



CPT/Inf (2010) 16

## **Report**

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

**from 24 March to 2 April 2009**

The Hungarian Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2010) 17.

Strasbourg, 8 June 2010

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**Copy of the letter transmitting the CPT's report**

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Strasbourg, 23 July 2009

Dear Mr Vókó,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Hungarian Government drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) after its visit to Hungary from 24 March to 2 April 2009. The report was adopted by the CPT at its 69<sup>th</sup> meeting, held from 6 to 10 July 2009.

The various recommendations, comments and requests for information formulated by the CPT are listed in Appendix I. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the Hungarian authorities to provide **within six months** a response giving a full account of action taken to implement them.

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

As regards the information requested in paragraphs 17 and 61, the Committee asks that it be provided **within three months**.

The CPT would ask, in the event of the responses being forwarded in the Hungarian language, that it be accompanied by an English or French translation. It would also be most helpful if the Hungarian authorities could provide a copy of the responses in a computer-readable form.

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

Yours sincerely,

Mauro PALMA  
President of the European Committee for  
the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment

## I. INTRODUCTION

### A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT visited Hungary from 24 March to 2 April 2009. The visit formed part of the Committee’s programme of periodic visits for 2009 and was the sixth visit to Hungary to be carried out by the CPT.<sup>1</sup>

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

- Renate KICKER, 1<sup>st</sup> Vice-President of the CPT (Head of delegation)
- Ivan JANKOVIĆ
- Andres LEHTMETS
- Vladimir ORTAKOV
- Zoreslava SHKIRYAK-NYZHNYK

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

- Johan FRIESTEDT
- Isabelle SERVOZ-GALLUCCI

and were assisted by:

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

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<sup>1</sup> The first periodic visit took place in November 1994, the second in December 1999 and the third in March/April 2005. Further, two ad hoc visits were carried out, respectively, in May/June 2003 and January/February 2007. The CPT’s reports on these visits, as well as the responses of the Hungarian Government, have been made public at the request of the Hungarian authorities (cf. documents CPT/Inf (96) 5, CPT/Inf (96) 15, CPT/Inf (2001) 2, CPT/Inf (2001) 3, CPT/Inf (2004) 18, CPT/Inf (2004) 19, CPT/Inf (2006) 20, CPT/Inf (2006) 21, CPT/Inf (2007) 24 and CPT/Inf (2007) 25).

## **B. Establishments visited**

3. The delegation visited the following places of detention:

### Establishments under the Ministry of Justice and Law Enforcement

#### Police establishments

- Police Central Holding Facility, Budapest
- 4<sup>th</sup> District Police Station, Budapest
- 8<sup>th</sup> District Police Station, sub-division at Keleti railway station, Budapest
- Miskolc Police Holding Facility
- Nyíregyháza Police Holding Facility
- Sátoraljaújhely Police Station
  
- Ferihegy Airport Police Station and Transit Zone Holding Facility (Terminal 2)
- Budapest Holding Facility for aliens (“*Guarded Shelter*”)
- Nyírbátor Holding Facility for aliens (“*Guarded Shelter*”)

#### Prison establishments

- Borsod-Abaúj-Zemplén Prison, Miskolc
- Sátoraljaújhely Prison (focusing on the Special Security Unit and Grade IV prisoners)
- Tiszalök Prison
  
- Building II of the Judicial and Observation Psychiatric Institute (IMEI), Budapest

### Establishments under the Ministry of Health

- Closed wards of Psychiatric Units I and II at Nyírő Gyula Hospital, Budapest
- Santha Kalman Mental Health Centre and Special Hospital, Nagykálló.

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

4. In the course of the visit, the CPT’s delegation held consultations with Tibor DRASKOVICS, Minister of Justice and Law Enforcement, Tamás SZÉKELY, Minister of Health, Erika SZÜCS, Minister of Labour and Social Care, and Tamás KOVÁCS, Prosecutor General, as well as with senior officials of the Ministries and services concerned. It also met Máté SZABÓ, Parliamentary Commissioner for Civil Rights. Further, the delegation had meetings with representatives of international and non-governmental organisations active in areas of concern to the CPT.

The CPT wishes to express its appreciation for the assistance provided to its delegation by the liaison officer designated by the national authorities, György VÓKÓ, Head of Department at the Prosecutor General’s Office.

A list of the national authorities, organisations and other persons consulted during the visit is set out in Appendix II to this report.

5. The co-operation received during the visit, both from the national authorities and from staff at the establishments visited, was excellent. The delegation enjoyed rapid access to all the places visited (including those not notified in advance) and was able to speak in private with persons deprived of their liberty, in compliance with the provisions of the Convention. Further, the delegation was provided in advance with all the necessary documentation, and additional requests for information made during the visit were promptly met.

6. The principle of co-operation set out in Article 3 of the Convention is not limited to steps taken to facilitate the task of visiting delegations. It also requires that decisive action be taken in response to the CPT's key recommendations. In this respect, the 2009 visit revealed that, despite some welcome signs of improvement, a number of the Committee's long-standing recommendations have not yet been addressed in a fully satisfactory manner; this is the case as regards the legal safeguards against ill-treatment of persons in police custody, the situation of the Judicial and Observation Psychiatric Institute (IMEI) and the policy of the Hungarian authorities as regards the application of means of restraint to limit the movements of prisoners within and outside prison establishments. The Committee urges the Hungarian authorities to step up efforts to improve the situation in the light of its recommendations, in accordance with the principle of co-operation which lies at the heart of the Convention.

7. At the end of its visit, the CPT's delegation met representatives of the Hungarian authorities in order to acquaint them with the main facts found during the visit. On this occasion, the delegation expressed concerns as regards the situation of a remand prisoner held in a high security cell at Budapest Police Central Holding Facility. The delegation requested to be provided, within one month, with information on action taken: (i) to remedy the deficiencies observed in the high security cell at the Budapest police central holding facility; (ii) to review the policy on the use of means of restraint vis-à-vis persons held in high security cells.

In addition, the delegation requested to be provided, within one month, with information on steps taken to review the application of means of restraint to prisoners held in the Special Security Unit (KBK) at Sátoraljaújhely Prison.

The above-mentioned requests were subsequently confirmed in a letter of 4 May 2009 from the President of the CPT. By letter of 29 May 2009, the Hungarian authorities informed the Committee of measures taken in response to those requests. This information will be considered later in the report.

## II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

### A. Police establishments

#### 1. Preliminary remarks

8. The legal provisions governing deprivation of liberty by the police have remained basically unchanged since the 2005 visit. It should be recalled that a person may be apprehended by police officers, in order to be brought before the competent authority, and held for up to 12 hours.<sup>2</sup> The maximum period a criminal suspect may spend in police custody is 72 hours (which includes the hours during which the person has had the status of an “apprehended” person); upon the expiry of this period, the person concerned must be released if the court has not taken a decision concerning his pre-trial detention.<sup>3</sup>

Further, persons who have committed misdemeanours may be detained for up to 10 days in police holding facilities.<sup>4</sup> It should be noted already at this juncture that the regime of activities provided to this category of detainee and opportunities for contact with the outside world were inadequate (see paragraphs 29 and 30). **The CPT invites the Hungarian authorities to review the situation of misdemeanour offenders in police holding facilities.**

9. The practice of holding remand prisoners in police establishments has been a major theme in the CPT’s dialogue with the Hungarian authorities over the years. In the report on the 2005 visit, the Committee welcomed the fact that both the number of remand prisoners in police holding facilities and the average length of their detention had fallen significantly as a result of the entry into force of Section 135 of the Code of Criminal Procedure (CCP).<sup>5</sup> At the same time, the Committee stressed that the medium-term objective should be to end completely the practice of holding remand prisoners in police establishments. In their response, the authorities indicated that ending this practice would require changes to the legislation. However, it transpired during the 2009 visit that there had been no legislative developments in this respect.

The delegation was informed that, on the eve of the visit, a total of 104 remand prisoners were held in police establishments, mostly in Budapest. It is interesting to note that in Miskolc, police staff told the delegation that judges had recently stopped authorising the detention of remand prisoners in the city’s police holding facility; this is a welcome approach. **The CPT recommends that the Hungarian authorities take decisive measures to end completely the practice of holding remand prisoners in police establishments. If necessary, the law should be amended.**

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<sup>2</sup> Section 33 of the Police Act (Act No. XXXIV/1994) provides that a person having the status of “apprehended” (*előállítás*) may be held for an initial period of 8 hours which may be prolonged once by 4 hours by decision of the head of the police agency concerned.

<sup>3</sup> See Section 126 (3) of the Code of Criminal Procedure (Act No. XIX/1998).

<sup>4</sup> See Section 1 (1) of the Ministry of the Interior’s Order 19/1995 (XII.13) and Section 2 (3) of the Ministries of Justice and the Interior’s Joint Order 7/2000 (III.29).

<sup>5</sup> Section 135 of the CCP limits the overall time a remand prisoner may be held on police premises to 60 days, subject to authorisation by a court.

10. The information gathered during the 2009 visit indicates that the return of remand prisoners to police custody (e.g. for further questioning) is a rare occurrence. **The CPT trusts that the return of prisoners to police custody will continue to be sought and authorised by a judge or prosecutor only when it is absolutely unavoidable.**

## 2. Ill-treatment

11. Most persons met by the CPT's delegation during the 2009 visit who were, or had recently been, detained by the police, indicated that they had been treated correctly, both at the time of apprehension and in the course of questioning. However, a few persons complained of excessive use of force at the time of apprehension (i.e. kicks, punches) and/or tight handcuffing during transportation. The delegation also heard a few allegations of abusive language, including of a racist nature, by police staff during apprehension and/or in the course of interrogation.

**The CPT recommends that the Hungarian authorities continue to deliver a firm message, including through ongoing training activities, that all forms of ill-treatment (whether of a physical or verbal nature) are not acceptable and that the perpetrators of such acts and those condoning them will be severely punished. As part of this message, it should be made clear once again that no more force than is strictly necessary should be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can never be any justification for striking them.**

12. The delegation did not receive any allegations of ill-treatment of persons in police custody by staff working in the police holding facilities visited. Nevertheless, the delegation observed that custodial officers were carrying truncheons in a visible manner in the detention areas. This is intimidating and hence not conducive to developing positive relations between staff and detainees. **If it is considered necessary for custodial staff assigned to police holding facilities to carry truncheons, the CPT recommends that the truncheons be hidden from view.**

Further, the delegation observed that some police officers at the Miskolc police holding facility carried firearms within the detention areas. This is a dangerous practice which could lead to high-risk situations both for persons in police custody and police officers; **the Committee recommends that this practice be stopped.**

13. As was stressed during previous visits, health-care services have a vital role to play as regards preventing ill-treatment by the police.

It became evident during the 2009 visit that the principle of *confidentiality of medical examinations* was not respected. In accordance with Section 4 of the National Police General Directorate's Order No. 12/2001. (IV. 4.), a police officer should be present during medical examinations, save for exceptional cases where the head of the police establishment decides otherwise upon the request of the detained person concerned or health-care staff. The CPT must stress once again that the presence of police staff during medical examinations of detained persons could discourage a detained person who has been ill-treated from saying so and, more generally, is detrimental to the establishment of a proper doctor-patient relationship; alternative solutions can and should be found to reconcile legitimate security requirements with the principle of medical confidentiality.

In addition, the delegation noted that the results of the medical examinations (including any statements made by the person concerned) were attached to detained persons' legal files and thus accessible to police officers.

14. As regards the *recording of injuries*, the delegation observed the same shortcomings as those identified during previous visits. In particular, it appeared from the medical documentation consulted that no conclusions were drawn by police doctors or experts qualified in forensic medicine as to the consistency between the medical findings and any allegations made by the person concerned.

Further, the practice continued of requesting persons presenting injuries upon admission to a police holding facility to sign statements to the effect that the injuries had been sustained before apprehension or due to resisting arrest. The statements seen by the delegation at Miskolc were preceded by a note to the effect that a person who made allegations against the police which subsequently turned out to be false could be subject to criminal proceedings. As emphasised by the CPT in its 2005 visit report, such a practice can clearly inhibit detained persons from making a truthful statement about what has happened to them.

15. **The CPT calls upon the Hungarian authorities to take appropriate measures to ensure that:**

- **all medical examinations are conducted out of the hearing and – unless the health-care professional concerned expressly requests otherwise in a given case – out of the sight of police officers;**
- **the confidentiality of medical documentation is strictly observed; naturally, doctors may inform custodial staff in a suitable manner about the state of health of a detained person, including medication being taken and particular health risks;**
- **whenever a detained person presents injuries upon medical examination and makes allegations of ill-treatment, he is promptly seen by an independent doctor with training in forensic medicine who should draw conclusions as to the degree of consistency between the allegations of ill-treatment made by the detained person and the objective medical findings. These conclusions should be referred to the competent prosecutor and be made available to the detained person concerned and his lawyer at their request;**
- **the current practice of inviting detained persons presenting injuries to sign a disclaimer is discontinued.**

Further, the Committee would like to be informed whether there is a specific obligation under Hungarian law for health-care staff to report directly to a prosecutor medical data and/or other facts coming to their knowledge which are indicative of police ill-treatment, even in the absence of an allegation from the detained person concerned.

More generally, the CPT still has misgivings about the formal position of police doctors, who are full members of the police force. In order to guarantee the independence of health-care staff working in police holding facilities, the Committee considers it important that such staff be aligned as closely as possible with the mainstream of health-care provision in the community at large. **The CPT would like to be informed of steps taken or envisaged in this respect.**

16. The case of a woman who had been medically examined on 24 March 2009 at the Miskolc police holding facility deserves specific mention. It appeared from the medical documentation that she had displayed, *inter alia*, a 2 x 3 cm “haematoma on the [left] shoulder”, a “1.5 x 2 cm abrasion on the right hand” and a “4 x 5 cm haematoma on the left side of the jaw”. The delegation was shown a statement in which the person in question indicated that she had sustained the injuries while resisting arrest. However, the police officer who had apprehended the woman indicated in his report that she had been handed over to custodial staff at Miskolc without any injuries. The delegation was informed that an inquiry had been carried out into the case in question. It appeared that, despite conflicting information, no forensic medical examination of the detained person had been ordered and the investigator had concluded that the injuries were not the result of police action. The CPT understands that the inquiry into this case was to be re-opened and **would like to receive up-to-date information on its outcome.**

17. The situation of a remand prisoner who was being held in a high security cell (the so-called “K cell”) at Budapest police central holding facility was of particular concern to the delegation. The prisoner in question was being held inside a barred area within a single cell. He was under constant supervision by staff posted outside the barred area, and was exposed to powerful spotlights (the person complained of sight problems as a result of this). Further, the prisoner was not afforded any privacy when he was using a toilet and washing himself since the in-cell sanitary facilities were in full view of supervising staff and also within the field of vision of one of the video-surveillance cameras. Moreover, the means of restraint (i.e. handcuffs, anklecuffs and a body-belt) applied to the prisoner in question whenever he was taken out of his cell and during outdoor exercise appeared to be disproportionate. Taken as a whole, the manner in which the person concerned was being treated could be considered as degrading. At the end of the visit, the delegation requested that the deficiencies in the cell in question be remedied without delay and that the use of means of restraint vis-à-vis persons held in high security cells be reviewed.

In their letter of 29 May 2009, the Hungarian authorities informed the CPT of the measures taken in response to the delegation’s concerns. Nevertheless, these measures do not dispel the Committee’s misgivings. Infra-red video-surveillance cameras had been installed in the “K cell” to avoid using the spotlights at night; however, it appears that these spotlights were still being used during the day. Further, the Hungarian authorities indicated that arrangements had been made so as to ensure that the sanitary facilities were monitored by video-surveillance cameras “in a less offensive way”; that said, the sanitary facilities apparently remain within the field of vision of one of the video-surveillance cameras and also in the full view of supervising staff. **The CPT recommends that the spotlights be removed. Further, the in-cell sanitary facilities should be partially screened to preserve a minimum of privacy.** Reference is also made to paragraph 31 as regards the use of video-surveillance cameras.

The Hungarian authorities also reviewed the application of means of restraint to the prisoner concerned. They reached the conclusion that the use of such means in an already secure exercise yard was disproportionate. At the same time, they considered it necessary to apply means of restraint during movements inside the establishment (in particular when the prisoner was taken out of the detention areas). However, resort to multiple means of restraint (including anklecuffs and a body-belt) continues to raise serious questions of proportionality.

**The CPT would like to receive, within three months, a response of the Hungarian authorities on the above matter. Further, the Committee would like to receive confirmation that no means of restraint will be used in the future vis-à-vis a person accommodated in the “K cell” while he is taking outdoor exercise.**

18. Particular mention should also be made of the fact that all medical examinations of the above-mentioned person were carried out through the bars of his cell. In the CPT’s view, such an approach could be considered as infringing upon the dignity of the prisoner concerned, and certainly prohibits the development of a proper doctor-patient relationship. **The Committee recommends that the Hungarian authorities review the practice in question.**

19. More generally, police staff interviewed were unable to inform the delegation about the maximum length of stay of a remand prisoner in the “K cell”. **The Committee would like to receive clarification of this matter.**

20. The CPT has emphasised in the past that one of the most effective means of preventing ill-treatment by police staff lies in the diligent examination of complaints and any other information indicative of such treatment and, where appropriate, the imposition of suitable sanctions. One welcome development in this area was the setting-up of an Independent Police Complaints Board in January 2008. This new body, which is composed of five members appointed by Parliament, is entitled to carry out inquiries into complaints of police misconduct<sup>6</sup> and to make written recommendations to the Head of the National Police General Directorate. If the Board’s recommendations are not accepted, the case can be referred to a court for a final decision. However, the delegation was informed that the Board does not have the power to initiate inquiries *ex officio*. **The CPT invites the Hungarian authorities to extend the powers of the Independent Police Complaints Board with a view to enabling it to initiate *ex officio* inquiries into cases possibly involving ill-treatment.**

Further, members of the Board drew the delegation’s attention to the fact that the proportion of the Board’s recommendations which had been followed up by the police was rather low. **The Committee would like to receive the views of the Hungarian authorities on this matter.**

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<sup>6</sup> The delegation was informed that the Board had received 271 complaints since early 2008.

21. The delegation was informed that, in 2008, the Prosecution Service had initiated 36 criminal proceedings against police staff on account of unlawful treatment<sup>7</sup> of detained persons (no information was available on the number of judgements). In order for the CPT to obtain a full and up-to-date picture of the situation, **the Committee would like to receive the following information in respect of 2008 and 2009:**

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

### **3. Procedural safeguards against ill-treatment of persons detained by the police**

22. The situation as regards the three fundamental safeguards advocated by the CPT, namely the right of detained persons to inform a close relative or another third party of their choice of their situation and to have access to a lawyer and a doctor, has remained unchanged since the 2005 visit. A number of necessary improvements concerning these safeguards have still not been implemented, despite specific recommendations repeatedly made by the Committee in previous visit reports.

23. As regards the right of notification of custody, in the 2005 visit report, the CPT expressed misgivings about the degree of latitude given to police officers by the legislation, namely to notify a relative or a third person designated by a criminal suspect within 24 hours of apprehension.<sup>8</sup> The situation remained unchanged in this regard in 2009. **The CPT recommends that the Hungarian authorities amend the relevant legal provisions with a view to guaranteeing the right of persons detained by the police to inform a relative or third party of their choice of their situation as from the very outset of deprivation of liberty.**

That said, almost all persons interviewed who were, or had been, detained by the police indicated that they had been put in a position to promptly notify their family of their situation (generally through a police officer). However, the fact that notification of custody was usually performed by police officers and not by the detained person concerned directly resulted in some detainees entertaining doubts as to whether such notification had actually been made. **The CPT invites the Hungarian authorities to take measures to ensure that detained persons are provided with feedback on whether it has been possible to notify a close relative or other person of the fact of their detention.**

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<sup>7</sup> See Sections 225 to 228 of the Criminal Code (e.g. abuse of power during official proceedings, interrogation under duress).

<sup>8</sup> See Section 128 (1) of the CCP.

