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

**from 21 to 30 April 2002**

The Government of the Czech Republic has requested the publication of this follow-up response to the CPT's report on the visit to the Czech Republic in April 2002. The CPT's report (CPT/Inf (2004) 4) and the Czech Government's initial response (CPT/Inf (2004) 5) were published on 12 March 2004. The first follow-up response was published on 14 April 2005.

Strasbourg, 20 March 2006



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## **Report on the Implementation of Recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment ('CPT') in 2005, Resulting from the CPT's Visit to the Czech Republic in 2002**

Approved by the Government of the Czech Republic on 4 January 2006

### **Introduction**

The Report on the Implementation of Recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment ('CPT') in 2005, Resulting from the CPT's Visit to the Czech Republic in 2002 ('Report') follows up on the Report of the Czech Republic on the Implementation of CPT Recommendations in 2003 and the Report of the Czech Republic on the Implementation of CPT Recommendations in 2004. The Report only contains information describing developments in the relevant areas in 2005. The structure of the Report retains the structure of the Report to the Government of the Czech Republic on the visit to the Czech Republic carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 21 to 30 April 2002 (hereinafter referred to as 'CPT Report'). The report has been thematically broken down into four parts; individual recommendations (or comments and requests for information) and the responses are classified by the number of the corresponding paragraph in the CPT Report which contains the original recommendation, and by whether the Czech authorities have cited new circumstances for 2005 in relation to the recommendation.

### **Part A - Police establishments**

#### **Ill-treatment**

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

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

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

As part of the activities intended to prevent the ill-treatment of persons detained in police cells, the Ministry of the Interior has decided to conduct an extraordinary thematic inspection aimed at monitoring the observance of legal and internal regulations regulating the use of police cells. This extraordinary thematic inspection will be conducted in accordance with an Order of the Police President, and the findings will be presented to the Police President by 30 June 2006.

### **Conditions of detention**

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

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

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

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

The new categorization of police cells carried out in accordance with a binding guideline of the Police President has helped to reinforce the guarantee of dignified conditions for the custody of persons detained in police cells.<sup>1</sup> Under this binding guideline, police cells have been divided into short-term and multiple-hour cells. The furnishings of these cells differ depending on the duration of the detention. A police cell designed for short-term detention is a cell for persons detained for the strictly necessary length of time, which must not total more than six hours. A person may be detained in a cell for short-term detention only if it is not possible or expedient to detain this person in a cell for multiple-hour detention. A police cell intended for multiple-hour detention is a cell for persons detained for the strictly necessary period, which must not exceed the time laid down in the Act on the Police Force of the Czech Republic.<sup>2</sup>

The Ministry of the Interior and the Police Presidium are currently preparing amendments to the above-mentioned binding guideline of the Police President as regards the technical facilities in cells. For example, cells should be fitted with a technical device to call the warden. The availability of basic hygiene facilities, access to drinking water and the removal of the personal belongings of persons detained in police cells will also be expressly covered in the guideline.

### **Safeguards against ill-treatment**

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

In September 2005, the Government approved the Health Care Bill, which should replace the Public Health Care Act.<sup>3</sup> This bill has been drawn up by the Ministry of Health. Unlike the current Public Health Care Act, which does not rule out the right to choose a doctor generally granted to all persons detained in police cells, the Health Care Bill expressly provides that a person detained in a police cell does not have this right.

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<sup>1</sup> Binding Guideline of the Police President No 158 of 29 December 2004 on police cells

<sup>2</sup> Act No 283/1991 on the Police Force of the Czech Republic, as amended

<sup>3</sup> Act No 20/1966 on care for public health, as amended

The requirement that a person detained in a police cell have the right to be examined by a doctor of his or choice, above the scope of health care provided by the police authorities, was discussed during the preparation of the bill. In the opinion of the Ministry of Health, this requirement works against the patient's interests, because if a patient detained in a police cell demands health care at a place a considerable distance from the place of detention, his/her state of health could deteriorate by the time such care is secured. The Ministry of the Interior supported this view.

The Health Care Bill is currently being discussed in Parliament by the Chamber of Deputies.<sup>4</sup>

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

The Ministry of the Interior and the Police Presidium are preparing an amendment to the binding guideline of the Police President on police cells<sup>5</sup> to incorporate an explicit specification of the obligation of police officers to advise detained persons of their rights, including to right to draw up and send a written communication to a state authority of the Czech Republic or to an international organization which, under an international convention binding on the Czech Republic, is competent to handle complaints concerning the protection of human rights.

In 2005, the Police Presidium drew up a form containing advice about the rights and obligations of persons detained in police cells. This form has been translated into the nine most frequently occurring languages – English, French, German, Italian, Polish, Vietnamese, Russian, Ukrainian and Hungarian. The forms are systematically used by the Police Force of the Czech Republic in all the above-mentioned language versions. To this end, forms are also made available to police officers on the police Intranet.

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

In 2004, criminal investigations were initiated in relation to 357 officers of the Police Force of the Czech Republic; indictments were brought against 229, 120 of whom were convicted. In 2004, the competent services of the Police Force of the Czech Republic handled 5,471 complaints (complaints of a ‘non-criminal’ nature) concerning police officers of the Police Force of the Czech Republic. Based on the results of investigations, 721 (13.2%) of all the complaints were found to be justified.

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<sup>4</sup> Parliamentary Press No 1151

<sup>5</sup> Binding Guideline of the Police President No 158 of 29 December 2004 on police cells

**The Czech authorities have no new circumstances to report for 2005 in relation to the following recommendations, remarks, and requests for information:**

Conditions of detention

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

Safeguards against ill-treatment

‘The CPT recommends that all persons deprived of their liberty by the police - for whatever reason - be granted the right to notify a close relative or third party of their choice of their situation as from the very outset of their deprivation of liberty. The exercise of this right could be made subject to certain exceptions designed to protect the legitimate interests of the police investigation, provided that those exceptions are clearly circumscribed in law and made subject to appropriate safeguards (e.g. any delay in notification of custody<sup>6</sup> must be recorded in writing with the reasons therefor and the approval of a senior police officer unconnected with the case at hand or a public prosecutor is required)’ (paragraph 19).

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003 and the Report on the Implementation of CPT Recommendations in 2004.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

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<sup>6</sup> This is not the institute of custody in criminal proceedings as set forth in the Code of Criminal Procedure, but the restriction of freedom by the police, e.g. by means of detention, apprehension, or bringing a person to a police station in accordance with the Police Act.

