

REPORT ON VISITS

to Remand Prisons

I. General introduction

a) Systematic visits to remand prisons

1. In accordance with the provisions of § 1 Paragraph 3, 4 a) of Law No. 349/1999 Coll., Public Defender of Rights Act, as subsequently amended (hereafter simply PDRA), systematic visits were made to four remand prisons. The Defender is acting in his capacity as the national preventive mechanism in accordance with the Optional Protocol¹ on the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.² The aim of the systematic visits is to improve the protection of people deprived of their liberty against mistreatment.

Prisons are typical facilities in which people are deprived of their liberty as the result of the ruling of a legitimate authority (court). In the summer of 2006 the Public Defender of Rights made a series of systematic visits to 7 secure and highly-secure prisons. A year later follow-up visits were made to three prisons to investigate the most serious shortcomings found during the first visits. Owing to the complexity of carrying out systematic visits to prison facilities, remand prisons were chosen in the 4th quarter of 2009, with the Defender focusing only on custody sections.

2. The legal framework of custody is, with the exception of the institutional level, defined by Law No. 141/1961 Coll., Criminal Judicial Procedure Act, as subsequently amended (hereafter simply CJPA), Law No. 293/1993 Coll., Execution of Custody Act, as subsequently amended (hereafter simply ECA), executive regulation of the Ministry of Justice No. 109/1994 Coll., which specifies the Custodial Rules of Procedure, as subsequently amended (hereafter simply CRP), and the internal regulations of the Prison Service of the Czech Republic (hereafter simply Czech Prison Service), the activity of which is governed particularly by Law No. 555/1992 Coll., on the Prison Service and Judicial Guard of the Czech Republic, as subsequently amended (hereafter simply PSJG). Also important for the formulation of conditions of custody are the European Prison Regulations – the recommendations of the Ministerial Committee of the Council of Europe (2006)² (hereafter simply EPR) and the standards of the European Committee for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment of the European Council – CPT (hereafter simply CPT standards).

¹ Memo No.78/2006 Coll. m. s. of the Ministry of Foreign Affairs on the conclusion of the Optional Protocol on the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

² Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, New York 1984, published in the Collection of Laws under number 143/1988 Coll. as a directive of the Minister of Foreign Affairs

3. At the legal level supervision of the administration of the prison service (not just remand prisons) is provided in two basic forms. Internal checks are carried out by the Czech Prison Service itself through the Department of Inspection and Prevention of the General Directorate of the Czech Prison Service and also in the first instance through the prevention and complaints departments of the individual prisons (PCD) and through the Ministry of Justice – Prison Service Section of the Ministerial Department of General Inspection. External checks are carried out by State's Attorneys through appointed state representatives on the basis of regional and higher state representation (the provisions of § 29 ECA)³ and by the Public Defender of Rights investigating individual complaints filed by convicts and defendants.

4. Selected prison facilities in the Czech Republic are, at roughly four-year intervals (1997, 2002 and 2006) visited by the European Committee for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment of the European Council (hereafter simply CPT), which publishes reports with recommendations for the rectification of any shortcomings found. The Defender also draws on further information about compliance with the rights of convicts obtained during his investigations of individual complaints in accordance with PDRA. In addition to checking compliance with the legal conditions of custody the Public Defender of Rights also reviews, amongst other things, the suitability or expediency of the procedures applied by the Prison Service of the Czech Republic, assuming that such procedures comply with the law. In some respects the Defender also looks at the actual concept of custody.

Course of the visits

5. The systematic visits were always unannounced, although they took place in the presence of or with the knowledge of the prison governor. The investigation focused on all categories of defendants (men, women, juveniles, foreigners). The course of the visits was always virtually identical. Before the actual visit to the remand prison an arrangement was made with the supervising state representative who acquainted the staff of the Office with the prison through his regular inspections. A two- or three-day visit was then made to the prison. The information and subsequent assessment were based primarily on a general tour of the detention part of the prison, interviews with the management (governor or deputy governor, head of the custody department), interviews with civilian staff in the prison (tutors, teachers, psychologists, social workers, doctors, nurses, chaplains), interviews with members of the Czech Prison Service (supervisors and guards), detailed inspections of departments (individual or group interviews with prisoners without staff being present) and an inspection of the facilities and all the documentation (internal rules, instructions, forms, activity rotas, etc.). In all cases the Office staff were given all the assistance they needed.

b) Custody as an institute of criminal proceedings

³ The provisions of § 4 Paragraph 1 b) of Law No. 283/1993 Coll., on State's Attorneys, as subsequently amended.