Pursuant to Section 18 of the Police Act, notification of custody may be delayed only “to the extent required to prevent escape or hiding, the alteration or destruction of evidence, the perpetration of further criminal offences or to the extent which serves the safety of guarding and the maintenance of order of the detention facility”. The CPT considers that in addition to defining the circumstances in which notification of custody may exceptionally be delayed, the legislation should provide for appropriate safeguards (e.g. any delay to be recorded in writing together with the reasons therefor, to require the approval of a public prosecutor or a senior police officer unconnected with the case at hand, and to be applied for the shortest time necessary). **The CPT recommends that the Hungarian authorities remedy this lacuna.**

24. With regard to access to a lawyer, the Hungarian authorities informed the delegation that they had not succeeded in amending the relevant legislation to ensure access to a lawyer as from the very outset of deprivation of liberty, as recommended by the CPT in the 2005 visit report. Not surprisingly, the majority of the persons interviewed during the 2009 visit stated that they had not been allowed to contact a lawyer while having the status of “apprehended” persons (i.e. during an initial period of up to 12 hours in police custody). **The CPT calls upon the Hungarian authorities to take steps, including at the legislative level, to ensure that all detained persons (irrespective of their status) have access to a lawyer as from the very outset of their deprivation of liberty.**

The delegation noted that some progress had been made in respect of the provision of legal aid. Most of the indigent persons interviewed during the 2009 visit indicated that, after they had been formally declared as criminal suspects, *ex officio* lawyers had been present during the first interrogation by an investigator. On the other hand, a number of persons indicated that they had not seen an *ex officio* lawyer before the court hearing. **The CPT recommends that steps be taken to further improve the system of legal aid for persons who are not in a position to pay for a lawyer, and to ensure that it is applicable from the very outset of police custody.**

25. As far as access to a doctor is concerned, reference has already been made in paragraphs 13-15 to examinations by police health-care staff. At the time of the 2009 visit, there was still no legal provision guaranteeing the right of persons detained by the police to have access to an external doctor (in addition to any medical examination carried out by a police doctor). **The CPT calls upon the Hungarian authorities to adopt specific legal provisions which formally guarantee the right of detained persons to be examined, if they so wish, by an external doctor (it being understood that an examination by such a doctor may be carried out at the detainee’s own expense).**

26. Nearly all persons interviewed by the delegation indicated that they had received information on rights soon after apprehension. However, as in the past, this information was not always provided in writing. Further, in police stations which were not equipped with holding facilities, the information sheet on rights was not available in languages other than Hungarian. **Further steps should be taken to ensure that all persons detained by the police are fully informed of their rights (including the rights indicated above).** This should involve the provision of clear verbal information at the very outset of deprivation of liberty, to be supplemented at the earliest opportunity (that is, immediately upon first entry into the police premises) by provision of a written form setting out their rights in a straightforward manner. **The form on rights should be available in an appropriate range of languages. In addition, the persons concerned should be asked to sign a statement certifying that they have been informed of their rights.**

#### 4. Conditions of detention in police establishments

##### a. police holding facilities

27. The best material conditions were seen at the *Nyíregyháza police holding facility*. Re-opened in February 2008 following renovation, it had 10 double occupancy cells measuring between 14 and 17 m<sup>2</sup>. The cells were bright, adequately ventilated, clean and well-equipped (including a fully partitioned toilet and hot and cold running water). Detained persons had access to a communal shower facility every day and were provided with a range of personal hygiene items. As for food, it was served three times a day (including at least one warm meal).

At the *Miskolc police holding facility*, the official occupancy of the cells was acceptable (e.g. 3 places in cells measuring 12 m<sup>2</sup>; 6 places in a cell measuring some 25 m<sup>2</sup>). Access to natural light was somewhat limited due to the presence of grilles attached to windows, but ventilation and artificial lighting were generally adequate and the cells were reasonably equipped and clean. Detainees had access to a communal toilet and were offered a shower every day; however, the shower facilities were in a poor state of repair.

The *Budapest police central holding facility* was not overcrowded and the state of cleanliness had improved since the 2005 visit. Apart from that, conditions were virtually the same as those described in previous visit reports.<sup>9</sup> In particular, ventilation, access to natural light and artificial lighting still left something to be desired.

28. All detainees interviewed indicated that they had access to one hour of outdoor exercise every day. However, the yards were generally of an oppressive design and were not equipped with any means of rest. At Budapest, the delegation was informed that there were plans to refurbish the exercise facilities.

29. Many of the persons met by the delegation in police holding facilities during the 2009 visit were remand prisoners and misdemeanour offenders. None of the facilities offered an adequate regime of activities for these persons, who continued to spend most of their time locked up in their cells, with hardly anything to occupy themselves.

The situation of remand prisoners was aggravated by the fact that their contact with the outside world was restricted. It appeared during the 2009 visit that access to a telephone and visits - which had to be authorised by a police investigator, prosecutor or court - was more the exception than the rule. As regards misdemeanour offenders, they generally had access to a telephone, but they received virtually no visits.

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<sup>9</sup> See paragraph 33 of document CPT/Inf (96) 5.

30. To sum up, conditions in the police holding facilities visited could generally be considered as adequate for the duration of police custody (i.e. up to 72 hours). However, they were not suitable for the prolonged periods for which remand prisoners and misdemeanour offenders may be held in them (i.e. up to 60 days and 10 days respectively). In this context, **the CPT refers to the recommendation in paragraph 9 as regards the detention of remand prisoners in police holding facilities, as well as to the comments made in paragraph 8 as regards the situation of misdemeanour offenders.**

Further, **the Committee recommends that steps be taken to remedy the deficiencies referred to in paragraphs 27 and 28 and, in particular, to:**

- **improve ventilation and artificial lighting in the cells at the Budapest police central holding facility;**
- **refurbish the shower room at the Miskolc police holding facility;**
- **improve the outdoor exercise yards at the police holding facilities visited.**

Moreover, while police holding facilities are still being used to accommodate misdemeanour offenders, **the CPT recommends that the Hungarian authorities provide the latter with some form of activity (e.g. TV/radio, reading, association, sport) and review the visiting arrangements concerning this category of detained person.**

In addition, **the CPT would like to receive detailed information about plans to refurbish the exercise yards at the Budapest police central holding facility.**

31. It came to light during the visit that the video-surveillance of police cells was not suitably regulated (see also paragraph 17). Given the intrusive nature of such monitoring, it is necessary to have a comprehensive regulatory framework that provides, *inter alia*, for the specific grounds on which in-cell video surveillance may be authorised, the procedure to be followed and the criteria to be used. In addition, authorisation should be sought on a case-by-case basis and there should be regular and frequent reviews. It is also essential that the privacy of detained persons be preserved when they are using a toilet and washing themselves. Further, the monitoring of the video cameras should take place in a designated room by assigned officers, and events should be recorded in a logbook at regular intervals. **The CPT recommends that detailed regulations on in-cell video surveillance be adopted, in the light of the above remarks.**

b. waiting rooms for “apprehended” persons

32. The police establishments visited were equipped with waiting rooms for the holding of “apprehended” persons for periods not exceeding 12 hours. These rooms were generally well lit and ventilated, equipped with benches, and clean. Most detained persons interviewed by the delegation had had ready access to a toilet facility and drinking water. There were also arrangements for the provision of food after several hours of detention.

However, a few detained persons complained that they had remained overnight in a waiting room without being provided with a mattress or blanket. Some complaints were also heard of delays of up to one hour before being allowed to go to the toilet. **The CPT recommends that measures be taken to ensure that, if apprehended persons have to spend the night in a police waiting room, they are provided with a mattress and blankets. Further, persons held in such rooms should have ready access to a toilet (both during the day and at night).**

33. Certain waiting rooms seen by the delegation were fitted with video surveillance cameras, in addition to call systems. According to the relevant regulations,<sup>10</sup> a police waiting room may either be fitted with video surveillance cameras or a staff member should remain near the waiting room. **The CPT must stress that video surveillance systems should not replace frequent direct observation of cells by police officers to ensure the safety of detained persons and should not prevent detained persons from having direct contact with staff.**

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<sup>10</sup> See Section 12 of Order No. 19/1996 (VIII.23) of the National Police General Directorate.

## **B. Foreign nationals held under aliens legislation**

### **1. Preliminary remarks**

34. The CPT carried out follow-up visits to the Budapest and Nyírbátor holding facilities for aliens<sup>11</sup> accommodating illegal immigrants awaiting deportation and asylum seekers awaiting a decision on their applications. It also visited the Ferihegy Airport transit zone holding facility (situated in Terminal 2) used for foreign nationals denied entry to Hungary who cannot be removed within 24 hours.

35. Since the CPT's previous periodic visit in 2005, changes have been made to the aliens legislation, with the entry into force of the 2007 Act on the entry and stay of third country nationals and the 2008 Asylum Act. As a result, the maximum period for which a foreign national can be detained before being brought before a judge has been reduced from five days to 72 hours.<sup>12</sup> Detention can be prolonged by a court decision for 30 days and can subsequently be renewed every 30 days, up to a maximum of six months (previously, the maximum detention period was one year). During this period, the person is placed in a holding facility for aliens<sup>13</sup> run by the police<sup>14</sup>. At the expiry of the six months, if the expulsion cannot be implemented but the grounds for expulsion remain, foreign nationals can be placed in a community shelter or assigned a compulsory place of stay.

Further, foreign nationals who have been denied entry to the country can be held, pending their removal, for up to 72 hours in a designated place located in the frontier zone, or if they have arrived by means of air transport, for up to eight days in a designated place at the airport.

As regards foreign nationals seeking asylum, the Asylum Act provides for a preliminary assessment procedure of up to 15 days in order to establish whether a "Dublin procedure" is to be conducted and to filter out inadmissible applications. Asylum applications which are not eliminated as a result of this preliminary assessment undergo an "examination of the merits" with a time-limit of 60 days, during which the asylum seeker is placed in a reception centre. Asylum applications may also be lodged while a person is being held in a holding facility for aliens.

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<sup>11</sup> *Őrzött szállás*, i.e. « guarded shelter ».

<sup>12</sup> The formal decision to detain a foreign national for 72 hours is taken by the immigration authority (Office of Immigration and Nationality).

<sup>13</sup> There are four holding facilities for aliens in Hungary: in Budapest, Győr, Kiskunhalas and Nyírbátor. Juveniles and families with children are accommodated in reception centres rather than in these four facilities.

<sup>14</sup> The Border Guard Directorate was integrated into the National Police Directorate as of January 2008.

## 2. Ill-treatment

36. The delegation received no allegations of physical ill-treatment of detained persons by staff at the *Budapest holding facility* for aliens, and observed that staff treated foreign nationals in a respectful manner.

In contrast, the *Nyírbátor holding facility*, the delegation received an allegation of physical ill-treatment by staff. Further, several detained persons complained of verbal abuse and rude behaviour by certain members of the custodial staff. The delegation observed that the atmosphere at the establishment was rather tense and that there was little interaction between detainees and staff. **The CPT recommends that staff working at the Nyírbátor holding facility be given the clear message that the ill-treatment of detained persons (whether of a physical or verbal nature) is not acceptable and will be the subject of severe sanctions.**

As regards *Ferihegy Airport transit zone holding facility*, no-one was in detention at the time of the visit and the delegation did not meet anyone who had been held there.

37. The delegation also received some complaints of inter-detainee violence/intimidation at the *Nyírbátor holding facility*, which were mainly related to ethnic tensions but could also be attributed in part to the state of enforced idleness in which foreign nationals were left (see paragraph 43).

The duty of care which is owed by law enforcement agencies to those in their charge includes the responsibility to protect them from other detainees who wish to cause them harm. Addressing the phenomenon of inter-detainee violence/intimidation requires of an establishment's staff that it be alert to signs of trouble and both resolved and properly trained to intervene when necessary. The existence of positive relations between staff and detainees, based on the notions of dynamic security and care, is a decisive factor in this context; this will depend in large measure on staff possessing appropriate interpersonal communication skills (see paragraph 49). **The CPT recommends that the management of the Nyírbátor holding facility take steps to address the issue of inter-detainee violence/intimidation, in the light of the preceding remarks.**

38. Police staff working in the facilities visited carried truncheons, handcuffs and pepper spray in a visible manner while performing their duties. This practice has already been criticised by the CPT in its report on the 2005 visit.<sup>15</sup> In their response, the Hungarian authorities indicated that “[...] hidden carriage of such devices can bring about serious consequences”. The CPT is not convinced by this argument. In the Committee’s opinion, the current policy can only increase tension and prevent the development of positive relations between staff and detained persons. **If it is deemed necessary for police staff assigned to holding facilities for aliens to carry truncheons and handcuffs in detention areas, the Committee recommends that this equipment be hidden from view.**

Further, given the potentially dangerous effect of this substance, **the CPT considers that pepper spray should not form part of the standard equipment of custodial staff and, as a rule, should not be used in confined spaces. The Committee would also like to receive a copy of the instructions given to staff on the use of pepper spray.**

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<sup>15</sup> See paragraph 46 of CPT/Inf (2006) 20.

### 3. Conditions of detention

39. The *Budapest holding facility* for aliens occupied half of the second floor of a three-storey building belonging to the police, in the vicinity of the airport. At the time of the visit, it was accommodating 14 men and 4 women (against an official capacity of 24). The detention area was separated into two parts. The women's part consisted of one room (measuring some 15 m<sup>2</sup>) with two bunk beds and a fully partitioned sanitary annexe. The men's part comprised four rooms, measuring some 11 m<sup>2</sup> and with two bunk beds each, and one room measuring some 24 m<sup>2</sup> and with four bunk beds. The rooms were bright, airy and clean, and detained persons were provided with cupboards in which they could store their personal belongings. The sanitary facilities were also satisfactory.

At the time of the visit, the rooms were not overcrowded and foreign nationals could spend most of the day outside their rooms in a small common area. However, if the facility were to be used to its full capacity, the minimum of 4 m<sup>2</sup> of living space per detained person would not be observed. The delegation was told of plans to enlarge the facility's capacity to 32 places and to set up new common areas and a dining room, by the end of 2009. **The CPT would like to receive more details on these plans. In the context of their implementation, the Committee recommends that the minimum standard of 4 m<sup>2</sup> of living space per detained person in multi-occupancy rooms be observed.**

40. The *Nyírbátor holding facility* for aliens had been totally rebuilt and re-opened in 2005, next to the former facility visited by the CPT in 1999. It occupied a three-storey building, two floors of which were reserved for the detention area (the ground floor for women and the first floor for men). With an official capacity of 169 (136 men and 33 women), at the time of the visit the establishment was accommodating 53 persons (52 men and 1 woman).<sup>16</sup>

Detainees' rooms offered adequate space for the number of persons they were designed to hold (e.g. rooms measuring some 16 m<sup>2</sup> had two or three beds, and those measuring some 24 m<sup>2</sup>, five beds). In addition to beds, the equipment comprised a table, stools, shelves and a partitioned toilet. There was also a common/dining area and a shower room on each floor. Nevertheless, there were no cupboards in the detainees' rooms, as a result of which most of them kept their personal belongings in bags on the floor. Further, the rooms were not equipped with a call bell; **this deficiency should be remedied.**

To sum up, material conditions of detention were on the whole satisfactory. That said, due to the fact that foreign nationals were locked up in their rooms for most of the time and because of the design of the facility which was focused on security rather than the holding of foreign nationals, the accommodation areas had a prison-like atmosphere.

41. The capacity of the *Ferihegy Airport transit zone holding facility* was 8, but no-one was being held there at the time of the visit. There were two rooms, each measuring some 16 m<sup>2</sup> and containing two bunk beds. The rooms were adequately lit and ventilated, and had a sanitary annexe with a sink, shower and toilet. There was also a small common area between the two bedrooms, with a table and chairs. The whole facility was in a good state of repair and clean.

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<sup>16</sup> The delegation was informed that the largest number of persons accommodated at any given time since the opening of this new facility was 110.

42. At the *Budapest* and *Nyírbátor holding facilities*, foreign nationals were offered one hour of outdoor exercise per day. No such possibility existed at the *Ferihegy Airport transit zone holding facility*.<sup>17</sup>

At the *Budapest holding facility*, the outdoor exercise area was only equipped with benches. Further, foreign nationals were transferred in handcuffs from the detention area to the outdoor exercise yard as there was no secure passage between the two areas. This systematic practice is disproportionate and hence unacceptable. The application of handcuffs should be an exceptional measure, on the basis of an individual risk assessment. As regards the *Nyírbátor holding facility*, the outdoor exercise area consisted of a large wasteland area surrounded by a high brick wall topped with barbed wire.

**The CPT recommends that steps be taken to:**

- **end the systematic use of handcuffs when foreign nationals are escorted to the outdoor exercise area at Budapest holding facility;**
- **ensure that foreign nationals held in the Ferihegy Airport transit zone holding facility for more than 24 hours benefit from daily outdoor exercise;**
- **provide the outdoor areas of the Budapest and Nyírbátor holding facilities with sports equipment, protection from inclement weather and (in the case of Nyírbátor) means of rest.**

43. In its report on the 1999 visit,<sup>18</sup> the CPT noted that foreign nationals held under aliens legislation spent much of their time in an enforced state of idleness. During the 2009 visit, little progress was observed as regards the provision of activities.

Foreign nationals benefited from an open-door regime at the *Budapest holding facility*, allowing men to assemble during the day in a common area. As regards women, the “open-door” regime consisted of going out of their rooms into the corridor (measuring some 5 m<sup>2</sup>). The only activity for both men and women consisted of watching TV.

According to the internal rules of the *Nyírbátor holding facility*, foreign nationals were allowed out of their cells at meal times, for one hour of outdoor exercise in the morning, and from 4 p.m. to 10 p.m. (11 p.m. at weekends). However, many detainees met by the delegation complained that, in practice, the time spent outside their rooms was reduced to some 3-4 hours per day. Further, the activities available to them consisted of watching a single-channel TV and playing board games.

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<sup>17</sup> The examination of registers showed that foreign nationals usually spent two to four days on the premises.

<sup>18</sup> See paragraphs 59 and 60 of CPT/Inf (2001) 2.

The paucity of purposeful activities for foreign nationals held under aliens legislation might well engender further frustration and stress and even provoke tensions among them, as noted above. **The CPT recommends that the Hungarian authorities make further efforts to develop the regime applied to foreign nationals held in holding facilities for aliens with a view to enlarging the offer of purposeful activities (e.g. access to sports facilities, provision of books and newspapers/magazines in foreign languages, language classes, etc.). The longer the period for which persons are held, the more developed should be the activities which are offered to them.**

44. Visiting arrangements at the *Budapest holding facility* were satisfactory; detainees received visits under open conditions sitting around the table. In contrast, at *Nyírbátor*, all visits took place under closed conditions, with detained persons and their visitors (including lawyers) being separated by a plexiglas window with holes in it. The CPT does not see any reason why persons held under aliens legislation, who are neither convicted nor suspected of criminal offences, should be subject to visiting arrangements that are usually seen in strict-regime prison establishments. If, exceptionally, it is considered necessary to impose restrictions on a particular detainee, this should be done on the basis of an individual risk assessment. **The CPT recommends that steps be taken to review visiting arrangements at the Nyírbátor holding facility in order to enable visits to take place under more open conditions.**

#### 4. Health care

45. The provision of health care at the *Budapest holding facility* could be considered satisfactory. A doctor attended the facility five days a week from 8 a.m. to 4 p.m., and a feldsher was present on a 24-hour basis. The airport doctor could also be called in case of need.

In contrast, there were no health-care staff attached to the *Nyírbátor holding facility*, a situation which is unacceptable given the number of inmates held there. A doctor was available three times a week for consultations and, in case of emergency, detainees could be transferred to a hospital. Further, emergency dental care was available. The delegation was informed that the holding facility had once employed six feldshers, but that their posts had been removed in 2007. The establishment's management had reportedly requested that the feldshers' posts be re-allocated. Not surprisingly, the delegation received several complaints from detained persons concerning problems of access to health-care staff. **The CPT recommends that steps be taken at the Nyírbátor holding facility to substantially increase the attendance hours of a doctor and to ensure the presence of a feldsher on a 24-hour basis.**

As regards the *Ferihegy Airport transit zone holding facility*, the airport doctor was reportedly available at all times and transfer to a hospital could be organised in case of need.