‘The CPT recommends taking steps to ensure that the time persons are held by the police “for identification purposes” or “to give an explanation” is recorded in a register’ (paragraph 25). Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

‘The CPT recommends that all necessary steps be taken to ensure that the inspections of police detention facilities by the State Attorney’s Prosecuting Office become effective without delay’ (paragraph 27). Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

## **Part B – Detention of foreign nationals under aliens legislation**

### **Conditions of detention**

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

In September 2005, an amendment to the Foreigners Act, prepared by the Ministry of the Interior, was passed.<sup>7</sup> This amendment includes completely new regulation of the conditions and regime applicable to stays in detention facilities for foreigners. The aim of the amendment to the legislation on the conditions and regime for stays in detention facilities for foreigners was to ensure the general humanization of these facilities and to achieve a balance between the reason and purpose for the detention of a foreigner so that the deprivation of the liberty of detained foreigners does not go beyond the bounds necessary to achieve the objective of the detention. In this light, several significant changes were made which were previously presented as proposed changes in the Report on the Implementation of CPT Recommendations in 2004. The new legislation contains the following changes:

Detention facilities for foreigners (‘facilities’) are operated by the Ministry of the Interior via an organizational component of the State set up for this purpose by the Ministry, i.e. the Refugee Facilities Administration. This Administration, as the operator of facilities for asylum seekers, has long-standing experience in the care of foreigners and employs trained staff to help minimize the impact that the deprivation of freedom has on the psyche of detained foreigners.

The facilities are divided into a section with a lenient regime, comprising an accommodation room, a communal social and cultural part, and other areas, in which detained foreigners have freedom of movement, and into a section with a strict regime, comprising an accommodation room and an area for outdoor exercise.

Foreigners may be detained in the section with the strict regime only for the following reasons, as provided by law:

- a) a foreigner is aggressive or requires increased supervision for other serious reasons
- b) a foreigner repeatedly and seriously breaches internal rules, or
- c) a foreigner repeatedly and seriously infringes an obligation or prohibition under the Foreigners Act

<sup>7</sup>

Act No 428/2005 amending Act No 326/1999 on the stay of foreigners on the territory of the Czech Republic and amending certain laws, as amended, and certain other laws

For a stay in the section of a facility with a strict regime, the law lays down the following conditions:

- The accommodation room in the section of a facility with a strict regime is furnished with beds, a table, chairs of a number corresponding to the number of detained foreigners, sanitary facilities separated from the rest of the area with a non-transparent partition, and alarm (summoning) equipment. The accommodation room can only be locked from the outside.
- The operator allows foreigners placed in this section at least one hour's exercise a day in a designated area; the outdoor exercise may be restricted or cancelled by the facility manager if there is good reason to do so, in which case he is required to draw up a record of this without undue delay.
- Foreigners under the age of 18 may be placed in this section only for the reasons under a) or c).
- Foreigners may be placed in this section only for the necessary duration, which must not exceed 30 days; during their placement in this section the police examine whether the reasons for the placement have changed.
- If foreigners act in a manner during their placement in this regime which is, in itself, a reason for a decision on their placement in the strict regime, or if the reason for their increased supervision continues, their placement in this section may be extended by a further 30 days. In other cases the police relocate foreigners to the section with the lenient regime without undue delay.
- The police draw up a report on the placement of a detained foreigner in the section of a facility with a strict regime without undue delay; in this report they state the details of the grounds for this placement. A separate written decision is not issued on placement in this section; foreigners are informed of their placement here orally only.
- If one of the members of a family of detained foreigners is placed in this section, the location of the family members within the facility may be split for the duration of his placement in this section.

The accommodation room in the section with the lenient regime is furnished with beds, cupboards for personal belongings, a table and a chair for each of the foreigners placed here.

The amendment to the law lays down the operator's new obligation to inform detained foreigners, on or immediately after their placement in the facility, of the rights and obligations that apply to their stay at the facility, and of the internal rules of the facility; this information is provided in a foreigner's mother tongue or in a language he can understand. The facility's internal rules will be published in Czech, English, French, German, Russian, Spanish, Chinese, Arabic, Vietnamese, Hindi, and other languages if required to provide detainees with the necessary information.

When placing detainees in accommodation areas, the operator should, where possible, take into consideration religious, ethnic, and national specificities, the presence of relatives and existence of family relations, age, and state of health. The requirements of the cultural and religious traditions of detained foreigners are taken into account, as far as possible, in the selection of food.

The law also defines the range of services that are provided by the operator to detained foreigners under the conditions laid down by the law. In relation to detainees, the facility operator:

- a) will provide a bed, chair, cupboard for personal items, food, and basic hygiene products,
- b) will permit the receipt and sending of written correspondence without restriction,
- c) will permit visits,

- d) will permit detainees to order books, daily newspapers and magazines, including foreign publications, where such publications are distributed in the Czech Republic,
- e) will enable detainees to file requests, complaints, or other forms of instigation to the public authorities of the Czech Republic or to international organizations in order to exercise their rights, and will send such submissions without undue delay,
- f) at a detainee's request, will make an appointment without undue delay for an interview with the facility manager or his deputy, or with police officers at the facility,
- g) will enable detainees to have eight hours' uninterrupted sleep at night time,
- h) will permit free movement within the section with a lenient regime and contact with other foreigners placed in this section.

For all detained foreigners, the operator will arrange for a medical examination and other necessary diagnostic and laboratory examinations, vaccinations, and preventive measures appointed by an authority for the protection of public health. The operator may arrange for a detained foreigner to receive psychological and social services and other services and items required for the foreigner's stay at the facility.

The law provides a specific list of the obligations of detainees and the activities that are banned at a facility. The law also prescribes the procedure for personal inspections of detained foreigners and their belongings.

The law lays down compulsory particulars of the facility's internal rules, which must contain:

- a) a schedule for the provision of health, psychological and social care,
- b) a schedule for the provision of food,
- c) a schedule and range of cultural and sports activities,
- d) the satisfaction of cultural needs and sports activities,
- e) a schedule for the dispensing of hygiene products, footwear, clothing, and linen,
- f) a system for visits,
- g) a designation of the set area for outdoor exercise and a schedule of outdoor exercise for the strict detention regime,
- h) a designation of areas which foreigners may not enter unless accompanied by a police officer or member of staff from the facility,
- i) the method used to provide compulsory full-time schooling,
- j) other necessary details of an organizational or technical nature.

A specific regime is established for detained children (foreigners under the age of 18). The law requires that foreign minors be kept apart from foreign adults. Minors may be placed with adults only in cases where they are next of kin.

Children who are required to undergo compulsory full-time schooling must be given the opportunity by the facility operator to meet this obligation at the facility, or outside the facility where possible. A child fulfilling the obligation of compulsory full-time schooling may also leave the confines of a facility for the purposes of other activities intended to support the development of a child's personality. The facility operator covers the cost of textbooks and other school equipment for these children if such costs are not covered by the State and the child is unable to pay for them by other means. Children also receive food more often than adults, i.e. five times a day. At facilities where families with children or unaccompanied children are placed, in the internal rules of the facility the operator must prepare a range of cultural, sports, and other activities specifically for various age categories.