Reasons for custody

6. Custody is a provisory act in criminal proceedings which secures a person accused of a crime prior to criminal proceedings and generally follows on from the arrest or detention of the person in question. Under Czech law custody is the most serious infringement on a person's personal freedom, so the only people that may be taken into custody are those facing criminal prosecution for a specific crime (the provisions of § 68 CJPA). At the same time, custody must be an adequate security measure which respects the principle of the presumption of innocence, moderation and just infringement of basic rights and freedoms (Article 4 and Article 40 Paragraph 2 CFRBF, the provisions of § 2 Paragraphs 2 and 4 CJPA). This particularly applies in the case of juveniles, who may only be taken into custody if there is no other way to achieve the purpose of custody (through guarantees made by civilian interest groups, the supervision of a probation officer and other trustworthy individuals, placement in a care institute, etc.).⁴ Custody is provided in remand prisons (hereafter simply RP) or in special sections of prisons (the provisions of § 4 ECA).

7. The general reasons for custody are strictly defined by the Criminal Procedure and are only for cases where

- the defendant's conduct or other specific circumstances give reason to believe that the defendant will run away or hide to avoid prosecution or punishment, particularly if the defendant's identity cannot immediately be ascertained or if the defendant has no fixed abode or faces severe punishment ["anti-escape custody", the provisions of § 67 a) CJPA];
- the defendant could influence witnesses or co-defendants who have not yet testified or could otherwise obstruct the clarification of evidence important to the prosecution ["collusive custody", the provisions of § 67 b) CJPA];
- or the defendant will repeat the crime he is facing prosecution for, will commit a crime he had previously attempted, or will commit a crime which he has prepared or threatened to commit ["preventive custody", the provisions of § 67 c) CJPA].

In addition to these general reasons, the Criminal Procedure also construes special reasons for custody which always involve an international element. These are

- preliminary custody in extradition proceedings, extradition custody and custody in summary extradition proceedings (the provisions of § 396-398 CJPA);
- preliminary custody, transfer custody and custody in summary transfer proceedings on the basis of a European warrant of arrest (the provisions of § 410, 411 and 413 CJPA);
- custody in relation to the transit of a person for transfer or proceedings abroad (the provisions of § 422 Paragraph 3, 423 Paragraph 3 and 424 CJPA).

With these types of custody the primary reason is fear that the person in question will escape, so this type of custody is classed as anti-escape custody. A similar type of custody, although relating to expulsion as a punishment, is expulsion custody (the

⁴ Postscript to the provisions of § 67 CJPA, § 46 Paragraph 1 of Law No. 218/2003 Coll., on the responsibility of juveniles for illegal activities and on the juvenile court and on amendments to several laws, as subsequently amended.

provisions of § 350c CJPA). Other special reasons for custody unrelated to the provisions of § 67 a) CJPA include custody for the temporary safekeeping of a person from abroad (the provisions of § 440 Paragraph 2 CJPA) and custody in relation to a decision to acknowledge a foreign ruling (the provisions of § 454 CJPA). In contrast, the custody of a person extradited from abroad (the provisions of § 387 Paragraph 2 CJPA) or taken from another EU member state to the Czech Republic (the provisions of § 405 Paragraph 6 CJPA) is assessed in the context of the reasons for custody as defined by the provisions of § 67 CJPA.

8. The individual reasons for custody in the case of the defendants in the remand prisons visited are shown in the following table, which is based on up-to-date figures provided by the prisons:

General reasons for custody:

Prison (capacity)	Anti-escape custody	Collusive custody	Preventive custody	Combination (excluding collusive)	Expulsion custody	Preliminary , extradition, transfer
Hradec Králové (168)	13 %	7 %	35 %	38 %	0 %	2.5 %
Litoměřice (235)	28.5 %	7.5 %	39.5 %	31 %	0 %	0.5 %
Ostrava (308)	60.5 %	22 %	82.5 %	0 %	0 %	2 %
Prague – Ruzyně (307)	16 %	8 %	19 %	29 %	6.5 %	2 %

Note: In the case of RP Ostrava the table only shows the individual reasons for custody (in accordance with the provisions of § 67 CJPA), not combined reasons.