46. At the *Budapest* and *Nyírbátor holding facilities*, medical examination of detained persons took place shortly after their admission. At the *Ferihegy Airport transit zone holding facility*, the delegation was told that such an examination would only be organised upon the request of a foreign national. In the CPT's view, medical screening of new arrivals is in the interests of both foreign nationals and staff, and is also a preventive public health measure. **The CPT recommends that the Hungarian authorities introduce systematic medical screening of persons admitted to the Ferihegy Airport transit zone holding facility.**

47. As in other police establishments visited by the delegation, medical confidentiality was not observed. In particular, a police officer was present during medical examinations (except for examinations of female detainees at the Budapest holding facility). Further, medical files were kept together with detained persons' legal files and were accessible to police officers. **Reference is made in this respect to the recommendations in paragraph 15.**

It should be noted that feldshers working at the Budapest holding facility were also performing custodial tasks. Further, the posts of feldshers which had been removed at the Nyírbátor holding facility had combined both health-care and custodial responsibilities. In the CPT's view, entrusting feldshers working in holding facilities for aliens with custodial tasks is not conducive to the development of proper health-care staff/patient relations and could give rise to a potential conflict of interest (e.g. in the event of an allegation of ill-treatment of a foreign national by a member of the custodial staff). **The CPT recommends that the Hungarian authorities take measures to stop this practice. The Committee also refers to the comments and request for information made in paragraph 15 as regards the formal position of health-care staff.**

## 5. Safeguards

48. Information on rights and the internal rules was provided orally at the establishments visited (with the help of an interpreter, if needed). At the *Nyírbátor holding facility*, the delegation also saw information sheets (in English, German and Bosnian /Croatian /Serbian<sup>19</sup>) posted on a notice board in the common area. At *Budapest*, foreign nationals were requested to sign an information sheet (in Hungarian), which was then kept in their files. Further, information on asylum procedures, lists of embassies/consulates and brochures from the Hungarian Helsinki Committee were posted in the establishments' common areas. That said, foreign nationals interviewed complained that they had not been provided with adequate information on their rights, the procedure applicable to them and the internal rules of the holding facilities.

**The CPT reiterates its recommendation that steps be taken to ensure that written information on detainees' rights, the internal rules and applicable procedures is available in the languages most commonly spoken by foreign nationals in all holding facilities for aliens in Hungary, and is given to detainees upon admission.**

49. The administrative detention decision issued by the immigration authority (Office of Immigration and Nationality – OIN) specified the right to legal assistance. Pursuant to Section 59 of the Aliens Act, a foreign national can be represented by a legal representative at court hearings; if the foreign national does not understand Hungarian or cannot afford a legal representative, the court should appoint one. However, the law also stipulates that the hearing can be conducted at the place of detention, in the absence of the foreign national's legal representative. Further, the delegation understood that the court can take decisions in the absence of the foreign national concerned, on the basis of documentation.

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<sup>19</sup> Information sheets on rights apparently also existed in Afghan, Arabic, French and Vietnamese.

Some detained persons met during the visit complained that they had not had an opportunity to meet a lawyer. Other detainees who had benefited from legal assistance indicated that they had only met their lawyer at the court hearing and that he/she had had a passive attitude. The assistance provided to foreign nationals by the Hungarian Helsinki Committee's lawyers is to be commended; however, this should not be perceived as a substitute for the State's responsibility to provide legal assistance to detained foreign nationals.

**The CPT recommends that the Hungarian authorities ensure that persons detained under aliens legislation have an effective right of access to a lawyer as from the very outset of their deprivation of liberty and at all stages of the proceedings. Clear information about access to legal aid should be made available to detained foreign nationals. In addition, the judicial review should entail an oral hearing of the foreign national concerned.**

Further, **the regular presence of a legal advisor should be arranged at holding facilities for aliens.**

## **6. Other issues**

50. As regards staff training, the management of the establishments visited informed the delegation that staff regularly attended various training sessions (e.g. first-aid, psychology, etc.). Staff at the *Budapest holding facility* had been scheduled to take part in a training session on crisis management in the summer of 2009. However, foreign language courses had reportedly been discontinued at the end of 2007 for lack of funding.

The CPT has already stressed in its previous visit reports that, as well as possessing well-developed interpersonal communication skills, staff working in establishments for detained foreign nationals should be familiar with the various cultures of the detainees and at least some of them should have relevant language skills. This is also important for managing inter-detainee violence. **The Committee recommends that further efforts be made to develop specialised training for staff working with foreign nationals, in the light of the preceding remarks, and to encourage greater interpersonal communication between staff and detainees.**

51. As had been the case during the 2005 visit, Hungarian legislation did not contain provisions concerning disciplinary sanctions applicable to foreign nationals held under aliens legislation. A foreign national held at the *Nyírbátor holding facility* alleged that, after objecting to a cell search, he had been taken out of his room by four officers and placed in a medical isolator where he had spent a couple of hours; during that time, he had allegedly been handcuffed behind his back. The CPT is convinced that it is in the interests of both detained persons and staff working within holding facilities for aliens that a clear procedure, accompanied by appropriate safeguards,<sup>20</sup> under which a detained person may be isolated from others for reasons of good order or security, be both formally established and applied in practice. Indeed, any grey areas in this respect entail the risk of unofficial (and uncontrolled) systems developing. **The CPT recommends that the Hungarian authorities adopt such a procedure, in the light of the preceding remarks. Further, under no circumstances should the medical isolators be used for disciplinary or administrative segregation purposes.**

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<sup>20</sup> See, in this respect, the CPT's standards (CPT/Inf (2002) 1 Rev. 2006), page 19 (paragraph 55).

52. At the *Budapest holding facility*, foreign nationals had unlimited access to a pay phone in the detention area (provided that they had money to buy phone cards). There were also two pay phones at the *Nyírbátor holding facility*, but many detainees complained that phone calls were limited by staff to a couple of minutes. Foreign nationals were not allowed to keep their mobile phones during their stay, and arrangements for indigent detainees were only in place to call a lawyer, the Ombudsman's office and a consulate/embassy.

**The CPT recommends that steps be taken to ensure that detainees at the Nyírbátor holding facility have adequate access to a telephone. More generally, the Committee invites the Hungarian authorities to offer at least one free telephone call per month to those immigration detainees without the financial means to pay for it themselves. Further, bearing in mind that immigration detainees are neither convicted nor suspected of criminal offences, the CPT is of the view that they should be allowed access to their mobile phones.**

## C. Prison establishments

### 1. Preliminary remarks

53. The delegation carried out full visits to Borsod-Abaúj-Zemplén Prison in Miskolc (hereafter referred to as Miskolc Prison) and Tiszalök Prison, and a targeted visit to Sátoraljaújhely Prison where it focused on the treatment of inmates placed in the Special Security Unit (KBK) and other prisoners considered to require high security arrangements (Grade IV prisoners).

54. At the outset of the 2009 visit, the delegation was informed that prison overcrowding had been on the decrease for the last four years. There were 15,367 prisoners in mid-March 2009 as compared with some 16,100 four years previously. The overpopulation rate stood at 22 %, as compared with 41 % at the time of the CPT's 2005 visit. This positive development was said to be largely due to the increase in the overall capacity of the prison estate (from 11,406 to 12,566 places), following the opening of two new prisons in Szombathely and Tiszalök<sup>21</sup> in the course of 2008. At the same time, the delegation's official interlocutors indicated that efforts were being pursued to make wider use of alternatives to imprisonment.

That said, overcrowding continued to be a serious problem in a number of prison establishments, Miskolc Prison being one of the most overcrowded prisons at the time of the visit, with an overpopulation rate of some 85 %. The delegation witnessed the negative impact of overcrowding on many aspects of life in this establishment: reduced out-of-cell activities, and increased tension between prisoners and staff, as well as among prisoners themselves (see paragraphs 55, 59 and 82).

As previously stressed by the CPT,<sup>22</sup> providing additional accommodation cannot on its own offer a lasting solution. The most viable way to control overcrowding is to adopt policies designed to limit or modulate the number of persons sent to prison. In this connection, the Committee must stress the need for a strategy covering both admission to and release from prison, to ensure that imprisonment really is the ultimate remedy. **The CPT encourages the Hungarian authorities to pursue their efforts to combat prison overcrowding, by placing particular emphasis on non-custodial measures in the period before the imposition of a sentence, increasing the use of alternatives to imprisonment and adopting measures facilitating the reintegration into society of persons deprived of their liberty.**

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<sup>21</sup> These two establishments have official capacities of 800 and 700 places respectively.

<sup>22</sup> See paragraph 89 of document CPT/Inf (2001) 2.

## 2. Ill-treatment

55. None of the prisoners held in the *Sátorajújhely Prison*'s KBK or other Grade IV inmates interviewed during the visit complained about ill-treatment by staff in this establishment.

At *Miskolc Prison*, the delegation received several credible accounts, supported by medical evidence, of physical ill-treatment of prisoners by staff. The alleged ill-treatment mainly concerned punches and kicks, reportedly inflicted not only on the prison's premises, but also in the neighbouring court building.

At *Tiszalök Prison*, the delegation received some allegations of physical ill-treatment of inmates by prison officers, in particular members of a "special response team"<sup>23</sup>. The alleged ill-treatment essentially consisted of slaps, punches and kicks, and was said to have taken place in offices, cells or the disciplinary section.

In the two latter establishments, the delegation also heard a few accounts of verbal abuse of prisoners, including of a racist nature, and other forms of provocative behaviour by certain members of staff.

**The CPT recommends that staff at Miskolc and Tiszalök Prisons be regularly reminded that physical ill-treatment, verbal abuse and other forms of provocative behaviour vis-à-vis prisoners are not acceptable and that the perpetrators of such acts, as well as those condoning them, will be the subject of severe sanctions. The management of both establishments should exercise increased vigilance in this area, including through the regular presence of prison managers in the detention areas, their direct contact with prisoners, and improvements in selection procedures and staff training.**

56. In most cases examined by the delegation, resort to means of restraint (e.g. handcuffs) by staff to bring agitated and/or violent prisoners under control did not appear to be disproportionate.

However, at *Miskolc Prison*, the use of handcuffs and anklecuffs was not clearly differentiated in the records. In this connection, specific mention should be made of an inmate who alleged that his hands and ankles had been cuffed and that the two sets of cuffs had been linked behind his back in a way which had maintained him in a hyper-extended position for half an hour. In their report, staff stated that the inmate had attempted to assault them. The records did not refer to the application of anklecuffs; however, the lesions on his ankles which were observed by the prison doctor were consistent with anklecuffs having been applied. **The CPT must stress that restraining a person in a hyper-extended position (e.g. with hand and ankle cuffs linked together behind the back) is not acceptable.**

Further, at *Tiszalök Prison*, the delegation heard one allegation of a totally unacceptable use of handcuffs (i.e. fixed behind the prisoner's back and raised to inflict pain). **Any such conduct should be considered as constituting an assault.**

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<sup>23</sup> A "special response team" is set up within each prison. One of its tasks is to intervene in the event of disturbances in the establishment.

57. In the CPT's view, excessive or inappropriate use of means of restraint can lead to situations amounting to inhuman and degrading treatment. The Committee also wishes to stress that the conscientious recording of every application of these means is a basic safeguard against possible abuse and, at a more general level, constitutes an essential tool of good management. In this context, the use of anklecuffs should be recorded separately from resort to handcuffs. **The CPT recommends that the relevant regulations on the use of means of restraint be reviewed, in the light of these remarks.**

It should also be underlined that means of restraint applied to prisoners in the context of movements of prisoners within and outside prisons were also of concern to the Committee (see, in this respect, paragraphs 118-119).

58. At *Tiszalök Prison*, the delegation was informed that dogs may sometimes be used in accommodation areas as a dissuasive measure while a cell search is being carried out. An inmate interviewed by the delegation indicated that he had been assaulted by a muzzled dog in his cell and that, on another occasion, he had been placed in front of an unmuzzled dog while he was standing outside his cell. The CPT considers that the above-mentioned use of dogs is totally inappropriate. **The Committee recommends that steps be taken to ensure that dogs are not used in prisoner accommodation areas in the above circumstances.**

59. Many allegations of inter-prisoner violence were received at *Miskolc Prison*, most of which were supported by medical evidence. As a result of overcrowding, it was not possible to keep different categories of inmates in separate accommodation and a number of allocation criteria had to be disregarded. This situation was compounded by serious understaffing, and the prison had no psychologist to carry out individual risk assessment. Further, arrangements according to which communications between custodial staff and inmates were conducted via a cell representative did not help prison officers in acquiring a good knowledge of the prison's population and had the potential for abuse; in the CPT's view, **a system of cell representatives should not prevent direct communications between custodial staff and other prisoners.**

Although the majority of the prisoners interviewed indicated that staff intervened in an appropriate manner when faced with episodes of inter-prisoner violence, some inmates complained about undue delays before prison officers took action. It is also of particular concern to the CPT that, in a few instances, custodial staff had allegedly incited prisoners to assault other inmates.

On a more positive note, the delegation did not gain the impression that inter-prisoner violence was a problem at *Tiszalök Prison*. Further, no Grade IV prisoners interviewed complained about inter-prisoner violence or intimidation at *Sátorajújhely Prison*.

60. The duty of care which is owed by the prison authorities to prisoners in their charge includes the responsibility to protect them from other prisoners who might wish to cause them harm. The prison authorities must act in a proactive manner to prevent violence and intimidation by prisoners against other inmates. Addressing the phenomenon of inter-prisoner violence requires that prison staff be alert to signs of trouble and both resolved and properly trained to intervene when necessary. The existence of positive relations between staff and prisoners, based on the notions of dynamic security and care, is a decisive factor in this context. This will depend greatly on having an adequate number of staff present in detention areas. Another key component in the fight against inter-prisoner violence and intimidation is the careful assessment, classification and cell allocation of individual prisoners within the prison population.

**The Committee recommends that the management of Miskolc Prison make use of all the means at its disposal to prevent inter-prisoner violence and intimidation, in the light of the preceding remarks.** In this context, reference is made to the recommendations in paragraphs 89 and 104 on the need to employ a psychologist and to increase staffing levels in this prison. **The CPT also recommends that the management of Miskolc Prison deliver the clear message to custodial staff that any attempts to provoke inter-prisoner violence are totally unacceptable and will be dealt with severely.**

61. The CPT would like to stress the importance of effective action by the prosecuting authorities when information indicative of possible ill-treatment comes to light. In the course of the 2009 visit, the CPT's delegation paid particular attention to the manner in which certain investigations into cases involving allegations of ill-treatment of prisoners had been carried out. The delegation's assessment of action taken so far by the competent prosecuting authorities in these cases was generally positive.

One case concerned a remand prisoner<sup>24</sup> held at Somogy Prison in Kaposvár who died on 13 February 2009 from injuries received while in custody. The delegation was provided with detailed information on the ongoing investigation, including forensic and other medical evidence, statements of persons involved in the incident and witnesses. At the end of the visit, the delegation was informed that suspects had been identified among the prison staff; action taken did not only concern the alleged perpetrators of ill-treatment, but also those who had apparently condoned such acts. Further, the delegation was informed of the prosecuting authorities' intention to broaden the scope of the investigation, as the inmate concerned had also displayed, on arrival at the prison, injuries which could have been sustained while he was in police custody.

The delegation also had an opportunity to examine the action taken in the case of a remand prisoner<sup>25</sup> who had allegedly been beaten by prison staff in his cell at Miskolc Prison on 2 September 2008, after a conflict with a prison officer. Criminal proceedings had been initiated not only against the staff directly implicated in the incident, but also against senior prison staff who had failed to react to the report of what had happened.

**The CPT would like to receive, within three months, up-to-date information on the investigations into the above-mentioned cases and an account of any disciplinary and/or criminal proceedings instituted.**

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<sup>24</sup> In accordance with Article 11, paragraph 3, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the name of the person concerned has been deleted. He has been referred to as "A" in the response of the Hungarian Government.

<sup>25</sup> The prisoner concerned is referred to as "M" in the response of the Hungarian Government.

62. More generally, in order to have an overview of the national situation regarding the treatment of prisoners, **the CPT would like to receive the following information for 2008 and 2009 concerning all prisons in Hungary:**

- **the number of complaints of ill-treatment lodged against prison staff/other prisoners;**
- **the number of criminal/disciplinary proceedings instituted as a result of these complaints;**
- **an account of the disciplinary and/or criminal sanctions imposed.**

### **3. Grade IV prisoners**

63. The situation of prisoners considered to require high security arrangements (Grade IV prisoners) has been the subject of an ongoing dialogue between the CPT and the Hungarian authorities. In the course of the 2009 visit, particular attention was again paid to this category of prisoner, some of whom were being held in special security conditions, i.e. in a Special Security Unit (KBK) (see Section 4 of the report).

At the time of the visit, Miskolc and Tiszaölk Prisons were accommodating, respectively, 16 and 33 inmates classified as Grade IV who were all being held in ordinary detention areas. At Sátoraljaújhely Prison, out of 24 Grade IV prisoners, three were being accommodated in the establishment's KBK.

64. With respect to legal safeguards, it should be recalled that allocation to Grade IV is made either by the prosecutor, the court or the reception committee of the prison establishment. The status of the inmates concerned is reviewed every three months.

The delegation which carried out the 2009 visit noted that some improvements had been made as regards the procedure for Grade IV classification. Prisoners interviewed during the visit stated that they had been provided with a copy of the decision, indicating the possibility to contest it. Moreover, most Grade IV inmates met by the delegation indicated that they had been informed orally of the reasons for the measure. However, the prisoners concerned were still not receiving information in writing on their allocation to Grade IV, which made it more difficult to challenge the decisions, and were not given an opportunity to express their views on the matter prior to the decision on allocation being taken. Further, there were no possibilities of appeal to an independent authority as prescribed by the European Prison Rules.<sup>26</sup>

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<sup>26</sup> See Rules 53 and 70 of the Recommendation Rec (2006) 2 of the Committee of Ministers of the Council of Europe to member states on the European Prison Rules. Rule 53.7 reads as follows: "Any prisoner subjected to [special high security or safety] measures shall have a right of complaint in the terms set out in Rule 70". Pursuant to Rule 70.3, "If a request is denied or a complaint is rejected, reasons shall be provided to the prisoner and the prisoner shall have the right to appeal to an independent authority".

More generally, both educators and prisoners interviewed expressed their frustrations over periodic reviews. In many instances, the reason for allocating an inmate to Grade IV was the nature of his (alleged) offence or his escape history. In such cases, it clearly appeared during the 2009 visit that periodic reviews were not meant to be a thorough assessment of the inmates' current dangerousness or propensity to act again in an unacceptable way, since, whatever attitude the inmates concerned had displayed over the recent months and years in prison, they would remain classified as Grade IV. Such situations generated feelings of injustice among the prisoners in question and provided staff with little margin of manoeuvre to encourage progress in their behaviour. In the CPT's view, it is essential for the management of prisoners whose personality or behaviour is likely to mean that they will spend long periods of time classified as Grade IV, that decisions reached about their management are not only fair but can be seen to be fair. The absence of such an approach is likely to result in an increased sense of grievance and descent into a spiral of deteriorating behaviour.

**The CPT again calls upon the Hungarian authorities to take steps to implement its previous recommendations concerning the provision to prisoners placed in a Grade IV regime of written information on the reasons for the measure as well as the opportunity to express their views on the matter.**

**The Committee also reiterates its recommendation that the system of classifying prisoners as Grade IV be reviewed and refined with a view to ensuring that this grade is only applied – and retained – vis-à-vis prisoners, in the light of a thorough assessment of their current attitude and behaviour.**

Further, **the CPT recommends that measures be taken to ensure that the inmates concerned have the right to appeal against the decisions on their allocation to Grade IV to an independent authority (e.g. a judge).**

65. The material conditions in which Grade IV prisoners were being held at Miskolc and Tiszalök Prisons were comparable to those of other inmates; reference is made in this respect to paragraphs 80 and 84. At Sátoraljaújhely Prison, inmates classified as Grade IV other than those held in the KBK could be accommodated in single cells (measuring some 9 m<sup>2</sup>) or in larger cells (measuring some 16, 26 and 46 m<sup>2</sup> and holding 4, 8 and 14 inmates respectively). The cells were bright, adequately ventilated, well-equipped and had a screened toilet; however, as is clear from the occupancy rates mentioned in the previous sentence, many of the cells were accommodating prisoners in rather cramped conditions.<sup>27</sup> **The CPT encourages the management of Sátoraljaújhely Prison to reduce the actual occupancy levels in the cells accommodating Grade IV prisoners, the objective being to offer a minimum of 4 m<sup>2</sup> of living space per prisoner in multi-occupancy cells.**

66. At Sátoraljaújhely Prison, two single cells (Nos. 311 and 312) were accommodating prisoners classified as Grade IV whose behaviour was being assessed at the time of the visit. The barred area at the entrance of cell No. 312 left the prisoner with only 3.75 m<sup>2</sup> of living space. **The CPT recommends that this shortcoming be remedied.** Further, **the Committee would like to receive information from the Hungarian authorities as to the rules governing the use of these two cells.**

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<sup>27</sup> With an official capacity of 265, at the time of the visit Sátoraljaújhely Prison was holding 360 inmates (corresponding to an overpopulation rate of 36 %).