With a view to keeping families intact, the law enables the facility operator to provide accommodation in the section with the lenient regime for foreigners in respect of whom another detained foreigner has maintenance obligations or is responsible for their care, if the care of such foreigners cannot be ensured by other means.

The law also regulates the possibility of receiving visits at the facility; a foreigner is entitled to have one visit a week comprising no more than four persons present at any one time and lasting for no longer than one hour. In warranted cases, the facility manager or his deputy may, by agreement with the police, permit more frequent visits or a visit by a group of more people. Visits by persons providing detained foreigners with legal advice are not restricted.

The law permits detained foreigners to receive packages once a week that contain food, books and personal items weighing no more than 5 kg in total. The weight of clothing sent to foreigners with a view to replacing older clothes is not included in the total weight. Foreigners are also entitled to receive money without restriction at a facility; these funds must be left in the safekeeping of the operator, who will provide them to a foreigner at a proportionate amount per day of stay in the facility, should the foreigner request. Postal items for detained foreigners are inspected by the police; the police will not hand over to a foreigner any items that are not permitted to be taken into the facility and which foreigners are not permitted to make or keep at the facility. Instead, the police will draw up a list of such items and forward them to the facility operator, who is responsible for sending them back to the sender at the sender's expense.

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

The detention centre for foreigners designed for the accommodation of families and single women with children has been operated by the Refugee Facilities Administration of the Ministry of the Interior since May 2002; during this time, no serious problems have been recorded at this centre. The detainees can draw on a whole range of services the same as those used by asylum seekers. Children go to the centre with other children of asylum seekers, and attend classes at the Primary School in the residential centre. Adults at the facility are offered the following leisure activities: ball games, board games, creative activities. Social workers from the residential centre, a psychologist, and the staff of nongovernmental organizations make regular visits to the facility.

Based in part on the experience of operating this facility, further to an amendment to the Foreigners Act other detention facilities for foreigners will be transferred to the Refugee Facilities Administration of the Ministry of the Interior. This move should yield further positive changes in this area.

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

Outdoor exercise continues to take place as described in the Report on the Implementation of CPT Recommendations for 2003. A fundamental improvement can be expected in January 2006 when the new premises of the Prague-Ruzyně Reception Centre are put into operation. The outdoor exercise area will be directly accessible from the centre’s premises, and therefore the time that asylum seekers will be able to spend outside will increase.

### **Health care**

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

In 2005, no shortcomings were documented in the observance of mandatory confidentiality by staff of the company providing health care.

### **Other issues:**

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

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

At the Prague-Ruzyně Reception Centre, in an introductory interview with a social worker from the Refugee Facilities Administration, held in the presence of an interpreter, asylum seekers are informed of where they are, what their rights are in relation to their placement in reception centre, and the possibility of drawing on the assistance of nongovernmental organizations to handle their situation. Asylum seekers are also provided with written information about the facility and their rights in a language the asylum seeker can understand (Russian, Arabic, Chinese, French or Vietnamese).

The centre’s premises which are permanently open to asylum seekers offer contact details (address and telephone number) of nongovernmental organizations specializing in migration and asylum. A lawyer from a nongovernmental organization (Charita) makes regular weekly visits to the centre to provide asylum seekers with legal advice and help in handling their situation. Asylum seekers have round-the-clock access to a phone booth.

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

Visits to the Prague-Ruzyně Reception Centre are not forbidden. Visits may be made by family members, other close persons and the legal representatives of asylum seekers. However, visitors are subject to certain procedures required because of the nature of the airport premises.

**Further information on paragraphs 44, 48, 54 and 57:**

In January 2005, the ombudsman carried out an on-the-spot inspection at the Prague-Ruzyně Reception Centre. Further to the CPT report, the ombudsman stated that the deficiencies discovered in relation to the absence of outdoor exercise opportunities (the absence of outdoor exercise areas), the failure to respect medical confidentiality, and the awareness of foreigners had been fixed. The ombudsman also stated that there was still a problem with visits, especially by family members and other close members established in the Czech Republic, because of the centre's location in the transit area of the airport and its limited space; however, visits as such are not prohibited.

**The Czech authorities have no new circumstances to report for 2005 in relation to the following recommendations, remarks, and requests for information:**

Ill-treatment

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

Conditions of detention

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003 and the Report on the Implementation of CPT Recommendations in 2004.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003 and the Report on the Implementation of CPT Recommendations in 2004.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

#### Health care

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

#### Other issues

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003 and the Report on the Implementation of CPT Recommendations in 2004.

## **Part C - Prisons**

### **Preliminary remarks**

**‘The CPT recommends that an official standard be re-established in the Czech prison system, guaranteeing at least 4 m<sup>2</sup> per prisoner in multiple-occupancy cells’ (paragraph 60).**

An official standard guaranteeing at least 4 m<sup>2</sup> per prisoner in multiple-occupancy cells was re-introduced with effect as of 1 July 2004. However, considering the total number of prisoners an exemption from this rule has been introduced so that this standard need not be respected.<sup>8</sup>

The determination of minimum accommodation space of 4 m<sup>2</sup> per prisoner means that prisons are faced with a problem where their accommodation capacities are exceeded. At present, 17 out of 35 prisons and remand prisons have exceeded their accommodation capacity based on the standard of 4 m<sup>2</sup> per person. In 2005, the number of inmates continued the permanent growth trend established at the beginning of 2003. As at 31 December 2002, there were 16,215 sentenced and remand prisoners; by 25 November 2005 this figure had risen by 2,901. There are 19,114 persons in prison, of whom 2,916 are remand prisoners and 16,198 are sentenced prisoners. The total number of prisoners rose by 771 persons in 2005.

### **Life-sentenced prisoners**

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

The amendment to the Confinement Act, effective as of 1 July 2004, introduced a fundamental change in the regulation of visits to sentenced prisoners. Under this amendment, visits to life-sentenced prisoners carried out under closed conditions are possible only after an individual evaluation of the security risks. Methodological Ordinance No 13 from 2001, which stated that visits to certain groups of life-sentenced prisoners are always or usually carried out under closed conditions, was repealed in 2005.

### **Conditions of detention of the general prison population**

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

In keeping with the amendment to the Confinement Act, 'pre-release' units have been set up at all types of prisons since 1 July 2004. There are currently 'pre-release' units in 31 out of the 35 prisons and remand prisons. They have not been set up at the remand prisons in Brno, České Budějovice, Olomouc and Ostrava, in which minimum numbers of sentenced prisoners are imprisoned. When a sentenced prisoner imprisoned at one of the above-mentioned remand prisons is to be placed in a 'pre-release' unit, this prisoner is transferred to the nearest prison where a 'pre-release' unit has been set up.

