------------|-----------|----------|-----------|------------------|-----------------------------------|------------------------|----------------|--------------|------------|
| 01 | Praha No 1 | | | | | | | | | 0 |
| 02 | Praha No 2 | 22 | | | | | | 6 | 2 | 30 |
| 04 | Příbram | | 1 | | 1 | | | | | 2 |
| 05 | Vinařice | 2 | | | | | | 1 | 3 | 6 |
| 07 | Ostrov nad Ohří | 1 | | | 2 | | | | | 3 |
| 08 | Horní Slavkov | 1 | | | 2 | | | 1 | | 4 |
| 09 | Liberec | | | | | | | | | 0 |
| 10 | České Budějovice | 13 | | | | | | | | 13 |
| 11 | Plzeň | 1 | 1 | 1 | 1 | 1 | | | 1 | 6 |
| 12 | Rýnovice | | | | | | | | 1 | 1 |
| 13 | Stráž pod Ralskem | 3 | | | | | | | | 3 |
| 14 | Litoměřice | 3 | | | 1 | | | | 1 | 5 |
| 15 | Teplice | 2 | 1 | 1 | | | | | 1 | 5 |
| 16 | Drahonice | | | | 3 | | | | | 3 |
| 17 | Všehrady | 1 | | | | | | | 2 | 3 |
| 18 | Bělušice | 2 | | | | | | 2 | 1 | 5 |
| 19 | Nové Sedlo | | | | | | | | | 0 |
| 20 | Hradec Králové | 1 | | | | | | | 1 | 2 |
| 21 | Pardubice | 1 | | | | | | | 2 | 3 |
| 22 | Valdice | 1 | | | 1 | 1 | | | | 3 |
| 23 | Světlá nad Sázavou | | | | | | | | | 0 |
| 24 | Jiřice | 2 | 1 | | | | | | 2 | 5 |
| 25 | Odolov | | | | | | | | | 0 |
| 26 | Oráčov | 2 | | | | | | 1 | | 3 |
| 27 | Kynšperk | 1 | | | | | | | | 1 |
| 29 | Karviná | 1 | | | 1 | 1 | | | | 3 |
| 30 | Brno | 3 | | | | 1 | 1 | | | 5 |
| 31 | Ostrava | | | | 1 | | 1 | | 1 | 3 |
| 32 | Opava | | | | | | | | | 0 |
| 33 | Kuřim | | | | | | | | | 0 |
| 34 | Training institute | | | | | | | | | 0 |
| 35 | Heřmanice | | | 1 | | 4 | | | 3 | 8 |
| 36 | Mírov | | | | | | | | | 0 |
| 37 | Olomouc | 2 | 1 | | | | | | | 3 |
| 38 | Břeclav | | | | | | | | 2 | 2 |
| 39 | Znojmo | | | | | | | | | 0 |
| 50 | Prison Service Headquarters | | | | | | | | | 0 |
| 52 | ZOT Praha - Květnice | | | | | | | | | 0 |
| 53 | ZOT Pracov | | | | | | | | | 0 |
| 54 | ZOT Šlovice | | | | | | | | | 0 |
| 55 | ZOT Přední Labská | | | | | | | | | 0 |
| 90 | Discontinued prisons | | | | | | | | | 0 |
| | Total | 65 | 5 | 3 | 13 | 8 | 2 | 11 | 23 | 130 |