As the table shows, the most common form of court-imposed custody is preventive custody, or a combination of preventive and anti-escape custody. Collusive custody is relatively uncommon, and involves greater restrictions on the rights of the defendant (see the sections on the rights of defendants). Special custody, which involves an international element (expulsion, transfer, extradition, etc.), tends to be sporadic (with the only exception being the significant number of cases of expulsion custody in RP Prague-Ruzyně).

Reasons for custody in the case of women defendants:

Prison (number of women prisoners)	Anti-escape custody	Collusive custody	Preventive custody	Combination (excluding collusive)	Expulsion custody	Preliminary , extradition, transfer
Hradec Králové (9)	11 %	0 %	44.5 %	44.5 %	0 %	0 %
Litoměřice (11)	0 %	36.5 %	18 %	36.5 %	0 %	9 %
Ostrava (25)	36 %	16 %	48 %	0 %	0 %	0 %
Prague – Ruzyně (13)	8 %	8 %	38 %	38 %	0 %	8 %

Note: In the case of RP Ostrava the table only shows the individual reasons for custody (in accordance with the provisions of § 67 CJPA), not combined reasons.

Reasons for custody in the case of juvenile defendants:

Prison (number of juvenile prisoners)	Anti-escape custody	Collusive custody	Preventive custody	Combination (excluding collusive)	Expulsion custody	Preliminary , extradition, transfer
Hradec Králové (1)	0 %	0 %	0 %	100 %	0 %	0 %
Litoměřice (11)	18 %	0 %	36.5 %	45.5 %	0 %	0 %
Ostrava (30)	30 %	10 %	60 %	0 %	0 %	0 %
Prague – Ruzyně (3)	0 %	67 %	33 %	0 %	0 %	0 %

Note: In the case of RP Ostrava the table only shows the individual reasons for custody (in accordance with the provisions of § 67 CJPA), not combined reasons.

Preventive custody is more common in the case of juvenile prisoners, or a combination of preventive custody and anti-escape custody. There were almost no juvenile prisoners in RP Hradec Králové and RP Prague-Ruzyně at the time of the visits.

Reasons for custody in the case of foreign defendants:

Prison (number of foreign prisoners)	Anti-escape custody	Collusive custody	Preventive custody	Combination (excluding collusive)	Expulsion custody	Preliminary , extradition, transfer
Hradec Králové (18)	28%	17%	22%	11%	0%	22%
Litoměřice (27)	67%	4%	7%	22%	0%	0%
Ostrava (55)	43.5%	13%	40%	0%	0%	3.5%
Prague – Ruzyně (99)	23.5%	10%	3%	38.5%	20%	5%

Note: In the case of RP Ostrava the table only shows the individual reasons for custody (in accordance with the provisions of § 67 CJPA), not combined reasons.

9. Cases of anti-escape custody are much more common with foreign defendants. This is similar in nature to expulsion custody, which foreigners generally undergo after serving a term of imprisonment. After a time spent in the relatively reasonable conditions in prison, the foreigner is placed in a remand prison, where the conditions are more restrictive, so from a subjective point of view can be seen as being worse. Foreigners may spend a long time in such conditions, as the actual duration of expulsion custody is determined by the length of time the administrative side of the expulsion process takes (e.g. obtaining a passport), which in practice can be a problem.

All the bodies involved, especially the Police of the Czech Republic, should strive to ensure that expulsion proceedings are completed as soon as possible.