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<sup>8</sup> see the information on this recommendation in the Report on the Implementation of CPT Recommendations in 2004

In 2005, a 'pre-release' unit was established at Břeclav remand prison and Odolov prison. The 'pre-release' unit capacity was increased at the prisons in Jiřice, Karviná, Příbram, Rýnovice and Znojmo.

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

Under the amendment to the Confinement Act, as of 1 July 2004 sentenced prisoners are relieved of the obligation to cover the cost of their incarceration over the period they are assigned to education or therapeutic programmes where the teaching or therapy time is at least 21 hours a week.

On 1 April 2005, a Decree of the Ministry of Justice<sup>9</sup> entered into effect which remedied the deficiency of the former legislation, under which sentenced prisoners assigned to workplaces with lower earnings had been prone to lose their motivation. The daily rate of the cost of imprisonment, previously set at a flat rate of CZK 45, was replaced by the sum of 40% of a prisoner's net remuneration from work; this calculated amount is limited to a maximum of CZK 1,500 per calendar month.

### **Health care**

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

In the opinion of the Ministry of Justice, in a period when public health care is being transformed the conditions are not right for the transfer of health care services from the Ministry of Justice to the Ministry of Health. The current system ensures that prisoners receive a higher standard of health care than if health care were provided by the Ministry of Health. The Ministry of Health has not yet assumed an opinion in this matter.

### **Other issues**

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

In 2005, the three remaining prisons fulfilled the provisions of the Confinement Act requiring them to set up a consultative council. Consultative councils now exist in all 35 prisons and remand prisons in the Czech Republic.

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<sup>9</sup> Decree No 135/2005 amending Decree of the Ministry of Justice No 10/2000 on deductions from the remuneration of persons employed during imprisonment, on the execution of decisions by deductions from the remuneration of such persons and inmates of institutions with a special corrective regime, and on the reimbursement of other costs, as amended by Decree No 94/2001.

**‘The CPT would like to receive detailed information on the Ombudsman’s powers and activities as regards visits to prison establishments and the processing of prisoners’ complaints’ (paragraph 102).<sup>10</sup>**

In the scope of his activities, the ombudsman dealt with the conditions of life sentences and, after the Confinement Act and the Rules of Confinement were amended as of 1 July 2004, he stated that the change in legislation meant that the ombudsman considered the process of improving the situation in this respect to be completed.

At present, the ombudsman is conducting an investigation on his own initiative that should identify the weaknesses of the current system used for the reimbursement of incarceration costs by sentenced prisoners and whether the income and expenditure of these prisoners during their imprisonment can be managed more efficiently. This is a time-consuming investigation that should also cover comparisons with similar systems abroad; the results will be the starting point for negotiations with the Prison Service of the Czech Republic. If a consensus is reached, it is likely that legal regulations will have to be changed, especially the Confinement Act.

**The Czech authorities have no new circumstances to report for 2005 in relation to the following recommendations, remarks, and requests for information:**

#### Preliminary remarks

‘The CPT invites the Czech authorities to continue to pursue their efforts to bring about a permanent end to overcrowding of prisons; success in this area will require *inter alia* that full use be made of existing possibilities for non-custodial sanctions’ (paragraph 60).  
Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

#### Ill-treatment

‘The CPT recommends that prison officers at Valdice Prison be reminded that the force used to control violent and/or recalcitrant prisoners should be no more than is strictly necessary and that, once prisoners have been brought under control, there can be no justification for striking them’ (paragraph 63).  
Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

‘The CPT recommends that senior prison officers in all establishments visited remind their subordinates that verbal abuse is not acceptable and will be punished accordingly’ (paragraph 63).  
Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

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<sup>10</sup> see also the text to paragraph 147

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

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003 and the Report on the Implementation of CPT Recommendations in 2004.

### Life-sentenced prisoners

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003 and the Report on the Implementation of CPT Recommendations in 2004.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003 and the Report on the Implementation of CPT Recommendations in 2004.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003 and the Report on the Implementation of CPT Recommendations in 2004.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

### Conditions of detention of the general prison population

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003 and the Report on the Implementation of CPT Recommendations in 2004.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003 and the Report on the Implementation of CPT Recommendations in 2004.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

### Health care

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

#### Other issues

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003 and the Report on the Implementation of CPT Recommendations in 2004.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003 and the Report on the Implementation of CPT Recommendations in 2004.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

## **Part D – Psychiatric establishments**

### *Patients'/residents' living conditions*

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

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

In 2005, the Ostravice Social Welfare Home for Young People was transformed into the contributory organization *Our World – Pržno Centre for the Mentally Disabled* (*‘Náš svět - centrum pro lidi s mentálním postižením Pržno’*), funded by the Moravskoslezsko Regional Authority. Since 19 May 2005, the facility has been located in a newly constructed complex in Pržno. The living conditions of clients and conditions to enhance the quality of their care have improved since the relocation to new premises. The furnishings and decoration of the facility are discernibly different compared to Ostravice. The clients themselves contributed to the decoration of the accommodation areas. The interiors throughout the complex are of a very modern design.

The facility in Pržno currently has 119 clients. In one of the buildings, on the ground floor 13 children are housed in four twin rooms and two triple rooms. On the first floor of this building, 16 adult clients are accommodated in four single rooms and six twin rooms. In the second building, on the ground floor 16 clients are housed in single, twin and triple rooms. On the first floor of this building, 14 clients are accommodated in twin and triple rooms. There are a further nine detached buildings in the complex. Four clients live in one building, six clients live in four buildings, and eight clients live in a further four buildings.

Besides the complex in Pržno, the *Our World* facility also has a branch in Frýdek-Místek, where 54 clients are currently housed.

### **Staff and treatment**

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

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

Because of the relocation of the *Our World* facility to a new, different complex, and because the overall number of clients rose in the second half of 2005, the number of employees had to be increased in order to cope with clients’ needs.

At the *Our World* facility (in the Pržno complex and at the branch in Frýdek-Místek) the current staff comprises 20 medium-level healthcare workers (general or children’s nurses), 8 lower-level healthcare workers (nurse/day-care assistant), 8 health-based social workers, 1 physiotherapist, 1 ergotherapist, 19 educators and 28 education-based social workers.