67. The regime of activities was somewhat less favourable for prisoners with Grade IV status than for other inmates. For instance, Grade IV inmates at Miskolc Prison had access to a smaller outdoor exercise yard, with no equipment at all. At Tiszalök Prison, the organised activities offered to Grade IV prisoners were generally limited to sports. Special efforts were being made at Sátoraljaújhely Prison to provide such prisoners with a number of activities (e.g. work, education, sport), although certain restrictions could be imposed on an individual prisoner (e.g. work under video-surveillance, access to a fitness room alone only). **The CPT recommends that the management of Miskolc and Tiszalök Prisons step up their efforts to offer a range of purposeful activities to Grade IV prisoners. Further, the outdoor exercise facilities at Miskolc Prison should be improved.**<sup>28</sup>

#### 4. Prisoners held in special security conditions

68. Each of the three prison establishments visited had facilities designed to hold Grade IV prisoners in special security conditions. Sátoraljaújhely Prison was the first Hungarian prison in which a Special Security Unit (KBK) had been set up, in 1994. Located on the top floor of the prison's accommodation building, it had eight single cells and was holding three inmates at the time of the 2009 visit. A KBK, with a capacity of 10 places, had also been built in the new Tiszalök Prison. There were no plans to bring this unit into service in the near future; however, the delegation was informed that two special security cells (KBZ) within the unit were to enter into operation once their equipment had fulfilled all the security requirements (see paragraph 72). There was also a KBZ at Miskolc Prison, but it had not been used in the last few years.

69. Placement in a KBK is decided at national level by a special committee composed of the Head of the Prison Service and the heads of the Service's health, security and detention departments, on the basis of a motion from a prison director. Interviews with staff and prisoners, as well as the examination of relevant documentation at Sátoraljaújhely Prison's KBK, revealed that the placement procedure was deficient in certain respects. The inmates concerned were not informed of the reasons for their placement in the Unit. Further, it appeared that reviews of placement, which took place every six months, were to a large extent a formality since the initial security factors which led to the placement of a prisoner in special security conditions tended to prevail over any other considerations related to the evolution of the inmate's attitude and behaviour or his individual needs. By way of example, although the local prison management, on the basis of psychiatric and psychological expertise, had expressed the opinion that one prisoner should be moved out of the Unit, the special national committee had decided to keep him in the KBK. In addition, a prisoner placed in special security conditions had no possibility of appealing the decision on placement, or its renewal, to an independent authority.<sup>29</sup>

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<sup>28</sup> As regards Tiszalök Prison, Grade IV prisoners took exercise in yards designed for the mainstream population.  
<sup>29</sup> Prisoners held in a KBK only had the possibility to complain about the decision to the Head of the Prison Service, who is a member of the special national committee.

70. In the CPT's view, placement in special security conditions should be based on an individualised assessment of the actual risks. In the great majority of cases, such a placement should be decided after a period of assessment in a normal location and, in all cases, on the basis of a full psychological and, if necessary, psychiatric evaluation of the prisoner. Reviews of all placements should be held quarterly and the prisoners concerned should always be offered the opportunity to express their views on the matter. Continued placement in special security conditions should not be a purely passive response to the prisoner's attitude and behaviour. Instead, reviews of placement should be objective and meaningful, and form part of a positive process designed to address the prisoner's problems and permit his (re-)integration into the mainstream prison population.

The prisoner concerned should also as far as possible be kept fully informed of the reasons for the measure in writing and, if necessary, its renewal; this will, *inter alia*, enable him to make effective use of avenues for challenging that measure. Further, placement in special security conditions should not be imposed for any longer than necessary in each individual case.

**The CPT recommends that the Hungarian authorities amend the relevant regulations and take appropriate measures, in the light of the above remarks. Further, the recommendation made in paragraph 64 as regards possibilities of appeal to an independent authority applies equally here.**

71. Material conditions of detention in the eight single cells of Sátoraljaújhely Prison's KBK were, on the whole, adequate. The cells measured some 13 m<sup>2</sup> each and had a bed, desk, stools, washbasin and a partly screened sanitary annexe (consisting of a shower and toilet). Access to natural light and artificial lighting and ventilation were of a good standard, and the premises were clean. Further, the cells were equipped with an intercom system. TV sets were also provided by the prison administration. However, the windows of cells Nos. 320 to 323 were fitted with frosted glass, which prevented inmates from seeing outside the building, thereby generating a potentially oppressive effect. The prison management was aware of this problem (which also concerned other cells in the building) and informed the delegation of its plans to install one-way glass in order to allow prisoners to see outside their cells while preventing them from communicating with the outside. **The CPT would like to receive up-to-date information on the implementation of these plans.**

72. At Tiszalök Prison, the ten single cells of the KBK were similar in size to those seen at Sátoraljaújhely (and comprised a barred area of approximately 2.5 m<sup>2</sup>). They were bright, well ventilated, well-equipped (e.g. bed, desk, stools, TV) and had a partitioned shower and toilet. The cells were fitted with intercom systems and video-surveillance cameras. The delegation was informed that the cell window panes were to be replaced with armoured, possibly frosted, glass to meet the necessary security requirements. The delegation was shown two cells of the Unit which were expected to enter into service once the window panes had been replaced. **The CPT recommends that the management of Tiszalök Prison ensure that cell windows in the KBK allow prisoners to see outside their cells.**

73. At Miskolc Prison, the establishment's special security cell (KBZ) comprised a barred area which left just some 6 m<sup>2</sup> of living space to the prisoner placed in it. In-cell lighting, ventilation and equipment were acceptable. The cell was also fitted with a video-surveillance camera. The delegation was told by staff that the cell was only used for periods of detention of up to 10 days, pending a decision of the special national committee on placement, after which the prisoner concerned was transferred to another prison establishment. **The CPT would like to receive confirmation of this.**

More generally, the CPT refers to its comments made in paragraph 31 and **would like to receive a copy of the regulations on the use of video-surveillance in prison cells.**

74. Prisoners held at Sátoraljaújhely Prison's KBK had access to one hour of outdoor exercise per day, which they took one by one, in the Unit's secure yard (measuring some 25 m<sup>2</sup>). The yard was equipped with a shelter against inclement weather, but offered no view apart from the sky, and had no means of rest. At Tiszalök Prison, the three exercise yards for prisoners held in special security conditions were somewhat larger (measuring some 37 m<sup>2</sup>), but they had no shelter, no means of rest and only offered a view of the sky. **The CPT recommends that the Hungarian authorities remedy these shortcomings.**

75. As regards the programme of activities, the three prisoners held at Sátoraljaújhely Prison's KBK were held in situations akin to solitary confinement for extended periods of time (i.e. of up to several years). They were locked up in their cells for up to 23 hours a day and were in principle not allowed to associate with each other. Two of the inmates had no work, the inmate involved in the cleaning of the Unit being the only exception. Each inmate had access, up to three times a week, to an indoor sports facility equipped with a table tennis table, wall bars, weights and a basketball net. Further, the delegation was informed of plans to turn a storage room into an activity room. However, it was not envisaged to allow prisoners to associate with fellow prisoners in the Unit.

The CPT considers that the paucity of the activities described above is not a suitable way to respond to disruptive behaviour in prison, to allow safe progress towards release and to reduce the risk of re-offending after release. Long periods of solitary confinement can seriously affect mental health and greatly reduce the possibility of resocialisation. The objective should be to seek to compensate for these effects in a positive and proactive way. It is crucial that prisoners held in special security conditions are provided with tailored activity programmes and enjoy a relatively relaxed regime within the confines of their Unit.

**The Committee recommends that a suitable programme of purposeful activities of a varied nature (including work, education, association and targeted rehabilitation programmes) be offered to prisoners held in special security conditions. This programme should be drawn up and reviewed on the basis of an individualised needs/risk assessment by a multi-disciplinary team (involving, for example, a psychologist and an educator), in consultation with the inmates concerned. Interaction/association between prisoners within a KBK should be the norm; conditions akin to solitary confinement should only be used when absolutely unavoidable in order to deal with a person who is assessed to be acutely dangerous to others and for the shortest period necessary.**

76. The 28 custodial staff assigned to Sátoraljaújhely Prison's KBK had been selected according to physical and psychological criteria and had received specialised training. Nevertheless, the delegation observed that interaction between custodial staff and inmates held in the KBK was extremely limited: staff were not allowed to talk to the prisoners, except to give orders.

Further, other staff working with the prisoners in the KBK (educator, psychologist and prison chaplain) were only allowed to talk to them through a hatch in the cell door, with the interviewer sitting on a chair outside the cell, and the prisoner having to kneel or bend to speak to them; eye contact was thus virtually impossible and there was no privacy for interviews. One of the three inmates was in a slightly better position as he had the possibility to speak to staff inside his cell, which was equipped with a barred area in which the interviewer could stand or sit.

In the CPT's view, staff working with prisoners held in special security conditions should be trained to engage with the inmates concerned and be involved in the implementation of their activity programmes. Much more reliance needs to be placed on dynamic security and less on physical security; in the interests of both staff and prisoners, the aim should be to build positive relations between staff and inmates. The practice of talking to prisoners through a hatch in the cell door or on opposite sides of the metal bars is counter-productive in this respect, and infringes upon the dignity of the prisoners concerned; rooms could be designed in such a way as to limit security risks. The Committee must also stress that the presence of both male and female staff would have a beneficial effect in terms of both the custodial ethos and in fostering a degree of normality in a KBK. **The CPT recommends that the Hungarian authorities take immediate action, in the light of the above remarks.**

77. According to the regulations on the application of means of restraint,<sup>30</sup> inmates held in special security conditions may be handcuffed, body-belted and/or anklecuffed whenever they are taken out of their cells, on the basis of an individual risk assessment. The regulations make it clear that means of restraint should not be used during outdoor exercise or educational, sports, cultural or religious activities.

At Sátoraljaújhely Prison's KBK, all three inmates were handcuffed during out-of-cell movements (both inside and outside the Unit), which took place in the presence of several custodial officers. In the case of one inmate, handcuffs were applied in combination with a body-belt; in the case of another, handcuffs were used in combination with both a body-belt and anklecuffs. One prisoner alleged that he remained in handcuffs during outdoor exercise; if true, **this would contravene the regulations.**

In the light of the examination of the relevant documentation and interviews with staff concerned, the delegation reached the conclusion that the multiple means of restraint applied to the prisoners held in Sátoraljaújhely Prison's KBK were disproportionate to the risk they posed while they were being moved within the prison. Such arrangements were demeaning. At the end of the 2009 visit to Hungary, the delegation requested that action be taken without delay to review the application of means of restraint to prisoners held in the KBK. In their letter of 29 May 2009, the Hungarian authorities informed the CPT of amendments to the relevant regulations to ensure that no prisoner held in the KBK has anklecuffs and a body-belt applied for movements inside the prison; handcuffs may be applied on the basis of an individual risk assessment. The Committee welcomes this development. **The CPT encourages the Hungarian authorities to continue their efforts to minimise the application of means of restraint to prisoners held in special security conditions.**

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<sup>30</sup> See Prison Service Regulation No. 1-1/77/2006 on the application of means of restraint (*mozgáskorlátozó eszköz*) to prisoners and Sátoraljaújhely Prison's Regulation No. 11 of 19 March 2008.

Further, **the Committee would like to receive a copy of the above-mentioned regulations, as amended, as well as statistical data on the application of means of restraint to the prisoners concerned during the three months preceding and following the amendment to the regulations.**

78. As regards contact with the outside world, prisoners held in the KBK at Sátoraljaújhely Prison had the same entitlements as other prisoners accommodated in that establishment. Access to a telephone was allowed four times a week, for up to eight minutes each time, and the visit entitlement was one monthly visit of up to one-and-a-half hours. Special efforts were made to facilitate prisoners' contacts with their families; for instance, one inmate interviewed by the delegation was escorted to Budapest Prison every two months to receive visits from relatives. **The CPT trusts that the Hungarian authorities will pursue their efforts to provide prisoners held in special security conditions with appropriate contact with the outside world.**

## 5. Conditions of detention for prisoners in general

### a. Borsod-Abaúj-Zemplén Prison

79. Built in 1902 in the town of Miskolc and located next to the court building, Borsod-Abaúj-Zemplén Prison (referred to as Miskolc Prison) is primarily intended as a pre-trial establishment. With an official capacity of 220,<sup>31</sup> it was accommodating 406 inmates on the first day of the visit (including 276 remand prisoners, 60 sentenced prisoners, 49 prisoners in transit and 21 misdemeanour offenders; 21 of all prisoners were women). The average period spent on remand was said to be between 18 months and two years (the maximum being three years).

At the outset of the visit, the prison management informed the delegation that overcrowding had worsened since the beginning of 2009 (apparently due to increased police activity in the region).

80. As concerns material conditions, severe overcrowding was observed in almost all the cells (e.g. up to four prisoners in cells of 8 m<sup>2</sup>; from 10 to 14 inmates in cells of 25 m<sup>2</sup>; up to 14 prisoners in cells of 32 m<sup>2</sup>). In-cell lighting and ventilation were generally acceptable, except in a few cells where the windows were fitted with shutters to prevent communication with the outside world, which seriously limited access to natural light and ventilation; **steps should be taken to maximise access to natural light and ventilation in these cells.** The state of repair of the cell equipment (consisting of bunk beds, table, chairs, lockers, TV) left something to be desired in certain cells, mattresses were often worn and the cells were dirty. Efforts were being made to partition off in-cell toilets, in particular in larger cells and in the cells for women. However, toilets were still unscreened in a number of smaller cells.

Remand prisoners and misdemeanour offenders, including women, had access to a shower twice a week, while working prisoners had access to shower facilities every day. The delegation received a number of complaints from women about the quality of food (e.g. lack of vegetables).

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<sup>31</sup> The official capacity is calculated on the basis of 3 m<sup>2</sup> of "moving space" per prisoner in multi-occupancy cells (floor space taken by cell equipment and furniture being disregarded).

**The CPT recommends that the Hungarian authorities take steps at Miskolc Prison to:**

- **reduce overcrowding in the cells, the objective being to meet the standard of 4 m<sup>2</sup> of living space per prisoner in multi-occupancy cells** (see also the comments made in paragraph 54);
- **improve the state of repair of cell equipment and replace worn out mattresses;**
- **pursue the partitioning of in-cell toilets.**

Further, **the Committee invites the Hungarian authorities to check whether the quality of food served to women corresponds to their needs.**

81. Inmates were allowed one hour of outdoor exercise a day. Male prisoners had access to the yard which was relatively large and had some sports equipment (but no shelter). Women were in a less favourable situation as they generally had to take exercise in the smaller and sparse yard also used by Grade IV prisoners. In addition, many women complained that they were offered no more than 30 minutes of daily outdoor exercise. **The CPT recommends that female prisoners held at Miskolc Prison be offered at least one hour of outdoor exercise every day.** Reference is also made to the recommendation made in paragraph 67.

82. The programme of activities being offered to prisoners at the time of the visit was impoverished. Only 84 prisoners (including two women), most of whom were sentenced prisoners, had work (i.e. some 20 % of the inmate population). There were no educational programmes and no prisoners were involved in vocational training programmes (although the delegation was informed that such a programme had been set up for 20 to 50 inmates every year). Male remand prisoners had access to an outdoor sports ground once a week during the summer and women occasionally had the possibility of playing table tennis.

In short, the vast majority of prisoners were locked up for 23 hours a day in their overcrowded cells, with little to occupy themselves. The current lack of purposeful activities for remand prisoners aggravates the experience of imprisonment and renders it more punitive than the regime for sentenced persons. Such a state of affairs is at odds with the presumption of innocence from which prisoners awaiting trial should benefit. **The CPT recommends that the Hungarian authorities take steps to offer remand prisoners a range of purposeful activities corresponding to their needs and legal status.**

b. Tiszalök Prison

83. Opened in January 2008, Tiszalök Prison is one of the two prison establishments in Hungary involving private contractors. With an official capacity of 700, it was holding 759 male adult prisoners on the first day of the visit.<sup>32</sup> The bulk of the inmate population was made up of sentenced prisoners (there were 20 prisoners awaiting final sentencing).

The private contractors had been entrusted, *inter alia*, with the building of the prison, ensuring appropriate material conditions and the provision of activities to prisoners. Staff qualified to provide those services were hired by private partners (whereas custodial staff and educators were employed by the Prison Service). Detailed standards had been set in the contract and performance was monitored by an internal team of five Prison Service staff. Regular inspections were also carried out by a small group of staff from the Prison Service in Budapest. Pursuant to the contract, penalty points are awarded when the private contractors fail to meet the standards, and a breach of a threshold of a number of penalty points results in financial penalties. Deadlines for private contractors to remedy any shortcomings are also set in the contract.

84. The delegation was generally impressed by the material conditions of detention. A typical detention unit had seven single occupancy cells, measuring some 11 m<sup>2</sup>, and eight double occupancy cells, measuring approximately 16 m<sup>2</sup>. However, a few double occupancy cells were holding three inmates at the time of the 2009 visit.<sup>33</sup> All the cells had large windows, and access to artificial lighting and ventilation were satisfactory. The cell equipment was of a good standard and cells had a fully partitioned toilet, and a washbasin. Prisoners had access to shower facilities twice a week (and working prisoners, every day).

The prison kitchen was modern, well equipped and clean. However, several inmates complained about the lack of variety and the quality of the meals served to them, in particular at week-ends (e.g. canned food). Further, Muslim prisoners claimed that their dietary needs were not observed. **The CPT invites the Hungarian authorities to check the quality and variety of the food served to prisoners at Tiszalök Prison, in particular at week-ends, and to ensure that the special dietary needs of inmates are taken into account in the preparation of meals.**

85. Staff and prisoners were unanimous in saying that the programme of activities provided at Tiszalök Prison did not fulfil their expectations.

There was an open door policy in the detention units. However, in certain units, prisoners complained that, although cell doors were opened for four hours a day, they were not allowed to leave their cells for half of the time, thus reducing the actual open-door regime to two hours. **The CPT would like to receive the remarks of the Hungarian authorities on this matter.**

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<sup>32</sup> The contract between the Prison Service and private entities provides for a variance of 10 % in either direction between the official and the actual occupancy without alteration to the financial arrangements.

<sup>33</sup> Up to 30 double occupancy cells may accommodate three inmates when the number of prisoners exceeds the establishment's official capacity, as was the case at the time of the visit.

All prisoners had access to one hour of outdoor exercise every day. The exercise areas were sufficiently large to allow physical exertion, but only a few of them had sports equipment and none of them had shelters against inclement weather or means of rest. Further, only a small number of prisoners had regular access to organised sports activities. **The CPT recommends that the Hungarian authorities take steps to address these issues.**

The offer of educational and vocational training programmes appeared to be good. However, the insufficient provision of work was of concern to the delegation. Pursuant to the contract, the private partner should provide between 300 and 350 inmates with work (i.e. 40-46 % of the inmate population). However, at the time of the visit, only 137 inmates were listed for work (i.e. some 18 % of the prison population).<sup>34</sup> The private contractor and the prison administration blamed each other for the failure to meet the standard. The prison management considered that the type of work on offer (recycling plastics) was not suitable on security grounds and had resulted in two shifts of six hours in the workshops to allow adequate staff supervision (this led prisoners to work fewer hours per day, thus making salaries less attractive to them). For its part, the private partner complained, *inter alia*, about the insufficient number of prisoners fit for work. **The CPT recommends that the prison administration and the private contractor co-operate closely at Tiszalök Prison to make more work places available as soon as possible. The work provided should preferably have vocational value.**

## 6. Health-care issues

### a. health care in the prisons visited

86. With respect to health-care staff resources, the situation was generally adequate at *Miskolc Prison*. Two doctors attended the establishment, each for four days a week. Further, there were seven full-time nurses (including a head nurse) providing 24-hour cover.