The facility provides clients with the services of a GP for adults, a children's GP, a psychologist, a psychiatrist, a sexologist, and dermatologist. The facility also cooperates with a rehabilitative doctor, who visits the organization by telephone appointment and carries out examinations. The rehabilitation of clients is carried out by a physiotherapist and ergotherapist in accordance with the orders of the rehabilitative doctor, based on the clients' individual needs. Rehabilitative activities include hydrotherapy, exercises on mats and balls, electrotherapy, massages, ball play exercises, stimulation, bucofacial techniques, orofacial techniques, positioning, walking and stability exercises, self-help exercises, and the proposal and use of appropriate ergotherapeutical devices.

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

The healthcare workers draw up 'Nursing Plans' designed to tackle clients' specific problems and 'Nursing Standards' to carry out particular actions. Employees also prepare individual education plans for clients. Since September 2005, there has been an improvement in the system of community sessions, which now involve the participation of clients with severe and profound mental disabilities. Community sessions take place in smaller groups in which clients can share their views.

All clients take daily walks. In addition, they can go cycling and roller-skating, exercise in the gym or swim in the swimming pool. Clients may also take part in occupational and educational therapy, work in workshops (pottery, weaving), art therapy, and music therapy. They also have access to a computer classroom. Besides activities within the complex, clients can take part in various events outside the complex, e.g. excursions, cultural and sports events. The facility cooperates with the organizations *ADRA*, *School of Life* ('*Škola života*') and *Association of Parents and Friends of the Mentally Disabled* ('*Sdružení rodičů a přátel mentálně postižených*'). The *Our World* facility is a member of the *Special Olympics Movement*; it has set up the sports club *Beskyd*, the members of which take part in special sports events. In 2006, the facility is planning to introduce farm therapy and hippotherapy.

### **Restrictions in the movement of agitated and/or aggressive clients/patients**

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

Since 1 August 2005, the procedure for the application of restrictive measures at the *Our World* facility in Pržno (the former Ostravice Social Welfare Home) has been regulated by the 'Directive for the Application of Restrictive Measures', approved by the facility director, and, since 1 October 2005, by the Social Security Act. The text of the relevant provisions of the Social Security Act can be found under point 129. The text of the Directive is contained in Annex No 2 to this report.

Since 10 August 2005, a group of experts (a consilium) has met at the facility on a regular monthly basis to assess the need for restrictive measures in the case of specific clients. This consilium comprises a doctor in the field of psychiatry, the facility director and other facility employees – the manager of the healthcare section, a consulting nurse, a social worker, the head of education and the office manager.

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

In 2004, logs were introduced at each ward of Opava Psychiatric Hospital in order to document cases where means of physical restraint have been used. Since 6 January 2005, the record-keeping of the use of means of physical restraint has been regulated by a methodological measure on the use of means of restraint for patients in psychiatric hospitals in the Czech Republic, issued by the Ministry of Health. The text of the methodological measure is contained in Annex No 2 to this report.

Since 1 October 2005, the record-keeping of the use of means of physical restraint in the provision of institutional social welfare has been regulated by the Social Security Act. In addition, record-keeping of the use of means of physical restraint at the *Our World* facility in Pržno (formerly the Ostravice Social Welfare Home) has been regulated since 1 August 2005 by the ‘Directive for the Application of Restrictive Measures’, approved by the facility director. The text of the relevant provisions of the Social Security Act can be found under point 129. The text of the Directive is contained in Annex No 2 to this report.

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

In 2005, 26 netted beds were used at the Opava Psychiatric Hospital. Compared to 2004, the number of net-beds was thus reduced by one. At the *Our World* facility in Pržno (formerly the Ostravice Social Welfare Home), the overall number of net-beds in 2005 went down from six to one. Cage-beds are not used here.

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

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

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

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

For healthcare facilities directly managed by the Ministry of Health, an instruction of the Minister for Health of 13 July 2004 applies, under which the use of cage-beds at these healthcare facilities is prohibited, and the directors of these healthcare facilities have been requested to ensure the *‘gradual establishment of rooms especially equipped to prevent injury to agitated patients so that, in their healthcare facility, they can prohibit the use of net-beds by the end of 2004’*.

No cage-beds are currently in use in healthcare facilities in the Czech Republic. The number of net-beds continues to fall by between 5% and 10% every year. The increase in the number of rooms especially fitted out for agitated patients remains minimal. The Ministry of Health prefers to reinforce staffing capacities and medication.

On 6 January 2005, the Ministry of Health issued a methodological measure on the use of restrictive measures for patients in psychiatric facilities in the Czech Republic, which lays down the conditions and the procedure for the application of means of restraint. This document is not a legal regulation and is not binding. The text of the methodological measure is contained in Annex No 1 to this report.

Under the methodological measure it is possible to use means of restraint only in cases where there is strictly necessary for the protection of the patient, other patients, items and the staff of psychiatric facilities, and only after all other possibilities of pacifying the patient have been exhausted. Means of restraint cannot be used for educative purposes. The methodological measure also stipulates that where patients are admitted to psychiatric facilities with their consent, the use of means of restraint constitutes a reason to file a report with a court, as is the case with involuntary hospitalization, unless the patient expresses consent to such restraints. As a matter of principle, a doctor makes decisions on the use of means of restraint. The methodological measure also regulates checks of a patient with the use of means of restraint, record-keeping and the provision of information to patients and their legal guardians.

In the future, the use of restrictive means at healthcare facilities should be regulated by the Health Care Act, which is currently being discussed by the Chamber of Deputies in Parliament.

The Ministry of Labour and Social Affairs continues to pay attention to the use of means of restraint in social welfare facilities with the aim of providing expert methodological assistance to these social welfare facilities and staff that will gradually minimize the use of means of restraint. In tackling the problem of the use of means of pacification or means of restraint, the Ministry of Labour and Social Affairs places an emphasis on improving the quality of care, on individualizing care, and on increasing the expertise and awareness of staff in the field of social services.

In an attempt to prevent the use of means of restraint at social welfare facilities without clear control, even in situations where life and health have not been endangered, the Ministry of Labour and Social Affairs followed up on the issue of a methodological measure concerning the procedure for the extraordinary use of net-beds at social welfare facilities in 2004 by initiating an amendment to the Social Security Act<sup>11</sup>, which with effect as of 1 October 2005 will lay down binding rules for the application of restraining measures<sup>12</sup> in the provision of institutional social welfare as follows:

‘Section 89 a

*(1) In the provision of institutional social care pursuant to Sections 87 and 89, it is not possible to use measures restricting the movement of persons to whom institutional social care is provided, except in the event of direct danger to their health and life or to the health and life of other persons, and in such a case only for the strictly necessary period.*

*(2) A social care institution shall inform the following of the use of measures restricting the movement of persons forthwith:*

- a) the legal guardian of the person to whom institutional social care is provided,*
- b) the founder of the facility.*

*(3) A social care institution shall keep records of cases in which measures restricting the movement of persons are used, such being in the following scope:*

- a) the given name, surname, and date of birth of the person to whom institutional social care is provided,*
- b) the date and time at which the use of the measure restricting the movement of persons began,*
- c) the reason for the use of the measure restricting the movement of persons,*
- d) the given name and surname of the person who used the measure restricting the movement of persons,*
- e) information as to whether the measure restricting the movement of persons was used on the basis of a preceding indication issued by a doctor,*
- f) a medical statement in cases where the measure restricting the movement of persons is applied without a preceding indication issued by a doctor,*
- b) the date and time at which the use of the measure restricting the movement of persons ended,*
- h) a record of the fulfilment of the obligation specified in paragraph (2).’*

In the Social Services Bill, which is planned to provide comprehensive regulation of the provision of social services and which is currently being discussed by Parliament,<sup>13</sup> the use of means of restraint is regulated in a similar manner, although a greater emphasis is placed on preventing situations which could lead to risky behaviour on the part of the client and subsequent restraint.

Cage-beds are currently being removed from social welfare facilities; net-beds remain in some facilities and are used in accordance with indications issued by a doctor.

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<sup>11</sup> Act No 218/2005 amending Act No 100/1988 on social security, as amended, Act No 463/1991 on the subsistence level, as amended, and Act No 117/1995 on State social support, as amended.

<sup>12</sup> All measures (physical, mechanical or chemical) that prevent a person from moving freely and without restriction in a facility are considered restraining measures. They prevent persons from freely leaving their bed or room and thus restrict freedom of expression.

<sup>13</sup> The Social Services Bill was approved by the Government on 24 August 2005, and in September it was presented to the Chamber of Deputies of Parliament for discussion (Parliamentary Press No 1102).

In 2004 and 2005, the Ministry of Labour and Social Affairs, in association with the United Kingdom and Holland, organized the training of good practice guides in the field of working with clients with risky behaviour. The good practice guides pass on experience and skills in the prevention of risky behaviour and the management of such behaviour to staff at institutional social welfare facilities. Forty-three people took part in this training.

Social service quality standards, inspections of social service provision and conditions for the registration of facilities providing social services are the subject of the Social Services Act now being prepared.<sup>13</sup> The bill defines social service quality standards as a set of criteria used to define the quality of social service provision from the aspects of staffing and operations, and from the aspect of relations between the social service provider and user. During inspections, social service quality standards should help to verify the quality of social services; the fulfilment of quality standards should be assessed by a scoring system. The content of individual quality standards and scoring will be specified by the Ministry of Labour and Social Affairs in an implementing regulation at some point in the future.

Authorization to provide social services will be established by registration under the bill. The registration conditions include proof of good character and professional competence, and the satisfaction of health, material and technical conditions corresponding to the social services to be provided.

Under the Social Services Bill, regional authorities will be responsible for conducting inspections of social service provision. Inspections should focus in particular on the fulfilment of conditions set for the registration of social service providers, the quality of social services provided, and the fulfilment of obligations imposed on providers. The main objectives of inspections are to safeguard the interests of social service users and to promote the development of quality services among all providers. Inspections of the performance of state administration in the field of social services will be entrusted to the Ministry of Labour and Social Affairs.

In the scope of preparations for the adoption and entry into effect of the Social Services Act, the Ministry of Labour and Social Affairs advertised two public contracts for projects in the field of social service quality – ‘Training in the implementation of social service quality standards’ and ‘Training of social service quality inspectors’. These projects should contribute to the creation of uniform system solutions to this issue and thus prepare providers, facility founders and state administration authorities for the entry into effect of the new Social Services Act.

### **Safeguards**

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

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

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

In May 2005, at the proposal of a group of MPs a law was passed which amended certain provisions of the Code of Civil Procedure as regards proceedings related to legal capacity and proceedings related to the decisions on the admissibility of receiving or detaining a person in a healthcare institution.<sup>14</sup> This law reinforced the protection of the persons concerned in both types of procedure, in particular by allowing the persons in respect of whom the proceedings are held to have an active influence on the course of proceedings through their own activity or via their representative in the proceedings.

The following main changes were made in proceedings on legal capacity:

- The maximum duration that may be designated by a court as the time over which a person deprived of legal capacity cannot submit a repeat petition for the return of legal capacity, if the court has rejected a previous petition and stated that no improvement can be expected in the person’s condition, was reduced from three years to one year.
- Under previous legislation in force, the person whose legal capacity was being discussed had to be represented in proceedings by a guardian appointed by the court. Under the new law, the person concerned is entitled to select his own representative for the proceedings; only if he fails to select a representative does the court appoint a guardian for him in the proceedings.
- Under the new law, the court-appointed guardian for the proceedings must be a lawyer. The representation by guardians in proceedings to date was only formal in certain cases and did not fulfil the anticipated purpose.
- The court is expressly required to advise the person whose legal capacity is being discussed about his right to select a representative for the proceedings and about other procedural rights and obligations.
- Under the new law, the court is obliged to hear the person whose legal capacity is at issue in all cases requested by this person.
- The maximum period over which the person concerned may be placed in a healthcare facility for examination under a court ruling was reduced from three months to six weeks.
- The court’s opportunity not to order a hearing in the proceedings was cancelled.
- Under previous legislation in force, the court was able to decide that the person concerned would not be delivered the decision on the removal of his legal capacity if such delivery could have an unfavourable effect on the addressee because of his mental disorder, or if the addressee was not able to grasp the significance of the decision. The new law ties the possibility of not delivering a decision expressly to the conclusions of an expert opinion and limits this possibility to cases where the addressee is not capable of understanding the decision.

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<sup>14</sup> Act No 205/2005 amending Act No 99/1963, the Code of Civil Procedure, as amended, and Act No 85/1996 on legal practices, as amended; the Act entered into effect as of 1 August 2005.

In proceedings to determine the admissibility of accepting or detaining a person in a healthcare institution, the following main changes were made:

- The guardian in the proceedings appointed by the court in cases where the person in respect of whom the proceedings are held does not select a representative must be a lawyer according to the new law.
- The court is expressly required to advise the person whom the proceedings concern about his right to select a representative for the proceedings and about other procedural rights and obligations.
- The new law expands the procedural rights of the person concerned in that, besides the person in respect of whom the proceedings are held and this person's doctor, the court is also required to hear other persons that the person the proceedings concern requests be heard. This right of a person placed in an institution makes it possible for a court to hear another expert independent of the doctor treating the person in question. The court may refuse to hear these persons if it is not clear what can be ascertained by hearing them.
- The new law repeals the provision that a person placed in a healthcare institution against his will can be restricted not only in his contact with the outside world, but may be directly excluded from such contact.
- Under the new law, persons placed in an institution may request a new examination and decision regarding their release from the institution even if they have been deprived of legal capacity.