At *Tiszalök Prison*, two general practitioners (one employed by the prison administration and another one hired by the private partner) held surgeries for a total of 15 hours per week; an attendance equivalent to barely two working days of a doctor per week is clearly insufficient to meet the needs of the inmate population of an establishment in excess of 700. The situation was far more favourable as regards the nursing resources; the team of nurses was composed of a head nurse and 13 full-time nurses (two of whom were on duty at all times).

At *Sátoraljaújhely Prison*, the situation with respect to the presence of a doctor was also not satisfactory. At the time of the visit, there was only one doctor who held medical consultations for a mere 8 hours a week (another doctor's post was vacant). As for the team of nurses, it was composed of a head nurse and five other nurses, providing 24-hour cover.

The three prisons were visited by a range of medical specialists, and access to outside hospital services was generally not problematic (see paragraph 89 concerning access to a psychiatrist).

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<sup>34</sup> All in all, fewer than 25% of the inmate population were provided with work (including 24 prisoners employed by the Prison Service for the distribution of food).

In the light of the above, **the CPT recommends that steps be taken to:**

- **increase significantly the attendance hours of doctors at Tiszalök Prison, by employing the equivalent of at least two full-time posts;**
- **employ the equivalent of one full-time doctor (for the treatment of prisoners) at Sátoraljaújhely Prison.**

87. The CPT has reservations about the practice, observed at Sátoraljaújhely Prison, of the prison doctor treating both prisoners and prison staff. Firstly, as already indicated, the period of time a doctor was present was already insufficient to ensure proper care for inmates, let alone for staff as well. Further, such a dual responsibility should be accompanied by very specific safeguards guaranteeing an even-handed approach. For instance, it should be clearly stipulated beforehand what percentage of the doctor's time is to be devoted to staff. In addition to the recommendation made in paragraph 86, **the CPT invites the Hungarian authorities to review the practice observed at Sátoraljaújhely Prison, in the light of the above comments.**

88. Dental care was provided by a full-time dentist at Sátoraljaújhely Prison and a dentist worked nine hours a week at Tiszalök Prison. At Miskolc Prison, the establishment's dentist was on maternity leave at the time of the visit and had been replaced by another dentist who held surgeries for only two hours a week; not surprisingly, the delegation received complaints from prisoners in this establishment about delays in receiving access to the dentist. **The CPT recommends that the Hungarian authorities make appropriate arrangements at Miskolc Prison for a replacement in the absence of the dentist.**

89. As regards psychiatric and psychological care, one of Miskolc Prison's doctors was a psychiatrist by specialisation. However, there was no provision of psychological care. At Tiszalök Prison, the private contractor employed a psychiatrist for four hours a week, and there were four psychologists. There was one psychologist at Sátoraljaújhely Prison, who paid particular attention to the situation of the inmates held in the KBK. The delegation was informed that a psychiatrist had visited the prison for 2 hours per month in the past, but that his contract had been terminated for financial reasons in January 2009. **The CPT recommends that steps be taken without delay to employ a psychologist at Miskolc Prison and to ensure regular visits by a psychiatrist at Sátoraljaújhely Prison.**

90. In the establishments visited, an initial medical screening was performed by a nurse on the day of arrival and prisoners were seen by a doctor within a few days following admission. However, prison staff were routinely present during the initial screening by a nurse at Miskolc Prison and during medical consultations at Tiszalök Prison.<sup>35</sup> In the latter establishment, the management showed readiness to make new arrangements in the consultation room so as to avoid the presence of prison officers during medical examinations. At Sátoraljaújhely Prison, a number of Grade IV prisoners met by the delegation indicated that medical examinations were systematically carried out in the presence of custodial staff, and medical consultations concerning inmates placed in the KBK were conducted in the presence of several prison officers.

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<sup>35</sup> Initial screening by a male nurse at Tiszalök Prison was generally not carried out in the presence of custodial staff.

**The CPT calls upon the Hungarian authorities to take steps to implement its long-standing recommendation that medical examinations of prisoners are conducted out of the hearing and – unless the health-care staff member concerned expressly requests otherwise in a given case – out of the sight of non-medical staff.**

- b. follow-up visit to Building II of the Judicial and Observation Psychiatric Institute (IMEI)

91. The IMEI was first visited by the CPT in 2005.<sup>36</sup> During the 2009 visit, the delegation concentrated on Building II, which fulfilled a multiple function: it was accommodating 35 patients with various legal statuses and clinical diagnoses, including 18 remand prisoners undergoing forensic psychiatric assessment,<sup>37</sup> nine sentenced prisoners under psychiatric observation, six sentenced prisoners receiving compulsory treatment for alcohol problems upon a court decision, and two prisoners with psychiatric symptoms/personality disorders placed under observation<sup>38</sup>.

92. The reservations expressed by the CPT in its report on the 2005 visit as regards the location of the IMEI within the boundaries of the Budapest Prison complex remain valid.<sup>39</sup> The Hungarian authorities have been contemplating the possibility of building a new forensic psychiatric institution and one of the tasks of the Prison Service for 2008 had been to “prepare a detailed work schedule describing the ideal location and operation of the Forensic Psychiatric Institution”.<sup>40</sup> However, it appeared during the 2009 visit that no concrete steps had so far been taken in this respect. The presence of bars and armed guards gave rise to oppressive physical surroundings, and was not conducive to the emergence of a therapeutic environment. **The CPT reiterates its view that it would be highly desirable for the IMEI to be re-located; this would help to ensure that a medical, rather than a penal, ethos prevails. The Committee urges the Hungarian authorities to find a solution as a matter of priority.**

In the perspective of a new forensic psychiatric institution, **the CPT would like to know whether the Hungarian authorities are considering the possibility of placing the future establishment under the responsibility of the Ministry of Health.**

93. The delegation received a few allegations of physical ill-treatment (i.e. slaps, punches) of patients in Building II by male nurses and custodial staff. By way of example, one patient alleged that he had had withdrawal symptoms and did not react to a nurse’s orders, following which custodial staff had been called in; they had apparently held the patient down while he was punched. Some patients also complained of verbal abuse by nursing staff. **The CPT recommends that nursing and prison staff working in Building II of the IMEI be given the clear message that ill-treatment of patients is not acceptable and will be punished accordingly.**

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<sup>36</sup> See paragraphs 128 to 154 of CPT/Inf (2006) 20. At the time of the 2009 visit, the IMEI had the same capacity as during the CPT’s 2005 visit, i.e. 311 beds, and was accommodating 247 patients.

<sup>37</sup> For up to 30 days (a period which can be extended by another 30 days).

<sup>38</sup> Prisoners with psychiatric symptoms/personality disorders are placed under observation for up to six weeks.

<sup>39</sup> See paragraph 130 of CPT/Inf (2006) 20.

<sup>40</sup> See page 51 of the 2007 Prison Yearbook.

During the visit, it became apparent that custodial staff working in Building II had not received specific training in working with psychiatric patients. Bearing in mind the challenging nature of their work, it is of crucial importance that custodial officers assigned to a psychiatric hospital be carefully selected and receive appropriate training before taking up their duties, as well as in-service courses. Further, during the performance of their tasks, they should be closely supervised by – and subject to the authority of – qualified health-care staff. **The CPT recommends that the Hungarian authorities review the training and supervision of custodial staff assigned to Building II of the IMEI, in the light of the preceding remarks.**

94. Inter-patient violence did not appear to be a substantial problem, although the delegation heard of occasional friction between patients.

95. The impoverished living conditions and the prison-like atmosphere described in the 2005 report still prevailed in Building II.<sup>41</sup> **The CPT reiterates its recommendations that the Hungarian authorities make efforts to provide more congenial and personalised surroundings for patients in Building II.** Further, as already recommended in the report on the 2005 visit, **a call system should be installed in all rooms.**

At the time of the visit, the cleanliness of the shower facilities was satisfactory, but **their state of repair left something to be desired.**

96. Patients in Building II were still obliged to wear either blue uniforms or pyjamas during the day. The CPT has taken note of the position of the Hungarian authorities that a change in this practice would represent a serious security risk, due to the location of the IMEI within the prison complex. However, the Committee is of the opinion that, since patients spend most of their time indoors, individualisation of clothing could easily be allowed at least within the building. **The CPT reiterates its recommendation that steps be taken to enable IMEI patients to wear their own clothes during the day, irrespective of their legal status; if necessary, the relevant legislation should be changed.**

97. Pharmacotherapy remained the only form of treatment provided to patients accommodated in Building II, none of them being involved in any therapeutic activities; as a result, patients spent most of their time locked up in their rooms in a state of idleness, as was the case in 2005. **The CPT calls upon the Hungarian authorities to develop therapeutic and recreational activities for patients accommodated in Building II.**

98. One positive development since the 2005 visit was that patients accommodated in Building II were being offered one hour of outdoor exercise on a daily basis. The exercise area had been renovated; however, it had no means of rest or protection against inclement weather. **The CPT recommends that these deficiencies be remedied.**

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<sup>41</sup> See paragraphs 134 of CPT/Inf (2006) 20.

99. The staff complement remained unchanged. There were five psychiatrists working in Building II (three of whom were on a full-time basis), as well as several psychologists. The night shift comprised four nurses (and one assistant nurse for the CCTV monitors), and the day shift was reinforced by a head nurse and a deputy head nurse. Considering the small number of patients present at Building II during the visit, this staff complement could be considered as acceptable.

100. Resort to means of restraint did not appear to be excessive. However, it became apparent that only mechanical restraint (i.e. fixation) episodes were recorded. No record of manual control was kept and resort to chemical restraint was only recorded on the patient's temperature chart, as part of the treatment. Further, patients could be fixated to their beds in full view of other patients.

In addition to the existing legal acts surrounding the resort to means of restraint,<sup>42</sup> the CPT is of the opinion that every psychiatric establishment should have a comprehensive, carefully developed, policy on restraint, which makes clear which means of restraint may be used, under what circumstances they may be applied, the practical means of their application, the supervision required and the action to be taken once the measure is terminated. A restrained patient should not be exposed to the view of other patients, unless he/she explicitly requests otherwise or when the patient is known to have a preference for company. If recourse is had to chemical restraint, this should be subjected to the same safeguards as mechanical restraints.

The policy should also contain sections on other important issues such as: staff training; complaints policy; internal and external reporting mechanisms; and debriefing. In the CPT's opinion, such a comprehensive policy is not only a major support for staff, but is also helpful in ensuring that patients and their guardians or proxies understand the rationale behind a measure of restraint that may be imposed.

**The CPT invites the IMEI management to take the above remarks into account in their policy on resort to means of restraint.**

101. The delegation noted with satisfaction that the practice of handcuffing patients classified as Grade IV prisoners when they left their rooms (e.g. to take outdoor exercise) had ceased. Such patients were handcuffed and body-belted during movements outside the establishment.

102. As regards the seclusion room in Building II, the delegation noted that it had the same characteristics as were described in the report on the 2005 visit, but for the ligature points, which had been removed. The cell was not equipped with a call bell, despite the information to the contrary provided in the Hungarian authorities' response to the CPT's report on the 2005 visit; **this deficiency should be remedied.**

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<sup>42</sup> Act No. CLIV of 1997 (Health Care Act), Regulations 60/2004 (VII.6) on the restraint measures applicable to psychiatric patients during admission and care, and Act No. CVII of 1995 (Act on Prison Administration).

The delegation was told that the room was not used for medical purposes but as a Special Security Cell (KBZ), and that only prisoners held in special security conditions in their establishments of origin could be placed in it. Further, the delegation noted that custodial staff had introduced a journal containing information on the use of the room.<sup>43</sup>

103. The delegation was informed that patients' telephone calls were no longer routinely monitored; the CPT welcomes this development.

## 7. Other issues of relevance to the CPT's mandate

### a. prison staff

104. Staffing complements at Miskolc and Tiszalök Prisons were not satisfactory. At Miskolc Prison, out of a total of 178 prison staff,<sup>44</sup> there were 92 on day-shift duty. However, up to 30 prison officers could be involved in escort duties daily, leaving the establishment seriously short of staff. The number of custodial staff working in direct contact with prisoners was limited to one prison officer for up to 80 inmates during the day. Further, there was a ratio of one educator for some 100 inmates at the time of the visit.

At Tiszalök Prison, there were 267 staff out of a complement of 280.<sup>45</sup> There was one member of custodial staff supervising each level (accommodating up to 90 inmates) and each educator had up to 125 prisoners under his responsibility.

As already mentioned in paragraph 60, ensuring positive staff-inmate relations will depend greatly on having an adequate number of staff present at any given time in detention areas. An overall low staff complement and/or specific staff attendance and deployment systems which diminish the possibilities of direct contact with prisoners increases the risk of tension between staff and prisoners and, combined with an insufficient number of educators, constitutes a significant factor in restricting activities for inmates and contact with the outside world. **The CPT recommends that the Hungarian authorities improve staffing levels in Miskolc and Tiszalök Prisons, in the light of these remarks.**

105. At Miskolc Prison, five female staff members were working in the security department on day shift on weekdays. However, there were no female staff on duty in the evenings or at week-ends. The delegation was informed that nursing staff were asked to carry out certain security tasks at these times (e.g. body searches of female prisoners). In the CPT's opinion, it is crucial that any prison holding female prisoners have female custodial staff in sufficient numbers at all times. Further, it is totally inappropriate to use health-care staff to perform security tasks. **The Committee recommends that the latter practice be stopped and that measures be taken to ensure that a sufficient number of female prison staff is on duty at all times at Miskolc Prison.**

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<sup>43</sup> The cell had not been used since the beginning of 2009, and only once in 2008.

<sup>44</sup> In addition, four custodial staff posts had been frozen for financial reasons since December 2008.

<sup>45</sup> It should be noted that custodial staff and educators were directly employed by the Prison Service. Some 65 prison staff had been recruited from other prisons and the rest were new recruits.

106. In the course of the 2009 visit, the delegation observed that certain members of prison staff were openly wearing truncheons within the detention areas at Miskolc Prison. In their response to the report on the 2007 visit, the Hungarian authorities indicated that it was necessary for staff to be equipped with truncheons in certain prison establishments and that, due to their size, it was not possible to wear them hidden from view. The CPT is not convinced by this argument. In many countries visited by the Committee, prison staff in direct contact with categories of prisoners comparable to those held at Miskolc Prison satisfactorily carry out their duties without openly wearing truncheons (and often without carrying truncheons at all). **The Committee must reiterate its recommendation that, if it is considered necessary for prison officers to carry truncheons, the truncheons should be hidden from view.**

b. contact with the outside world

107. The rules governing prisoners' access to the outside world remain the same as during the previous periodic visit in 2005. In particular, despite the Committee's long-standing recommendation, the minimum visit entitlement has not been increased and remains at half an hour per month. **The CPT calls upon the Hungarian authorities to amend the relevant legal provisions so as to increase substantially the minimum visiting entitlement.**

108. In practice, efforts were being made at Miskolc Prison to allow visits with an increased frequency and duration. Prisoners had access to visits twice a month, for one hour each time (except for 10 % of the remand prisoners who were denied visits by a prosecutor). However, the visiting facility was too small to respond to the prison population's needs; it was also located in the basement, with virtually no natural light or ventilation. **The Committee recommends that the visiting facility at Miskolc Prison be re-designed so as to ensure that prisoners receive visits under appropriate conditions in terms of space, lighting and ventilation.**

At Tiszalök Prison, the inmates enjoyed one visit of 90 minutes a month. Most visits took place in open conditions; that said, the space allocated to the prisoners receiving visits and their families in the visiting room, which had 20 places, was rather limited. There was also a closed visiting facility with ten booths (with a plexiglas partition). The delegation observed that a facility for conjugal visits had been built in anticipation that the rules might change to allow this type of visit in the future; **this would be a welcome development. Steps should also be taken at Tiszalök Prison to remedy the deficiencies in the open visiting facility.**

109. Most remand prisoners were allowed phone calls at Miskolc Prison (i.e. twice a week for 5 minutes). At Tiszalök Prison, non-working prisoners were entitled to three phone calls a week and working prisoners to four weekly phone calls (for 5 minutes each). However, some prisoners complained that phone calls had actually been limited to one call of 5 minutes per week. Staff interviewed indicated that this was due to the shortage of educators (who are in charge of setting up and, when required, monitoring the calls). **The CPT recommends that measures be taken to improve access to the telephone at Tiszalök Prison.**

110. The delegation received several complaints from sentenced prisoners at Tiszalök Prison about significant delays in the dispatching of inmates' correspondence. **The CPT reiterates its recommendation made in the report on the 2005 visit that appropriate steps be taken to prevent such delays.**

c. discipline and segregation

111. The disciplinary procedure contains appropriate safeguards, including the rights to be heard, to have a lawyer and be assisted by him during the hearing and to lodge an appeal to a court against any sanctions imposed.<sup>46</sup>

Further, resort to disciplinary solitary confinement did not appear to be excessive at Miskolc and Tiszalök Prisons. However, the period of time during which prisoners under disciplinary investigation were held in solitary confinement cells before a decision was taken was still not included in the overall time in disciplinary isolation. In the response to the report on the CPT's 2005 visit, the Hungarian authorities indicated that this matter would be dealt with through the adoption of new prison legislation. **The CPT recommends that the relevant legal provisions be amended without delay.**

112. Material conditions in disciplinary/solitary confinement cells in Tiszalök Prison were satisfactory. The cells, measuring some 13 m<sup>2</sup>, provided good in-cell lighting (including access to natural light) and ventilation, and were well-equipped (including a partitioned shower and toilet). All cells were fitted with intercom systems and video-surveillance cameras. **Reference is made to comments made in paragraph 31 and the request made in paragraph 73 as regards the use of video-surveillance cameras.**

In contrast, at Miskolc Prison, disciplinary/solitary confinement cells, measuring some 7 m<sup>2</sup>, were narrow (less than 2 m between the walls) and their state of repair and hygiene left something to be desired. **The CPT recommends that these shortcomings be remedied.**

113. As regards the regime, prisoners undergoing disciplinary solitary confinement had access to one hour of outdoor exercise every day, and were allowed books. However, they were denied visits and access to a telephone as part of their punishment. **The CPT recommends that steps be taken to ensure that disciplinary punishment of prisoners does not include a total prohibition of family contacts<sup>47</sup> and that any restrictions on family contacts as a form of punishment should be used only where the offence relates to such contacts.**

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<sup>46</sup> It should also be mentioned that, in the cases examined by the delegation, the prisoners concerned had been promptly informed of the charges against them.

<sup>47</sup> See also Rule 60(4) of the European Prison Rules.

114. Miskolc and Tiszalök Prisons had “padded cells” for agitated and/or aggressive prisoners. At Tiszalök Prison, both padded cells, measuring some 5 m<sup>2</sup>, were properly lit and ventilated, and were fitted with video-surveillance cameras (and nearby staff members had good visual access to the cells). There had been only one case of a prisoner being placed in a padded cell (for 4 hours and 40 minutes) since the opening of the prison. At Miskolc Prison, the padded cell was small (i.e. 3.5 m<sup>2</sup>) and in a poor state of repair; the delegation was told that its use had been suspended. **This cell should be permanently taken out of service; more suitable facilities should be set up for holding aggressive and/or agitated prisoners.**

115. Specific registers on the use of disciplinary/solitary confinement and padded cells were well kept at Miskolc Prison. However, there were no such registers at Tiszalök Prison; all the relevant information was kept in individual prisoners’ files. **The CPT recommends that special registers on the use of disciplinary/solitary confinement and padded cells be established at Tiszalök Prison.**

d. inspection procedures

116. In addition to regular visits by supervising prosecutors, prison establishments are visited by staff of the Office of the Parliamentary Commissioner for Civil Rights and NGO representatives (members of the Hungarian Helsinki Committee in particular). These visits are unannounced and prisoners are interviewed in private.

However, at Tiszalök Prison, a few prisoners alleged that they had suffered from intimidating remarks from staff and had been refused access to certain activities after having spoken to NGO representatives. If true, such an attitude from staff would be totally unacceptable. **The CPT would like to receive the comments of the Hungarian authorities on this matter.**

e. police officers carrying out investigative activities inside prisons

117. In the report on its 2005 visit, the CPT was concerned to learn that police officers were carrying out investigative activities inside prisons, with free access to all prisoners and without being accountable to the prison management.

It came to light during the 2009 visit that police officers were continuing to carry out investigative activities in Miskolc and Tiszalök Prisons. The delegation was informed that they were not involved in investigating offences committed by prisoners within the prison. However, they could ask for an interview in private with any prisoner and collect evidence, including confessions, related to crimes committed outside the prison. The inmate concerned was under obligation to attend the interview, but only to provide information on his/her identity. The delegation was informed that the prisoners concerned may benefit from the presence of a lawyer during such interviews. **The CPT trusts that the Hungarian authorities will ensure that the inmates’ rights (including access to a lawyer) are always respected in the context of police interviews in prisons.**

f. security arrangements

118. In its 2005 visit report, the CPT has already criticised the over-reliance on means of restraint (*mozgáskorlátozó eszköz*) in the context of movements of prisoners both within and outside the secure perimeter. The Committee recommended that the rules concerning the use of means of restraint be reviewed so as to ensure that they are applied in a proportionate way and that prison staff be trained and encouraged to use other methods of controlling prisoners. In their response, the Hungarian authorities gave the explanation that extensive use of means of restraint outside prisons was mainly due to the low number of prison staff carrying out transfers of prisoners.

The adoption of new regulations in 2006 had not led to a change in the policy of the Hungarian authorities as regards the use of means of restraint. Prison staff continued to rely heavily on the use of means of restraint during movements of prisoners, in particular outside prisons. For instance, at Miskolc Prison, all prisoners were not only handcuffed, but also body-belted each time they left the prison (some were also anklecuffed).<sup>48</sup> Further, several prisoners alleged that doctors examining them in external hospitals had to insist repeatedly before handcuffs were removed, and also alleged that they had remained handcuffed to their beds for extended periods (i.e. of up to a few days).<sup>49</sup>

119. In the CPT's view, routine body-belted of prisoners for transfers outside a prison is clearly excessive. The use of body belts should always be based on a written individual risk assessment<sup>50</sup> and the application of any means of restraint should not pose additional risks of injury to the prisoners during their transfers. The Committee must also reiterate that the practice of applying means of restraint to prisoners during medical consultations/treatment infringes upon the dignity of the prisoners concerned, prohibits the development of a proper doctor-patient relationship and may even be prejudicial to the establishment of objective medical observations. Moreover, prisoners sent to hospital to receive treatment should not be physically attached to their hospital beds or other items of furniture for custodial reasons. Other means of meeting security needs satisfactorily can and should be found; the setting-up of rooms offering appropriate security conditions in such hospitals is one possible solution. **The CPT recommends that the Hungarian authorities take appropriate measures and amend the relevant regulations on the use of restraint, in the light of the above comments.**

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<sup>48</sup> This was partly explained by a welcome measure, namely that prison staff are no longer allowed to carry firearms for escort duties.

<sup>49</sup> It should be noted in this respect that, according to Section 4.2 (c), 12 and 15 of the 2006 Regulation on the use of means of restraint, such measures may be used during medical treatment in an external hospital. The means of restraint should be removed if the doctor examining the patient insists on having them removed, unless prison staff do not have instructions on this matter (in which case they must seek new instructions from their superiors). Further, a prisoner's limb may be handcuffed to an item of furniture on a permanent basis in an external hospital, unless this would hinder the prisoner's medical treatment.

<sup>50</sup> As regards prisoners in transit, such risk assessments should be drawn up by staff working in the original prisons.

120. The prison establishments visited had been issued with electric stun devices (i.e. stun batons and body-belts). The delegation was informed that such equipment had never been used in Hungary. That said, there had been one case at Sátoraljaújhely Prison where a stun baton had been issued, but not activated. Further, it emerged that electric stun body belts, without batteries, were occasionally used at Miskolc Prison when staff were short of ordinary body belts.

According to the relevant regulations governing the use of electric stun devices in the prisons visited, they were limited to situations “where there is a direct threat to life, physical safety, personal freedom or the security of property or in the event of active insubordination”. Further, the regulations specify that all prison staff should be trained in the use of such equipment.<sup>51</sup>

In the CPT’s view, the guidance offered to prison staff leaves open the door to abuse. Resort to electric stun batons should only be justified as a means of last resort in very extreme circumstances where a real and immediate threat to life has arisen. Moreover, only specially selected and trained<sup>52</sup> prison officers should be allowed to use electric stun batons, and all necessary precautions should be taken when such equipment is used. **The CPT recommends that the Hungarian authorities review the regulations on the use of stun devices, in the light of these remarks.**

As regards electric stun belts, it is totally inappropriate to use such belts (even when they are not equipped with a battery). The CPT opposes the use of electric stun body-belts for movements of prisoners, including outside prison establishments; alternative means of restraint can and must be found in the context of such movements. **The Committee recommends that the relevant regulations be amended, in the light of the above remarks.**

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<sup>51</sup> See, for instance, Sátoraljaújhely Prison’s 2008 regulation No. 11 on the use of means of restraint.

<sup>52</sup> Such training should include instruction in first aid.

## D. Psychiatric establishments

### 1. Preliminary remarks

121. The CPT's delegation visited the psychiatric department of Nyíró Gyula Hospital in Budapest and Santha Kalman Mental Health Centre and Special Hospital in Nagykálló.

122. *Nyíró Gyula Hospital*, which was originally a psychiatric hospital, became a general hospital after 1945. It covers an extensive compound in the centre of Budapest. The psychiatric department for adults is located in a five-storey building constructed in the late 1990s. It comprised two units (Unit I and Unit II), which covered different catchment areas and were independent of one another. Each unit had a capacity of 144 beds which were divided into five mixed-gender wards, of which four were open and one closed.<sup>53</sup> The delegation focused on the two closed wards.

At the time of the visit, the closed ward of Unit I was accommodating 13 patients (5 men and 8 women) against a capacity of 18, and the closed ward of Unit II, 21 patients (6 men and 15 women) against a capacity of 27. The closed wards only accommodated involuntary patients<sup>54</sup>, most of whom had psycho-geriatric disorders and the remainder, acute psychotic disorders. The vast majority of patients spent between a few days and 4-5 weeks in the closed wards. At the time of the visit, five patients in the closed ward of Unit II had been there for between three and ten months.

123. *Santha Kalman Mental Health Centre and Special Hospital* is located in the Szabolcs-Szatmar-Bereg County, approximately 250 kilometres from Budapest. It occupies three different premises in two neighbouring towns, Nagykálló and Kállósemjén. The main premises are located in the centre of Nagykálló, in what used to be the County Hall, built in the mid-18<sup>th</sup> century and turned into a psychiatric hospital at the end of the 19<sup>th</sup> century.

At the time of the visit, the hospital was accommodating 512 patients against an official capacity of 530. Patients were distributed among seven mixed-gender departments.<sup>55</sup> Departments I, II and III had mixed-gender closed wards, accommodating a total of 67 patients (34 men and 33 women). Patients in the closed wards were in principle hospitalised involuntarily; they suffered from acute psychotic disorders and usually spent from a few days to 4 weeks in the closed wards.

124. The Hungarian health-care system has been undergoing a restructuring process since 2006. Among other reform measures, a national programme for mental health was adopted in 2007, and the country's largest psychiatric institution, the National Psychiatric and Neurological Institute in Budapest (OPNI), with 800 beds, was closed down in 2007/8. **The CPT would like to receive further information on the restructuring of the psychiatric and social care sectors, including the implementation of the national programme for mental health and the impact of the closure of the OPNI.**

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<sup>53</sup> Unit II also had a rehabilitation ward (with 36 beds), located in another building and used for patients accommodated in the open wards and for out-patient care.

<sup>54</sup> Pursuant to Section 199 of the Health Care Act (Act No. CLIV of 1997).

<sup>55</sup> Departments I to IV (acute conditions, general psychiatry and geriatrics, general and somato-psychiatry, crisis intervention and affective disorders) were located in the main buildings in Nagykálló, department V (addictology) was in a nearby building in the same town, and departments VI (psycho-geriatrics) and VII (rehabilitation of psychotic disorders) in Kállósemjén.

## 2. Ill-treatment

125. The delegation received no allegations of physical ill-treatment of patients by staff at either establishment. Relations between patients and staff at both establishments seemed relaxed and most of the patients spoke positively of the health-care personnel.

126. However, in the closed ward of Unit II of *Nyíró Gyula Hospital*, the delegation found clear indications of inter-patient violence, which may be related to the fact that psycho-geriatric patients were accommodated together with patients displaying acute psychotic conditions. By way of example, the delegation saw a female patient with a black eye, and several patients were seen wandering into the rooms of other patients, entering into conflict with each other.

It is essential that appropriate procedures be in place in order to protect certain psychiatric patients from other patients who might cause them harm. This requires not only adequate staff presence and supervision at all times, but also that staff be properly trained in handling challenging situations/patients. Further, specific arrangements should be made for particularly vulnerable patients (reference is also made to paragraph 128 below). **The CPT recommends that measures be taken at Nyíró Gyula Hospital, in the light of the preceding remarks.**

## 3. Patients' living conditions

- a. closed wards of Units I and II at Budapest Nyíró Gyula Hospital

127. Both closed wards offered good material conditions. They were organised around a central corridor – also serving as a common area with tables, chairs and a TV set – with a series of bedrooms on each side. The bedrooms were accommodating three or four patients each and were of an adequate size (some 20 m<sup>2</sup>), properly furnished (including a sanitary annexe with a toilet, shower and sink) and clean.

128. None of the bedrooms was fitted with doors, the only separation from the corridor/common area being a curtain. One of the major problems identified during the visit was the fact that patients in an acute psychotic condition were accommodated together with psycho-geriatric patients. In this respect, reference is made to paragraph 126 above. Taking into account the existence of two distinct wards in the same building, it should be possible to separate these two different groups of patients and organise appropriate supervision.

**The CPT recommends that the bedrooms of the closed wards of Nyíró Gyula Hospital be equipped with doors, so as to ensure proper protection and offer some privacy to the patients. The Committee also invites the Hungarian authorities to consider separating patients in an acute psychotic condition from psycho-geriatric patients, with a view to ensuring proper protection for the most vulnerable patients.**

b. Santha Kalman Mental Health Centre and Special Hospital

129. The bedrooms and dormitories of the three closed wards<sup>56</sup> were spacious, well-lit and ventilated, and in a good state of repair. They were furnished with beds, bedside tables and the occasional locker. The level of hygiene, including in the sanitary facilities, was satisfactory. However, the environment was rather impersonal and many patients had no place to keep their personal belongings. **The CPT recommends that efforts be made in the closed wards of Santha Kalman Hospital to offer a more congenial and personalised environment to patients, in particular by providing them with lockable space.**

As with the situation observed at Nyírő Gyula Hospital, the closed wards at Santha Kalman Hospital were accommodating patients with psycho-geriatric disorders together with patients with acute psychotic disorders, placed in door-less dormitories. **The recommendation and comment in paragraph 128 above apply equally to the closed wards at Santha Kalman Hospital.**

Further, the closed ward of Department I was made up of one large L-shaped mixed-gender dormitory (measuring some 110 m<sup>2</sup>), the male and female sections being separated by a curtain. Large-capacity dormitories are scarcely compatible with the standards of psychiatry. Provision of accommodation structures based on small groups is a crucial factor in preserving/restoring patients' dignity and is also a key element in any policy concerning the psychological and social rehabilitation of patients. **The CPT invites the Hungarian authorities to transform the large-capacity dormitories into accommodation structures based on smaller groups.**

The closed wards of Departments II and III had a common/dining area with tables, chairs and a TV set. There was no common area in the closed ward of Department I and patients had to take their meals in their dormitories. **The CPT recommends that this shortcoming be remedied.**

130. Living conditions in the psycho-geriatric and rehabilitation Departments VI and VII were cramped (e.g. four patients in rooms measuring 13.5 m<sup>2</sup>; twelve patients in a room measuring 45 m<sup>2</sup>). In addition, in building I of Department VI, the level of hygiene was not satisfactory (the whole building was malodorous). **The CPT recommends that measures be taken to reduce the occupancy levels in the dormitories of Departments VI and VII at Santha Kalman hospital. The level of hygiene in Department VI should also be improved.**

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131. At both hospitals, patients in the closed wards were seen wearing pyjamas or bathrobes throughout the day. The CPT would like to stress that such a practice is not conducive to strengthening a sense of personal identity and self-esteem; individualisation of clothing should form part of the therapeutic process. **The CPT recommends that steps be taken at the closed wards of both hospitals, as well as in other psychiatric hospitals in Hungary, to ensure that patients can wear their own clothes as far as possible during their stay.**

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<sup>56</sup> Accommodating respectively 19, 27 and 21 patients, against capacities of 19, 36 and 24. Rooms in the closed ward of Department III were measuring some 30-35 m<sup>2</sup> and could accommodate five to seven patients, and in the closed ward of Department II, rooms measuring some 30-40 m<sup>2</sup> could accommodate six to eight patients.

#### 4. Treatment of patients and staff resources

132. At both hospitals, psychiatric treatment of patients in the closed wards relied exclusively on pharmacotherapy. The levels and range of medication appeared to be appropriate. The examination of medical records and the information obtained by the delegation from interviews with patients and staff did not reveal any signs of overmedication.

133. Both hospitals offered a variety of rehabilitative programmes and activities (including individual and group therapy, workshops, library, excursions, etc.) to patients placed in the rehabilitation/psycho-geriatric wards. However, no patients in the closed wards had access to such programmes or activities.

The delegation noted that patients placed in the rehabilitation wards at Santha Kalman Hospital had individual treatment plans; however, this was not the case for patients accommodated in the closed wards. Further, none of the patients admitted to Nyíró Gyula Hospital had individual treatment plans.

**The CPT recommends that an individual treatment plan be drawn up for each patient at Nyíró Gyula Hospital and for patients of the closed wards of Santha Kalman Hospital (taking into account the special needs of acute, geriatric or long-term patients), comprising the goals of the treatment, the therapeutic means used and the staff members responsible. Patients should be informed of their individual treatment plans and progress; further, they should be involved in the drafting and implementation of these plans.**

**The CPT also recommends that efforts be made to engage patients in the closed wards at both hospitals in rehabilitative activities adapted to their needs.**

134. At Nyíró Gyula Hospital, the recording of information about the medical, personal and legal status of patients left something to be desired. The records combined paper files and computerised files for each patient, neither of which was exhaustive, accurate or updated. The absence of a systematic incident/event recording system also did not allow for a proper monitoring of inter-patient violence. A register of incidents relating to patients should be kept; such a register can be useful in providing an overall view of the situation at the hospital and highlighting specific problems which may arise. In contrast, the recording of information was well organised at Santha Kalman Hospital. **The CPT recommends that the recording of information at Nyíró Gyula Hospital be reviewed, in the light of these remarks.**

135. Both hospitals had ECT equipment. At Nyíró Gyula Hospital, the delegation was informed that no more than two ECT sessions took place each month. Treatment was always administered in a modified form (i.e. with anaesthetic and muscle relaxants), following a clear protocol. ECT treatment was recorded in the patients' individual files. The policy was not to use ECT at Santha Kalman Hospital.<sup>57</sup>

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<sup>57</sup> ECT had reportedly not been used since 1989.

136. Neither of the establishments visited had secure outdoor exercise areas. As a result, patients from the closed ward of Unit II at Nyírő Gyula Hospital had no opportunity to take outdoor exercise, and only a few patients from the closed ward of Unit I could reportedly be taken out from time to time by the available staff. The only opportunity for patients from the closed wards of Santha Kalman Hospital to gain access to the establishment's yard was to join the group of patients who were allowed a short smoking break three times a day.<sup>58</sup> **The CPT recommends that immediate steps be taken, at both hospitals, to ensure that all patients whose health so permits are offered at least one hour of outdoor exercise per day.**

137. As regards staff resources, they could be considered to be adequate at both establishments. At Nyírő Gyula Hospital, each psychiatric unit comprised 14 psychiatrists, two psychologists, eight senior nurses, 52 nurses with a specialisation in psychiatric care, and eight other nurses. The staff also included six occupational therapists and three social workers. Each 12-hour shift in the closed wards comprised three nurses, plus one head nurse during the day. At night, the psychiatric department also had two psychiatrists on duty.

At Santha Kalman Hospital there were 26 psychiatrists, six psychologists and 191 nurses. The hospital also employed 30 therapists for occupational and rehabilitative activities and four social workers. Between two and four nurses were present at night in the closed wards (plus one head nurse and one nurse in charge of medication during the day).

The delegation was informed that staff at both hospitals benefited from various training sessions at regular intervals, including on restraint techniques (see below). As part of their training, **staff should also receive guidance on managing conflicts between patients.**

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<sup>58</sup> At Santha Kalman Hospital, patients in the psycho-geriatric and rehabilitation wards had access to a large yard with trees, little gardens and benches in the main premises, and large tree-shaded parks in the two other premises.

## 5. Means of restraint

138. The 1997 Health Care Act and the Governmental Decree on resort to means of restraint for psychiatric patients<sup>59</sup> provide for the application of physical means (manual control, mechanical restraint, isolation) and chemical restraint. In practice, none of the hospitals had resort to isolation. In accordance with the legislation, a protocol detailing the procedures applied and a specific form on the use of means of restraint had been introduced at both hospitals. This is a positive development. That said, the delegation noted a number of shortcomings in the practice of resorting to means of restraint.

139. As regards mechanical restraints (consisting of attaching patients to their beds or wheelchairs with leather belts or straps of soft linen cloth), the delegation was concerned to note that, in the absence of any specific separate room for the purpose, patients at both hospitals were fixated in full view of other patients. **The CPT recommends that this practice be discontinued without delay; immobilisation should not be applied in the sight of other patients.**

As far as the delegation could ascertain, patients were usually not restrained for more than two hours, during which time the state of the patient was regularly checked (e.g. every thirty minutes at Santha Kalman Hospital). The form used for that purpose listed certain vital functions to assess, as well as certain aspects of the mental state of the patient; however, the assessment only consisted of ticking boxes; there was no room for comments.<sup>60</sup>

In addition, at both hospitals, only episodes of fixation were routinely subject to the filling in of the special form on the use of means of restraint. Resort to chemical restraint was referred to on the form only if combined with fixation. If chemical restraint was used without other means of restraint, it was only recorded in the temperature chart of the patient, as part of the treatment. Further, episodes of manual control were not recorded at all.

140. There was no specific register for the use of means of restraint at either hospital. At Nyíró Gyula Hospital, instances of resort to means of restraint were recorded in the nurses' log book and sometimes a reference also appeared in the patients' files. The practice at Santha Kalman Hospital was to record resort to means of restraint in the nurses' log book, and a copy of the form on the use of means of restraint was kept in the patients' files.<sup>61</sup>

All forms concerning the use of means of restraint were systematically forwarded to the Patients' Rights Advocate responsible for each hospital. Despite this centralisation, it was difficult for the delegation to obtain a precise idea of the use of means of restraint, as no systematic analysis of this information was performed and there were no statistical data available. In order for the registration of data to have an effect in practice, regular feedback should be provided to each establishment. This would facilitate a proper overview of restraint practices.

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<sup>59</sup> Regulations 60/2004 (VII.6) ESzCsM on the restraint measures applicable to psychiatric patients during their admission and care.

<sup>60</sup> The delegation found one recent case where a patient had been restrained for 53 hours. The lack of information on that form made it impossible to assess the level of care that had been provided to the patient.

<sup>61</sup> The hospital had the practice of keeping the original in the patients' files and transmitting a copy to the Patients' Rights Advocate.

141. The CPT wishes to stress that, whenever a patient is subjected to mechanical restraint, a trained member of staff should be continuously present in order to maintain the therapeutic alliance and to provide assistance. In addition, the systematic recording of every instance of use of means of restraint, both in a specific register to that effect and the patient's file, should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered and approved it, and an account of any injuries sustained by the patient or staff.

Once means of restraint have been removed, a debriefing of the patient should take place. This provides an opportunity to explain the rationale behind the measure, thus reducing the psychological trauma of the experience as well as restoring the doctor-patient relationship. It also gives the patient an occasion to explain his/her emotions prior to the restraint, which may improve both the patient's own and the staff's understanding of his/her behaviour.

If recourse is had to chemical restraint such as sedatives, antipsychotics, hypnotics and tranquillisers, they should be subjected to the same safeguards as mechanical restraints.