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

Changes in the system of social services are the subject of the Social Services Act, currently under preparation.

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

Standards of social service quality, which include service provision agreements, should be introduced under the Social Services Act currently being prepared.

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

An information brochure for patients of the Opava Psychiatric Hospital has been published at two senior consultants’ offices. Other senior consultants’ offices are preparing a brochure.

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

During local investigations at psychiatric hospitals, the ombudsman still encounters an inadequate link between institutional care and out-patient or social welfare (sheltered housing, halfway houses, etc.). In some cases, psychiatric hospitals replace aftercare by keeping patients at the facility for longer than necessary on the grounds that there is nowhere to place them.

In the scope of his investigations, the ombudsman has registered cases where a patient admitted to a psychiatric hospital based on the patient's voluntary consent to hospitalization was also required to express consent to individual treatment procedures and actions at this moment. This administratively simplified procedure by the hospitals does not respect the patient's right to be adequately informed about the course and type of treatment by professional staff first, before issuing consent. However, this should not happen at the same time that the patient provides consent to voluntary hospitalization.

A very positive shift and specific example of efforts to make the regime at individual psychiatric hospitals more civil, in the ombudsman's opinion, is the gradual refurbishing of these places with ordinarily used furniture and fixtures (wooden beds, conventional furniture, colourful blankets, paintings on the wall, etc.) instead of the previously used 'institutional' furniture.

Under the draft of the new Criminal Code currently being discussed by Parliament,<sup>15</sup> a new protective measure, 'protective detention', should be created. Protective detention, like protective treatment, can be imposed by a court in criminal proceedings. The ombudsman welcomes the fact that the Government enjoined the Minister for Justice, in cooperation with the Minister for Health, to draw up a bill on the implementation of protective detention and a bill on the implementation of institutional protective treatment.

**'The CPT recommends that steps be taken to ensure that all psychiatric establishments in the Czech Republic – including social welfare homes<sup>16</sup> – are visited on a regular basis by an independent outside body (e.g. a judge or a supervisory committee) which is responsible for the inspection of patients'/residents' care.' This body should be authorised, in particular, to talk privately with patients/residents, receive directly any complaints which they might have and make any necessary recommendations' (paragraph 147).**

In August 2005, an amendment to the Ombudsman Act was passed<sup>17</sup> which expands the ombudsman's competence to include systematic visits to places holding people restricted in their freedom, based on a decision by a public authority or as a result of their dependence on the care provided here. The new competence of the ombudsman also relates, in particular, to facilities used for remand and sentenced prisoners, protective care, institutional care, or protective medical treatment, police cells, detention facilities for foreigners, asylum facilities, social welfare institutions, healthcare facilities, including psychiatric hospitals, and facilities for the social and legal protection of children. During his visits, the ombudsman will ascertain how these persons are treated; he will try to ensure that their basic rights are respected and reinforce their protection from ill-treatment.

The ombudsman will make systematic visits in accordance with a particular system and preset plan for a specific period. In this sense, the visits will be regular, with a significant focus on prevention. The selection of specific facilities will be guided, for example, by the ombudsman's previous observations, references from the public or detained persons (positive or negative), or by the outcome of activities carried out in the scope of other departmental control mechanisms.

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<sup>15</sup> Parliamentary Press No 744

<sup>16</sup> Social welfare homes do not fall under the term 'psychiatric facilities' because these are different types of facility. Psychiatric facilities are healthcare facilities in the competence of the Ministry of Health, whereas social welfare institutions (or homes) are in the competence of the Ministry of Labour and Social Affairs. At specialized social welfare institutions, care may also be provided to persons with psychiatric disorders.

<sup>17</sup> Act No 381/2005 amending Act No 349/1999 on the ombudsman, as amended, and certain other laws,

During visits, the ombudsman is entitled under the law to enter all areas of these facilities, without prior warning, and to carry out investigations, peruse files, ask individual employees questions, and speak to persons placed in these facilities privately (without the presence of other persons). On completing a visit, the ombudsman prepares a report on his findings, with recommendations of remedial measures, and will gradually try to force facilities into action to improve the situation. This report on findings can, and in most cases will, contain recommendations or proposals of remedial measures. Where opinions clash, the ombudsman will inform the superior authority of his findings or publish his opinion. The result of the ombudsman's work under this agenda should be the production and subsequent application of certain standards for the treatment of persons that the individual types of facility should respect.

On 16 September 2004, the Czech Republic signed the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In November 2005, the proposal for its ratification was presented to the Government. As of 1 January 2006, the role of the national preventive mechanism under the Optional Protocol will be played by the ombudsman in the scope of his new competence.

**The Czech authorities have no new circumstances to report for 2005 in relation to the following recommendations, remarks, and requests for information:**

**Patients'/residents' living conditions**

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

### Staff and treatment

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003 and the Report on the Implementation of CPT Recommendations in 2004.

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

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

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003 and the Report on the Implementation of CPT Recommendations in 2004.

### Safeguards

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003 and the Report on the Implementation of CPT Recommendations in 2004.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003 and the Report on the Implementation of CPT Recommendations in 2004.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

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

Information on this point can be found in the Report on the Implementation of CPT Recommendations in 2003.

**Annex No 1 (Part D, paragraph 125 and 129)**

**METHODOLOGICAL MEASURE ON THE USE OF MEANS OF RESTRAINT  
FOR PATIENTS IN PSYCHIATRIC FACILITIES IN THE CZECH REPUBLIC**

**No: 31829/2004/OZP**

This methodological measure was published in the Journal of the Ministry of Health of the Czech Republic on 6 January 2005.

The use of means of restraint should be considered an extreme solution in cases where it is strictly necessary for the protection of a patient, other patients, items in the surrounding area and the staff of psychiatric facilities. These means may be applied only when other possibilities have been exhausted. It is necessary to define the reason why we are deciding to restrict the patient. The reason must not be to facilitate care or the mere agitation of a patient. It is always necessary to investigate the causes of problematic behaviour, pain, discomfort, the side-effects of medicinal products, stress, the poor relationship between the attendant staff and the patient, other illness, etc. The application of means of restraint is justifiable only if it is not possible to find the removable cause of a patient's behaviour and in situations where the risk posed by the patient's conduct is excessively high. The benefit of using means of restraint must outweigh the risk.