**The CPT recommends that steps be taken at Nyíró Gyula Hospital and at Santha Kalman Hospital to ensure that both the policy and practice concerning the use of means of restraint comply with the above requirements. All psychiatric establishments in Hungary should apply these precepts as regards resort to means of restraint. Patients should also be duly informed (in writing) of the establishment's restraint policy as well as the existing complaints mechanisms in this respect.**

**In addition, the CPT invites the Hungarian authorities to introduce a harmonised recording system of any resort to means of restraint in psychiatric hospitals; such a record should be kept in the medical services concerned, ensuring a proper monitoring and follow-up of patients undergoing restraint measures.**

## **6. Safeguards in the context of involuntary hospitalisation**

142. The legal provisions applicable to involuntary admission to a psychiatric hospital remain as described in the report on the CPT's visit to Hungary in 1999. It should be recalled that the 1997 Health Care Act (HCA) provides for two distinct procedures:

- an *emergency procedure* (under Section 199 of the HCA), whereby a patient posing an immediate and serious threat to his own or other's life or health can be hospitalised at a doctor's request; the court should be notified of the hospitalisation within 24 hours of it taking place and must examine whether the doctor's decision was justified within 72 hours of receiving notification;
- a *mandatory treatment procedure* (under Section 200 of the HCA), whereby a patient can be hospitalised against his will, for reasons of dangerousness, after a court decision has been taken on the initiative of a psychiatrist; in this case, the court has to render a decision within 15 days of receiving notification.

In the course of the above-mentioned procedures, the court holds hearings with the patient, as well as with an independent forensic medical expert and the doctor who initiated the placement. Further, the patient has a right to legal representation. When authorised by the patient or his legal representative, the Patients' Rights Advocate has the right to represent the patient. If, in the course of the proceedings, the patient has no legal or authorised representative, the court has to assign a guardian *ad litem*.

Involuntary placement in psychiatric hospitals is reviewed by the court every 30 days. Patients should be discharged from the psychiatric institution when there is no longer any justification for institutional treatment.

143. The CPT stated in the 1999 visit report that the safeguards applicable to involuntary placement in a psychiatric hospital in Hungary seem to be satisfactory. Nevertheless, during the 2009 visit, the delegation observed a few deficiencies as regards the practical implementation of these safeguards.

It transpired during the visit that the court's decision concerning involuntary admission was delivered orally at the end of the court hearing and only reached the hospital a week or two later, thus preventing patients from exercising their right of appeal expeditiously. **The CPT recommends that court decisions be delivered to patients in writing promptly.**

At Nyíró Gyula Hospital, the delegation observed that a board had been convened to carry out judicial reviews of the hospitalisation of patients admitted under emergency or mandatory treatment procedures; the composition of the board included the court clerk (acting on behalf of the judge), an *ex officio* lawyer assisting the patient and an independent forensic expert. However, at Santha Kalman Hospital, the procedure did not appear to be as formalised as in Budapest; further, a lawyer/legal counsel (in addition to the patient's legal representative) was apparently rarely present during reviews. **The Committee would like to receive the comments of the Hungarian authorities on this subject.**

144. During the visit to Santha Kalman Hospital, it appeared that 5 out of the 21 patients placed in the closed ward of Department III had been admitted on a voluntary basis, had signed a consent to treatment form, and were, according to their legal status, free to leave. The reason for keeping these persons in a closed ward was their acute condition.<sup>62</sup> That said, staff interviewed indicated that these patients would not be allowed to leave the closed wards if they wanted to. **The CPT would like to receive the remarks of the Hungarian authorities on this matter.**

145. Psychiatric patients should, as a matter of principle, be placed in a position to give their free and informed consent to treatment. The admission of a person to a psychiatric establishment on an involuntary basis should not preclude seeking informed consent to treatment. Every competent patient, whether voluntary or involuntary, should be fully informed about the treatment which it is intended to prescribe and given the opportunity to refuse the treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances.

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<sup>62</sup> One patient had a delirium tremens crisis; another one suffered from dementia and disorientation; a third one needed special observation and somatic care; the fourth one had serious alcohol problems and was in need of observation; and the remaining one was suffering from severe depression.

Pursuant to Section 191 (1) of the HCA, for as long as a patient displays dangerous or immediately dangerous behaviour,<sup>63</sup> his consent to treatment is not mandatory; however, even in such cases an attempt should be made to inform the patient, to the extent that this is possible.

At the two hospitals visited, patients admitted involuntarily were not asked to sign a consent to treatment form. Despite that, interviews with patients, especially at Santha Kalman Hospital, showed that staff were making efforts to provide involuntary patients with information about the treatment applied to them, some patients being well aware of their medication. As regards patients admitted voluntarily, they signed such a form but, if subsequently their status changed to involuntary, the form was cancelled.

**The CPT recommends that the procedures be reviewed with the aim of ensuring that all patients, whether voluntary or involuntary, are provided systematically with information about their condition and the treatment prescribed for them, and that doctors be instructed that they should always seek the patient's consent to treatment prior to its commencement. The form concerning informed consent to treatment should be signed by the patient or (if he is incompetent) by his legal representative. Relevant information should also be provided to patients (and their legal representatives) during and following treatment.**

146. At both hospitals, patients were given an explanation of the house rules upon admission, and, at Nyíró Gyula Hospital, written information on patients' rights was posted on the ward corridors. However, no information brochure was provided to patients and their families on admission. **The CPT recommends that a brochure setting out the establishment's routine and patients' rights (including information about complaints bodies) be issued to each patient, as well as to his/her family, on admission to a psychiatric establishment. Any patients unable to understand this brochure should receive appropriate assistance.**

147. In respect of contact with the outside world, there were no limitations on visits at either hospital. However, the establishments did not possess specific visiting facilities for patients in the closed wards and, as a result, visits took place in the ward corridors serving as a common area. **The CPT recommends that steps be taken at both hospitals to set up appropriate facilities in which patients in the closed wards can receive visits.**

At both hospitals, access to a phone in the closed wards was limited to the extent that patients could only place or receive calls through staff in their office. In this respect, the delegation received several complaints from patients, especially in the closed wards of Santha Kalman Hospital. The CPT must stress that patients placed in closed psychiatric wards should be provided with access to a telephone under conditions allowing privacy, unless there is a reasoned doctor's order to the contrary. By letter of 10 June 2009, the Hungarian authorities informed the Committee that specific guidelines on this subject were being drafted. **The CPT would like to receive, in due course, a copy of these guidelines. The Committee would also like to be informed of the steps taken in the closed wards visited as a result of these guidelines.**

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<sup>63</sup> I.e. behaviour which gives grounds for involuntary hospitalisation pursuant to Sections 199 and 200 of the HCA.

148. An effective complaints and inspection mechanism is another basic safeguard against ill-treatment in psychiatric establishments. Specific arrangements should exist, enabling patients to lodge formal complaints with a clearly-designated body, and to communicate on a confidential basis with an appropriate authority outside the establishment.

Patients at both hospitals could lodge complaints with a number of outside bodies, including the Parliamentary Commissioner for Civil Rights and the Patients' Rights Advocate.<sup>64</sup> These two institutions have the right to carry out unannounced visits and to talk in private with the patients.

The delegation was informed that there was one Patients' Rights Advocate per county, covering several institutions. From the information gathered, it appeared that the patients' rights advocates carried out regular visits to Nyíró Gyula and Santha Kalman hospitals. However, one Patients' Rights Advocate met by the delegation stated that being in charge of several hospitals represented a heavy burden, limiting the possibility to carry out in-depth analyses of all the issues. **The CPT would like to receive the comments of the Hungarian authorities on this point.**

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<sup>64</sup> Introduced by the HCA (Sections 30 to 33). The Patients' Rights Advocate's functions include: assistance to patients to access medical records, making comments and asking questions thereon; assistance to patients to draft complaints, and initiating the investigation thereof; based upon the patient's written authorisation, lodging a complaint with the head of the health-care institution or the maintaining entity, taking actions with the competent authorities in matters related to the patient's medical treatment, and representing the patient in the course of such actions; informing, on a regular basis, health-care workers of the rules relating to patients' rights and any changes therein, as well as of the enforcement of patient's rights in the health-care institution.

## **APPENDIX I**

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

#### **Police establishments**

##### **Preliminary remarks**

###### recommendations

- the Hungarian authorities to take decisive measures to end completely the practice of holding remand prisoners in police establishments. If necessary, the law should be amended (paragraphs 9 and 30).

###### comments

- the Hungarian authorities are invited to review the situation of misdemeanour offenders in police holding facilities (paragraphs 8 and 30);
- the CPT trusts that the return of remand prisoners to police custody will continue to be sought and authorised by a judge or prosecutor only when it is absolutely unavoidable (paragraph 10).

##### **Ill-treatment**

###### recommendations

- the Hungarian authorities to continue to deliver a firm message, including through ongoing training activities, that all forms of ill-treatment (whether of a physical or verbal nature) are not acceptable and that the perpetrators of such acts and those condoning them will be severely punished. As part of this message, it should be made clear once again that no more force than is strictly necessary should be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can never be any justification for striking them (paragraph 11);
- if it is considered necessary for custodial staff assigned to police holding facilities to carry truncheons, the truncheons to be hidden from view (paragraph 12);
- the practice of police officers carrying firearms within the detention areas to be stopped (paragraph 12);

- the Hungarian authorities to take appropriate measures to ensure that:
  - all medical examinations are conducted out of the hearing and – unless the health-care professional concerned expressly requests otherwise in a given case – out of the sight of police officers;
  - the confidentiality of medical documentation is strictly observed; naturally, doctors may inform custodial staff in a suitable manner about the state of health of a detained person, including medication being taken and particular health risks;
  - whenever a detained person presents injuries upon medical examination and makes allegations of ill-treatment, he is promptly seen by an independent doctor with training in forensic medicine who should draw conclusions as to the degree of consistency between the allegations of ill-treatment made by the detained person and the objective medical findings. These conclusions should be referred to the competent prosecutor and be made available to the detained person concerned and his lawyer at their request;
  - the current practice of inviting detained persons presenting injuries to sign a disclaimer is discontinued (paragraph 15);
- the spotlights in the high security cell (the so-called “K cell”) at Budapest police central holding facility to be removed. Further, the in-cell sanitary facilities should be partially screened to preserve a minimum of privacy (paragraph 17);
- the Hungarian authorities to review the practice of carrying out medical examinations of a person held in a “K cell” through the bars of his cell (paragraph 18).

#### comments

- the Hungarian authorities are invited to extend the powers of the Independent Police Complaints Board with a view to enabling it to initiate *ex officio* inquiries into cases possibly involving ill-treatment (paragraph 20).

#### requests for information

- whether there is a specific obligation under Hungarian law for health-care staff to report directly to a prosecutor medical data and/or other facts that come to their knowledge which are indicative of police ill-treatment, even in the absence of an allegation from the detained person concerned (paragraph 15);
- information on steps taken or envisaged to align health-care staff working in police holding facilities as closely as possible with the mainstream of health-care provision in the community at large (paragraph 15);
- up-to-date information on the outcome of the inquiry into the case referred to in paragraph 16 (paragraph 16);

- the response of the Hungarian authorities concerning the serious questions of proportionality raised by the application of multiple means of restraint (including anklecuffs and a body-belt) to the prisoner held in the “K cell” at Budapest police central holding facility (paragraph 17);
- confirmation that no means of restraint will be used in the future vis-à-vis a person accommodated in the “K cell” while he is taking outdoor exercise (paragraph 17);
- clarification about the maximum length of stay of a remand prisoner in the “K cell” (paragraph 19);
- the views of the Hungarian authorities on the comment made by members of the Independent Police Complaints Board about the rather low proportion of the Board’s recommendations that had been followed up by the police (paragraph 20);
- in respect of 2008 and 2009, the number of complaints of ill-treatment made against police staff, the number of criminal and disciplinary proceedings instituted as a result of these complaints, and an account of the criminal and disciplinary sanctions imposed (paragraph 21).

### **Procedural safeguards against ill-treatment of persons detained by the police**

#### recommendations

- the Hungarian authorities to amend the relevant legal provisions with a view to guaranteeing the right of persons detained by the police to inform a relative or third party of their choice of their situation as from the very outset of deprivation of liberty (paragraph 23);
- steps to be taken to remedy the lacuna referred to in paragraph 23 as regards safeguards surrounding the possibility to delay notification of custody (paragraph 23);
- the Hungarian authorities to take steps, including at the legislative level, to ensure that all detained persons (irrespective of their status) have access to a lawyer as from the very outset of their deprivation of liberty (paragraph 24);
- steps to be taken to further improve the system of legal aid for persons who are not in a position to pay for a lawyer, and to ensure that it is applicable from the very outset of police custody (paragraph 24);
- the Hungarian authorities to adopt specific legal provisions which formally guarantee the right of detained persons to be examined, if they so wish, by an external doctor (it being understood that an examination by such a doctor may be carried out at the detainee’s own expense) (paragraph 25).

comments

- the Hungarian authorities are invited to take measures to ensure that detained persons are provided with feedback on whether it has been possible to notify a close relative or other person of the fact of their detention (paragraph 23);
- further steps should be taken to ensure that all persons detained by the police are fully informed of their rights (including of notification of custody, and of access to a lawyer and a doctor). The form on rights should be available in an appropriate range of languages. In addition, the persons concerned should be asked to sign a statement certifying that they have been informed of their rights (paragraph 26).

**Conditions of detention in police establishments**

recommendations

- steps to be taken to remedy the deficiencies referred to in paragraphs 27 and 28 and, in particular, to:
  - improve ventilation and artificial lighting in the cells at the Budapest police central holding facility;
  - refurbish the shower room at the Miskolc police holding facility;
  - improve the outdoor exercise yards at the police holding facilities visited (paragraph 30);
- the Hungarian authorities to provide misdemeanour offenders with some form of activity (e.g. TV/radio, reading, association, sport) and review the visiting arrangements concerning this category of detained person (paragraph 30);
- detailed regulations on in-cell video surveillance to be adopted, in the light of the remarks in paragraph 31 (paragraph 31);
- measures to be taken to ensure that, if apprehended persons have to spend the night in a police waiting room, they are provided with a mattress and blankets. Further, persons held in such rooms should have ready access to a toilet (both during the day and at night) (paragraph 32).

comments

- video surveillance systems should not replace frequent direct observation of cells by police officers to ensure the safety of detained persons and should not prevent detained persons from having direct contact with staff (paragraph 33).

requests for information

- detailed information about plans to refurbish the exercise yards at the Budapest police central holding facility (paragraph 30).

## **Foreign nationals detained under aliens legislation**

### **Ill-treatment**

#### recommendations

- staff working at the Nyírbátor holding facility to be given the clear message that the ill-treatment of detained persons (whether of a physical or verbal nature) is not acceptable and will be the subject of severe sanctions (paragraph 36);
- the management of the Nyírbátor holding facility to take steps to address the issue of inter-detainee violence/intimidation, in the light of the remarks made in paragraph 37 (paragraph 37);
- if it is deemed necessary for police staff assigned to holding facilities for aliens to carry truncheons and handcuffs in detention areas, this equipment to be hidden from view (paragraph 38).

#### comments

- the CPT considers that pepper spray should not form part of the standard equipment of custodial staff and, as a rule, should not be used in confined spaces (paragraph 38).

#### requests for information

- a copy of the instructions given to staff on the use of pepper spray (paragraph 38).

### **Conditions of detention**

#### recommendations

- in the context of the implementation of plans to enlarge the capacity of the Budapest holding facility for aliens, the minimum standard of 4 m<sup>2</sup> of living space per detained person in multi-occupancy rooms to be observed (paragraph 39);
- steps to be taken to:
  - end the systematic use of handcuffs when foreign nationals are escorted to the outdoor exercise area at Budapest holding facility;
  - ensure that foreign nationals held in the Ferihegy Airport transit zone holding facility for more than 24 hours benefit from daily outdoor exercise;
  - provide the outdoor areas of the Budapest and Nyírbátor holding facilities with sports equipment, protection from inclement weather and (in the case of Nyírbátor) means of rest (paragraph 42);

- the Hungarian authorities to make further efforts to develop the regime applied to foreign nationals held in holding facilities for aliens with a view to enlarging the offer of purposeful activities (e.g. access to sports facilities, provision of books and newspapers/magazines in foreign languages, language classes, etc.). The longer the period for which persons are held, the more developed should be the activities which are offered to them (paragraph 43);
- steps to be taken to review visiting arrangements at the Nyírbátor holding facility in order to enable visits to take place under more open conditions (paragraph 44).

#### comments

- the detainees' rooms in the Nyírbátor holding facility for aliens should be equipped with a call bell (paragraph 40).

#### requests for information

- details on the plans to enlarge the capacity of the Budapest holding facility for aliens and to set up new common areas and a dining room, by the end of 2009 (paragraph 39).

### **Health care**

#### recommendations

- steps to be taken at the Nyírbátor holding facility to substantially increase the attendance hours of a doctor and to ensure the presence of a feldsher on a 24-hour basis (paragraph 45);
- the Hungarian authorities to introduce systematic medical screening of persons admitted to the Ferihegy Airport transit zone holding facility (paragraph 46);
- the Hungarian authorities to take appropriate measures to ensure that the confidentiality of medical documentation is strictly observed; naturally, health-care staff may inform custodial staff in a suitable manner about the state of health of a detained person, including medication being taken and particular health risks (paragraph 47);
- the Hungarian authorities to take measures to stop the practice of entrusting feldshers working in holding facilities for aliens with custodial tasks (paragraph 47).

#### requests for information

- information on steps taken or envisaged to align health-care staff working in holding facilities for aliens as closely as possible with the mainstream of health-care provision in the community at large (paragraph 47).

## **Safeguards**

### recommendations

- steps to be taken to ensure that written information on detainees' rights, the internal rules and applicable procedures is available in the languages most commonly spoken by foreign nationals in all holding facilities for aliens in Hungary, and is given to detainees upon admission (paragraph 48);
- the Hungarian authorities to ensure that persons detained under aliens legislation have an effective right of access to a lawyer as from the very outset of their deprivation of liberty and at all stages of the proceedings. Clear information about access to legal aid should be made available to detained foreign nationals. In addition, the judicial review should entail an oral hearing of the foreign national concerned (paragraph 49).

### comments

- the regular presence of a legal advisor should be arranged at holding facilities for aliens (paragraph 49).

## **Other issues**

### recommendations

- further efforts to be made to develop specialised training for staff working with foreign nationals, in the light of the remarks made in paragraph 50, and to encourage greater interpersonal communication between staff and detainees (paragraph 50);
- the Hungarian authorities to adopt a clear procedure, accompanied by appropriate safeguards, under which a detained person may be isolated from others for reasons of good order or security, in the light of the remarks made in paragraph 51 (paragraph 51);
- medical isolators in holding facilities for aliens under no circumstances to be used for disciplinary or administrative segregation purposes (paragraph 51);
- steps to be taken to ensure that detainees at the Nyírbátor holding facility have adequate access to a telephone (paragraph 52).

### comments

- the Hungarian authorities are invited to offer at least one free telephone call per month to those immigration detainees without the financial means to pay for it themselves. Further, bearing in mind that immigration detainees are neither convicted nor suspected of criminal offences, the CPT is of the view that they should be allowed access to their mobile phones (paragraph 52).

## **Prison establishments**

### **Preliminary remarks**

#### comments

- the CPT encourages the Hungarian authorities to pursue their efforts to combat prison overcrowding, by placing particular emphasis on non-custodial measures in the period before the imposition of a sentence, increasing the use of alternatives to imprisonment and adopting measures facilitating the reintegration into society of persons deprived of their liberty (paragraph 54).

### **Ill-treatment**

#### recommendations

- staff at Miskolc and Tiszalök Prisons to be regularly reminded that physical ill-treatment, verbal abuse and other forms of provocative behaviour vis-à-vis prisoners are not acceptable and that the perpetrators of such acts, as well as those condoning them, will be the subject of severe sanctions. The management of both establishments should exercise increased vigilance in this area, including through the regular presence of prison managers in the detention areas, their direct contact with prisoners, and improvements in selection procedures and staff training (paragraph 55);
- the relevant regulations on the use of means of restraint to be reviewed, in the light of the remarks made in paragraph 57 (paragraph 57);
- steps to be taken to ensure that dogs are not used in prisoner accommodation areas as a dissuasive measure while a cell search is being carried out (paragraph 58);
- the management of Miskolc Prison to make use of all the means at its disposal to prevent inter-prisoner violence and intimidation, in the light of the remarks made in paragraph 60 (paragraph 60);
- the management of Miskolc Prison to deliver the clear message to custodial staff that any attempts to provoke inter-prisoner violence are inadmissible and will be dealt with severely (paragraph 60).

#### comments

- restraining a person in a hyper-extended position (e.g. with hand and ankle cuffs linked together behind the back) is not acceptable (paragraph 56);
- any conduct of the type described in paragraph 56 (i.e. handcuffs fixed behind the prisoner's back and raised to inflict pain) should be considered as constituting an assault (paragraph 56);
- a system of cell representatives should not prevent direct communications between custodial staff and other prisoners (paragraph 59).

requests for information

- up-to-date information on the investigations into the cases mentioned in paragraph 61 and an account of any disciplinary and/or criminal proceedings instituted (paragraph 61);
- the following information for 2008 and 2009 concerning all prisons in Hungary:
  - the number of complaints of ill-treatment lodged against prison staff/other prisoners;
  - the number of criminal/disciplinary proceedings instituted as a result of these complaints;
  - an account of the disciplinary and/or criminal sanctions imposed (paragraph 62).

**Grade IV prisoners**

recommendations

- the Hungarian authorities to take steps to implement the CPT's previous recommendations concerning the provision to prisoners placed in a Grade IV regime of written information on the reasons for the measure as well as the opportunity to express their views on the matter (paragraph 64);
- the system of classifying prisoners as Grade IV to be reviewed and refined with a view to ensuring that this grade is only applied – and retained – vis-à-vis prisoners, in the light of a thorough assessment of their current attitude and behaviour (paragraph 64);
- measures to be taken to ensure that Grade IV prisoners have the right to appeal against the decisions on their allocation to this grade to an independent authority (e.g. a judge) (paragraph 64);
- the shortcoming referred to in paragraph 66 (i.e. the small living space left to the prisoner held in cell No. 312 due to the barred area at the entrance) to be remedied (paragraph 66);
- the management of Miskolc and Tiszalök Prisons to step up their efforts to offer a range of purposeful activities to Grade IV prisoners. Further, the outdoor exercise facilities at Miskolc Prison should be improved (paragraph 67).

comments

- the management of Sátoraljaújhely Prison is encouraged to reduce the actual occupancy levels in the cells accommodating Grade IV prisoners, the objective being to offer a minimum of 4 m<sup>2</sup> of living space per prisoner in multi-occupancy cells (paragraph 65).

requests for information

- the rules governing the use of cells Nos. 311 and 312 at Sátoraljaújhely Prison (paragraph 66).

## **Prisoners held in special security conditions**

### recommendations

- the Hungarian authorities to amend the regulations concerning placement in special security conditions and to take appropriate measures, in the light of the remarks made in paragraph 70 (paragraph 70);
- measures to be taken to ensure that prisoners held in special security conditions have the right to appeal against the decision on their placement in such security conditions, and any renewal of such a placement, to an independent authority (e.g. a judge) (paragraph 70);
- the management of Tiszalök Prison to ensure that cell windows in the Special Security Unit (KBK) allow prisoners to see outside their cells (paragraph 72);
- the Hungarian authorities to remedy the shortcomings observed in the exercise yards for prisoners held in special security conditions at Sátoraljaújhely and Tiszalök Prisons (paragraph 74);
- a suitable programme of purposeful activities of a varied nature (including work, education, association and targeted rehabilitation programmes) to be offered to prisoners held in special security conditions. This programme should be drawn up and reviewed on the basis of an individualised needs/risk assessment by a multi-disciplinary team (involving, for example, a psychologist and an educator), in consultation with the inmates concerned. Interaction/association between prisoners within a KBK should be the norm; conditions akin to solitary confinement should only be used when absolutely unavoidable in order to deal with a person who is assessed to be acutely dangerous to others and for the shortest period necessary (paragraph 75);
- the Hungarian authorities to take immediate action as regards staff issues, in the light of the remarks made in paragraph 76 (paragraph 76).

### comments

- the case of an inmate allegedly kept in handcuffs during outdoor exercise at Sátoraljaújhely Prison would, if true, contravene the regulations (paragraph 77);
- the Hungarian authorities are encouraged to continue their efforts to minimise the application of means of restraint to prisoners held in special security conditions (paragraph 77);
- the CPT trusts that the Hungarian authorities will pursue their efforts to provide prisoners held in special security conditions with appropriate contact with the outside world (paragraph 78).

### requests for information

- up-to-date information on the implementation of the plans to install one-way glass in the cells currently fitted with frosted glass at Sátoraljaújhely Prison, in order to allow prisoners to see outside their cells while preventing them from communicating with the outside (paragraph 71);

- confirmation that Miskolc Prison's Special Security Cell (KBZ) was only used for periods of detention of up to 10 days, pending a decision of the special national committee on placement (paragraph 73);
- a copy of the regulations on the use of video-surveillance in prison cells (paragraphs 73 and 112);
- a copy of the regulations concerning the use of means of restraint, as amended after the visit, as well as statistical data on the application of means of restraint to the prisoners held in Sátoraljaújhely Prison's KBK during the three months preceding and following the amendment to the regulations (paragraph 77).

### **Conditions of detention for prisoners in general**

#### recommendations

- the Hungarian authorities to take steps at Miskolc Prison to:
  - reduce overcrowding in the cells, the objective being to meet the standard of 4 m<sup>2</sup> of living space per prisoner in multi-occupancy cells;
  - improve the state of repair of cell equipment and replace worn out mattresses;
  - pursue the partitioning of in-cell toilets (paragraph 80);
- female prisoners held at Miskolc Prison to be offered at least one hour of outdoor exercise every day (paragraph 81);
- the Hungarian authorities to take steps to offer remand prisoners at Miskolc Prison a range of purposeful activities corresponding to their needs and legal status (paragraph 82);
- the Hungarian authorities to take steps to address the issues raised in paragraph 85 as regards outdoor exercise yards and access to organised sports activities at Tiszalök Prison (paragraph 85);
- the prison administration and the private contractor to co-operate closely at Tiszalök Prison to make more work places available as soon as possible. The work provided should preferably have vocational value (paragraph 85).

#### comments

- steps should be taken to maximise access to natural light and ventilation in the cells where the windows were fitted with shutters at Miskolc Prison (paragraph 80);
- the Hungarian authorities are invited to check whether the quality of food served to women at Miskolc Prison corresponds to their needs (paragraph 80);
- the Hungarian authorities are invited to check the quality and variety of the food served to prisoners at Tiszalök Prison, in particular at week-ends, and to ensure that the special dietary needs of inmates are taken into account in the preparation of meals (paragraph 84).

requests for information

- the remarks of the Hungarian authorities on the complaints received in certain detention units at Tiszalök Prison that the open-door regime was in practice reduced to two hours (instead of four) (paragraph 85).

**Health-care issues**

recommendations

- steps to be taken to:
  - increase significantly the attendance hours of doctors at Tiszalök Prison, by employing the equivalent of at least two full-time posts;
  - employ the equivalent of one full-time doctor (for the treatment of prisoners) at Sátoraljaújhely Prison (paragraph 86);
- the Hungarian authorities to make appropriate arrangements at Miskolc Prison for a replacement in the absence of the dentist (paragraph 88);
- steps to be taken without delay to employ a psychologist at Miskolc Prison and to ensure regular visits by a psychiatrist at Sátoraljaújhely Prison (paragraph 89);
- the Hungarian authorities to take steps to implement the CPT's long-standing recommendation that medical examinations of prisoners are conducted out of the hearing and – unless the health-care staff member concerned expressly requests otherwise in a given case – out of the sight of non-medical staff (paragraph 90);
- nursing and prison staff working in Building II of the Judicial and Observation Psychiatric Institute (IMEI) to be given the clear message that ill-treatment of patients is not acceptable and will be punished accordingly (paragraph 93);
- the Hungarian authorities to review the training and supervision of custodial staff assigned to Building II of the IMEI, in the light of the remarks made in the second sub-paragraph of paragraph 93 (paragraph 93);
- the Hungarian authorities to make efforts to provide more congenial and personalised surroundings for patients in Building II of the IMEI (paragraph 95);
- a call system to be installed in all rooms in Building II of the IMEI (paragraph 95);
- steps to be taken to enable IMEI patients to wear their own clothes during the day, irrespective of their legal status; if necessary, the relevant legislation should be changed (paragraph 96);
- the Hungarian authorities to develop therapeutic and recreational activities for patients accommodated in Building II of the IMEI (paragraph 97);

- the exercise area of Building II of the IMEI to be equipped with a means of rest and protection against inclement weather (paragraph 98);
- steps to be taken to equip the seclusion room of Building II of the IMEI with a call bell (paragraph 102).

#### comments

- the Hungarian authorities are invited to review the practice of the prison doctor treating both prisoners and prison staff at Sátoraljaújhely Prison (paragraph 87);
- it would be highly desirable for the IMEI to be re-located; this would help to ensure that a medical, rather than a penal, ethos prevails. The Committee urges the Hungarian authorities to find a solution as a matter of priority (paragraph 92);
- the state of repair of the shower facilities in Building II of the IMEI left something to be desired (paragraph 95);
- the IMEI management is invited to take into account the remarks made in paragraph 100 in their policy on resort to means of restraint (paragraph 100).

#### requests for information

- whether the Hungarian authorities are considering the possibility of placing the new Forensic Psychiatric Institution under the responsibility of the Ministry of Health (paragraph 92).

### **Other issues of relevance to the CPT's mandate**

#### recommendations

- the Hungarian authorities to improve staffing levels in Miskolc and Tiszalök Prisons, in the light of the remarks made in the third sub-paragraph of paragraph 104 (paragraph 104);
- the practice of using health-care staff to perform security tasks to be stopped and measures to be taken to ensure that a sufficient number of female prison staff is on duty at all times at Miskolc Prison (paragraph 105);
- if it is considered necessary for prison officers to carry truncheons, the truncheons should be hidden from view (paragraph 106);
- the Hungarian authorities to amend the relevant legal provisions so as to increase substantially the minimum visiting entitlement (paragraph 107);
- the visiting facility at Miskolc Prison to be re-designed so as to ensure that prisoners receive visits under appropriate conditions in terms of space, lighting and ventilation (paragraph 108);
- measures to be taken to improve access to the telephone at Tiszalök Prison (paragraph 109);

- appropriate steps to be taken at Tiszalök Prison to prevent delays in the dispatching of inmates' correspondence (paragraph 110);
- the relevant legal provisions to be amended without delay to ensure that the period of time during which prisoners under disciplinary investigation are held in solitary confinement cells before a decision is taken is included in the overall time in disciplinary isolation (paragraph 111);
- the shortcomings observed in the disciplinary/solitary confinement cells at Miskolc Prison to be remedied (paragraph 112);
- steps to be taken to ensure that disciplinary punishment of prisoners does not include a total prohibition of family contacts and any restrictions on family contacts as a form of punishment to be used only where the offence relates to such contacts (paragraph 113);
- special registers on the use of disciplinary/solitary confinement and padded cells to be established at Tiszalök Prison (paragraph 115);
- the Hungarian authorities to take appropriate measures and to amend the relevant regulations on the use of restraint, in the light of the comments made in paragraph 119 (paragraph 119);
- the Hungarian authorities to review the regulations on the use of stun devices, in the light of the remarks made in the third sub-paragraph of paragraph 120 (paragraph 120);
- the relevant regulations to be amended to ensure that electric stun body-belts are never used for movements of prisoners, including outside prison establishments (paragraph 120).

#### comments

- a change in the rules so as to allow conjugal visits would be a welcome development (paragraph 108);
- steps should be taken at Tiszalök Prison to allow more space for prisoners receiving visits and their families in the open visiting facility (paragraph 108);
- the padded cell at Miskolc Prison should be permanently taken out of service; more suitable facilities should be set up for holding aggressive and/or agitated prisoners (paragraph 114);
- the CPT trusts that the Hungarian authorities will ensure that the inmates' rights (including access to a lawyer) are always respected in the context of police interviews in prisons (paragraph 117).

#### requests for information

- the comments of the Hungarian authorities on the allegations received at Tiszalök Prison that prisoners had suffered from intimidating remarks from staff and had been refused access to certain activities after having spoken to NGO representatives (paragraph 116).

## **Psychiatric establishments**

### **Preliminary remarks**

#### requests for information

- further information on the restructuring of the psychiatric and social care sectors, including the implementation of the national programme for mental health and the impact of the closure of the National Psychiatric and Neurological Institute (OPNI) in Budapest (paragraph 124).

### **Ill-treatment**

#### recommendations

- measures to be taken at Nyírő Gyula Hospital to counter inter-patient violence, in the light of the remarks made in paragraph 126 (paragraph 126).

### **Patients' living conditions**

#### recommendations

- the bedrooms of the closed wards of Nyírő Gyula and Santha Kalman Hospitals to be equipped with doors, so as to ensure proper protection and offer some privacy to the patients (paragraphs 128 and 129);
- efforts to be made in the closed wards of Santha Kalman Hospital to offer a more congenial and personalised environment to patients, in particular by providing them with lockable space (paragraph 129);
- the absence of a common/dining room in the closed ward of Department I of Santha Kalman Hospital to be remedied (paragraph 129);
- measures to be taken to reduce the occupancy levels in the dormitories of Departments VI and VII at Santha Kalman Hospital. The level of hygiene in Department VI should also be improved (paragraph 130);
- steps to be taken at the closed wards of both hospitals visited, as well as in other psychiatric hospitals in Hungary, to ensure that patients can wear their own clothes as far as possible during their stay (paragraph 131).

#### comments

- the Hungarian authorities are invited to consider separating patients in an acute psychotic condition from psycho-geriatric patients at Nyírő Gyula and Santha Kalman Hospitals, with a view to ensuring proper protection for the most vulnerable patients (paragraphs 128 and 129);

- the Hungarian authorities are invited to transform the large-capacity dormitories at Santha Kalman Hospital into accommodation structures based on smaller groups (paragraph 129).

### **Treatment of patients and staff resources**

#### recommendations

- an individual treatment plan to be drawn up for each patient at Nyírő Gyula Hospital and for patients of the closed wards of Santha Kalman Hospital (taking into account the special needs of acute, geriatric or long-term patients), comprising the goals of the treatment, the therapeutic means used and the staff members responsible. Patients should be informed of their individual treatment plans and progress; further, they should be involved in the drafting and implementation of these plans (paragraph 133);
- efforts to be made to engage patients in the closed wards at both hospitals in rehabilitative activities adapted to their needs (paragraph 133);
- the recording of information at Nyírő Gyula Hospital to be reviewed, in the light of the remarks made in paragraph 134 (paragraph 134);
- immediate steps to be taken, at Santha Kalman and Nyírő Gyula Hospitals, to ensure that all patients whose health so permits are offered at least one hour of outdoor exercise per day (paragraph 136).

#### comments

- staff should receive, as part of their training, guidance on managing conflicts between patients (paragraph 137).

### **Means of restraint**

#### recommendations

- the practice of fixating patients in the full view of other patients at Nyírő Gyula and Santha Kalman Hospitals to be discontinued without delay; immobilisation should not be applied in the sight of other patients (paragraph 139);
- steps to be taken at Nyírő Gyula and Santha Kalman Hospitals to ensure that both the policy and practice concerning the use of means of restraint comply with the requirements referred to in paragraph 141. All psychiatric establishments in Hungary should apply these precepts as regards resort to means of restraint. Patients should also be duly informed (in writing) of the establishment's restraint policy as well as the existing complaints mechanisms in this respect (paragraph 141).

comments

- the Hungarian authorities are invited to introduce a harmonised recording system of any resort to means of restraint in psychiatric hospitals; such a record should be kept in the medical services concerned, ensuring a proper monitoring and follow-up of patients undergoing restraint measures (paragraph 141).

**Safeguards in the context of involuntary hospitalisation**

recommendations

- court decisions to be delivered to patients in writing promptly (paragraph 143);
- the procedures to be reviewed with the aim of ensuring that all patients, whether voluntary or involuntary, are provided systematically with information about their condition and the treatment prescribed for them, and doctors to be instructed that they should always seek the patient's consent to treatment prior to its commencement. The form concerning informed consent to treatment should be signed by the patient or (if he is incompetent) by his legal representative. Relevant information should also be provided to patients (and their legal representatives) during and following treatment (paragraph 145);
- a brochure setting out the establishment's routine and patients' rights (including information about complaints bodies) to be issued to each patient, as well as to his/her family, on admission to a psychiatric establishment. Any patients unable to understand this brochure should receive appropriate assistance (paragraph 146);
- steps to be taken at Nyíró Gyula and Santha Kalman Hospitals to set up appropriate facilities in which patients in the closed wards can receive visits (paragraph 147).

requests for information

- the comments of the Hungarian authorities on the judicial reviews at Santha Kalman Hospital, which did not appear as formalised as in Budapest and during which a lawyer/legal counsel (in addition to the patient's legal representative) was apparently rarely present (paragraph 143);
- the remarks of the Hungarian authorities on assertions by staff at Santha Kalman Hospital that patients admitted on a voluntary basis and placed in a closed ward would not be allowed to leave the ward if they wanted to (paragraph 144);
- a copy of the guidelines on access to a telephone in closed psychiatric wards, and information on the steps taken in the closed wards visited as a result of these guidelines (paragraph 147);
- the comments of the Hungarian authorities on the statement made by one Patients' Rights Advocate met by the delegation that being in charge of several hospitals represented a heavy burden, limiting the possibility to carry out in-depth analyses of all the issues (paragraph 148).

**APPENDIX II**

**LIST OF THE AUTHORITIES AND ORGANISATIONS  
WITH WHICH THE CPT'S DELEGATION HELD CONSULTATIONS**

**Ministry of Justice and Law Enforcement**

Mr Tibor DRASKOVICS	Minister
Mr András TÚRI	Under-Secretary of State
Mr Zoltán TÖRÖK	Head of the National Police Department
Ms Katalin KISS	Deputy Head of the Prison Department
Ms Melinda ILLÉS	Chief Rapporteur

**National Police**

Mr József BENCE	Director General
Ms Marianna NAGY	Head of Division, National Bureau of Investigation
Ms Zsuzsanna VÉGH	Head of the Office of Immigration and Nationality (OIN)
Mr Attila DOROGI	Head of the Border Police Directorate, OIN

**National Prison Service**

Mr Antal KÖKÉNYESI	Head
Mr András CSÓTI	Deputy Head
Mr Sándor DÖMÉNY	Deputy Head
Ms Katalin HEYLMANN	Prison Doctor, Health-Care Department

**Ministry of Health**

Mr Tamás SZÉKELY	Minister
Ms Melinda MEDGYASZAI	Under-Secretary of State
Mr Endre PORDÁN	Under-Secretary of State
Mr István HORVÁTH	Head of Department
Ms Natália POPOVICS	Assistant
Ms Éva MÜLLER	Assistant
Ms Dóra HORVÁTH	Lawyer

### **Ministry of Labour and Social Care**

Ms Erika SZÚCS	Minister
Mr József SERAFIN	Head of Department
Ms Katalin Bencze KISS	Deputy Head of Department
Ms Ildikó BODGÁL	Chief Adviser
Ms Éva BÓDI	Adviser

### **Prosecutor General's Office**

Mr Tamás KOVÁCS	Prosecutor General
Mr Gábor BÁNHEGYI	Head of Department
Mr Antal ETTIG	Senior Prosecutor
Ms Magdolna HAJDÚ	Head of Department
Mr György VÓKÓ	Head of Department

### **Military Prosecution Service**

Mr Tibor ÁCS	Military Prosecutor, Budapest Military Prosecution Service
Mr Gyula BÖGÖLY	Military Prosecutor, Kaposvár Military Prosecution Service

### **Office of the Parliamentary Commissioners**

Mr Máté SZABÓ	Parliamentary Commissioner for Civil Rights
Mr Miklós GARAMVÁRI	Head of Department
Ms Beáta BORZ	Head of Department
Ms Katalin HARASZTI	Deputy Head of Department

### **Independent Police Complaints Board**

Mr Jenő KALTENBACH	Chairman
Mr András KÁDÁR	Vice-Chairman

### **International Organisations**

Budapest Regional Office of the United Nations High Commissioner for Refugees (UNHCR)

### **Non-Governmental Organisations**

Hungarian Civil Liberties Union (TASZ)  
Hungarian Helsinki Committee  
Mental Disability Advocacy Centre (MDAC)  
Mental Health Interest Forum (PÉF)