1. 'Means of restraint' means placement in a closed ward, placement of a patient in a protective (netted) bed, placement of the patient in an isolation room, restriction of the patient's movement (protective belts, tethers), the use of protective means (straight-jackets), shackling to a bed or other item (pram, chair, stretcher), the parenteral administration of psychopharmaceuticals.
2. Means of restraint may be used exceptionally and only if a patient, by his conduct, endangers himself or his surroundings, not for educative or corrective purposes. With individual patients, it is necessary to use the most lenient and most appropriate possible means of restraint.
3. Where patients are admitted with their own consent, the use of means of restraint constitutes a reason to commence the procedure under Sections 23 and 24 of Act No 20/1966 on human health care, as amended, i.e. a report to a court within 24 hours, unless the patient subsequently expresses consent to such restriction. Where persons are deprived of legal capacity or have had their legal capacity restricted, the guardian expresses consent in due time. Where patients are under the age of 18, the attendant doctor subsequently informs the parents or legal guardian of the use of means of restraint and requests their consent.
4. As a matter of principle, a doctor makes decisions on the use of means of restraint. Only healthcare staff may apply means of restraint. Healthcare staff who come into contact with means of restraint participate in regular training, including analysis of critical and model situations.

5. A patient restrained by these means must be regularly checked; the intervals between checks must be specified, and steps must be taken to ensure that the patient does not injure himself, become dehydrated, undernourished, suffer from hyperthermia or bedsores, and that the patient has the opportunity to see to his personal hygiene and toilet. Means of restraint may be used over the shortest time possible, and during checks it is always necessary to reassess the need to use these means and to consider whether less restrictive means could be used. The use of means of restraint is not in itself a reason to restrict the patient's visits.
6. Means of restraint may be used for various types of patient agitation (affectogenic, primarily psychogenic, in the case of paedopsychiatric patients with serious behavioural disorders connected with aggression to themselves and others), delirant symptoms (psychotic, toxic), organic (old-age disorders, mental retardation). The use of means of restraint is subject to the decision of a doctor, who is required to draw up a record containing the following: who decided to use the means of restraint, the type of restraint, the reason for applying means of restraint, the time the restraint was applied, the time the restraint ended, the frequency of checks by healthcare staff and the doctor, a description of the physical and mental state of the patient, a check of the functions that need to be monitored. A healthcare worker is obliged to inform the doctor of any change in the patient's symptoms. The chief physician subsequently confirms the record of the use of means of restraint on visits.
7. Patients on whom means of restraint are used are placed out of direct contact with other patients on whom means of restraint have not been applied.
8. Once the patient has been pacified, the attendant doctor discusses with the patient – if the patient is capable of understanding the purpose and reasons of the restraint – the reasons and need for the restraint, and the circumstances which could, in the future, prevent or lead to the application of mechanical means of restraint.
9. Patients at a facility are informed, in an appropriate manner, of the possibility that means of restraint might be applied.
10. In accordance with these principles, it is recommended that individual in-patient psychiatric facilities draw up their own internal regulation for the use of means of restraint under their own conditions.

Karel Radolf, *manu propria*

Deputy Minister

**Annex No 2 (Part C, paragraph 125)**

**DIRECTIVE FOR THE APPLICATION OF RESTRICTIVE MEASURES**

drawn up for the contributory organization OUR WORLD – Centre for the Mentally Disabled in  
Pržno

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1) Under Act No 218/2005, in the provision of institutional social care pursuant to Sections 87 and 89, it is not possible to use measures restricting the movement of persons to whom institutional social care is provided, except in the event of direct danger to their health and life or to the health and life of other persons, and in such a case only for the strictly necessary period.

2) The organization is obliged to inform the following without undue delay of the use of measures restricting the movement of persons:

- a) the legal guardian of the person to whom institutional social care is provided,
- b) the founder of the facility.

(3) The organization shall keep records of cases in which measures restricting the movement of persons are used, such being in the following scope:

- a) the given name, surname, and date of birth of the person to whom institutional social care is provided,
- b) the date and time at which the use of the measure restricting the movement of persons began,
- c) the reason for the use of the measure restricting the movement of persons,
- d) the given name and surname of the person who used the measure restricting the movement of persons,
- e) information as to whether the measure restricting the movement of persons was used on the basis of a preceding indication issued by a doctor,
- f) a medical statement in cases where the measure restricting the movement of persons is applied without a preceding indication issued by a doctor,
- g) the date and time at which the use of the measure restricting the movement of persons ended,
- h) a record of the fulfilment of the obligation specified in paragraph (2).

Depending on the nature of the application, restrictive measures are divided into extraordinary and long-term.

#### 4) Procedure for notifying use of restrictive measures

- a) In the event of the extraordinary application of a restrictive measure, this fact must be reported to the Department of Social Affairs of the Moravskoslezsko Regional Authority within 72 hours of the commencement of the use of this measure. In this case by means of the form 'Report on the Extraordinary Use of a Restrictive Measure'.

Obligations of employees:

- the employee who applies the extraordinary restrictive measure is obliged to record this event in the log 'Register of Restrictive Measures' (in accordance with the attached example)
  - he shall inform the legal guardian immediately by telephone; if this is not possible a social worker shall notify the legal guardian in writing without undue delay
  - in the register of nurse reports and education, he enters notification of the entry made in the register of restrictive measures
  - the heads of individual departments or their representatives, or employees carrying out stringent services, are obliged to report this event without undue delay to the heads of the healthcare or educative section, and where appropriate to the social worker or director; if this event occurs at a weekend, it must be reported first thing on Monday morning
  - the manager to whom the report is submitted shall fill in the form 'Report on Extraordinary Application of a Restrictive Measure' and deliver it to the director for signature
  - the report shall be sent to the Department of Social Affairs of the Moravskoslezsko Regional Authority
- b) In the event of the long-term use of restrictive measures (e.g. in the event of the temporary placement of residents in a netted bed at night time), the following rules are set:
- at the beginning of each month, the consilium is convened, with participation from the doctor, a member of staff from the relevant department, the head of department, and where appropriate the head of the healthcare or educative section or the social worker
  - the consilium assesses the use of the restrictive measure and delivers an opinion on whether to change, end or continue the measure
  - minutes from the consilium meetings shall be drawn up and attached to the report on the use of a restrictive measure
  - based on the verdict reached by the consilium, the relevant form on the use of a restrictive measure shall be filled in and sent to the Department of Social Affairs of the Moravskoslezsko Regional Authority by the fifteenth day of the month
  - if a negative change occurs in the long-term use of a restrictive measure (a change in the use of the restrictive measure connected with the duration, frequency of use, type of restrictive measure applied, etc.), the Department of Social Affairs of the Regional Authority shall be informed thereof within 72 hours by means of the form 'Report on the Status of the Long-Term Use of a Restrictive Measure'.

In cases of long-term use of a restrictive measure, an agreement shall be reached with the legal guardian on how he will be informed of this fact; if he fails to cooperate, this fact shall be notified once a year.

This Directive shall enter into force on 1 August 2005.

Pržno, 27 July 2005

Petr Adamus  
Director