Current trend

10. An important milestone as regards the concept of custody was the amendment to the Criminal Procedure in 2001 (Law No. 265/2001 Coll.), the purpose of which was, in compliance with international trends, to limit the number of people taken into custody, especially for less serious crimes, as well as to greatly reduce the number of people who spend long periods of time in custody.⁵ The amendment especially speeded up the procedures of all bodies involved in criminal proceedings in custodial matters and emphasised the principle of suitability. It also greatly reduced the potential for taking into custody defendants prosecuted for a wilful crime, for which the law stipulates a prison term, the upper limit of which does not exceed two years, or for a crime committed out of negligence, for which the law stipulates a prison term, the upper limit of which does not exceed three years. Following this amendment, collusive custody may last for no longer than three months, provided that the defendant does not commit any of the acts specified in the provisions of § 67 b) CJPA. The amendment made significant changes to the process of deciding on the extension of custody; such decisions were replaced by regular reviews and rulings on the duration of custody, while in the preparatory stage this authority was

⁵ Pavel Šámaland Co.: Rules of Criminal Procedure, commentary, 6th edition, 2008, pg. 463-464.

passed on to a state representative, which is in line with the additional role such representatives now play in preparatory proceedings (the representative may now decide on the adoption of measures as a substitute for custody – a guarantee or pledge from the defendant, the supervision of a probation officer or a monetary guarantee). Lastly, there has been a major reduction in the maximum length of periods of custody, the duration of which is based on the severity of the crime in question, while the total length of custody has been divided up into two parts: one third of the time in preparatory proceedings and the remaining two thirds of the time in court proceedings, which supports the sense and nature of preparatory proceedings and shifts the focus of proof to the court stage of proceedings.

The professional public⁶ sees this amendment as helping to greatly reduce the number of defendants and improve and speed up custodial proceedings. The rarity of cases where custody is used as a means of security in recent decades is evident from the following table:

Trend in the number of defendants in 1999–2008:

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Men	6 566	5 604	4 341	3 222	3 244	3 084	2 697	2 277	2 110	2 214
Women	368	363	242	162	165	185	163	122	144	188
Total	6 934	5 967	4 583	3 384	3 409	3 269	2 860	2 399	2 254	2 402

Note: Figures taken from the Statistical Yearbook of the General Director of the Czech Prison Service 2008, pp. 56-60, www.vscr.cz

Strategy and future concept of custody

11. The established trend of reducing the number of people prosecuted and placed into custody is at least partially balanced by the fact that the great majority of defendants serve their term of custody in conditions which are not so very different from the custodial conditions that existed prior to the start of the process to transform the Czech prison service. In many cases custody is accompanied by far worse conditions than actual imprisonment.⁷ Although the new legislation relating to custody guarantees defendants far more extensive rights and also provides the basis for preventive educational and sports programmes, custody itself involves a series of problems. In particular, these are unsuitable premises for custody (small cells with poor hygiene conditions) owing to the architectural layout of the buildings, which are old and often do not allow for any activities outside the cells. Areas for inmates to spend time outside are very small, sparse, and not arranged in a natural manner.

⁶ Pavel Šámaland Co.: Rules of Criminal Procedure, commentary, 6th edition, 2008, pg. 463, or JUDr. Petr Zeman, Ph.D.: The Criminal and Political Role of the Major Amendment to the Criminal Procedure – research findings, seminar of the Academy of Justice entitled “Trends in Criminality and Criminal Policy”, Prague 2008.

⁷ Improving conditions for prisoners, Czech Prison Service, 4/2009, pg. 15.

The prison service is currently unable to fully implement programmes for treating defendants in accordance with the law.⁸

The Czech Prison Service is self-critically aware of all these factors and its aim is to make wider use of custody with a more moderate regime, to create more acceptable hygiene conditions and make overall improvements to the standard of living for inmates, focus extra attention on building common areas and premises for inmates to move around and engage in activities outside the cell, outdoor areas and areas for sport and work to ensure that each defendant can spend a reasonable part of the day outside the enclosed environment of the cell, and to create conditions to extend the informal range of preventive educational, sports and interest programmes on offer.⁹

12. Although the previous paragraph presents some very commendable goals set out by the Czech Prison Service, it is doubtful whether they can be achieved with the current state of prison service funding. The Czech Prison Service itself states that "...at the current rate of budget funding increased by general inflation it cannot be expected that the Czech prison system can come close to matching the standards common in European Union member states"¹⁰, as "...investment construction is stagnating, ...capital expenses are focused on the forced construction of other prisons and, instead of being used for the necessary refurbishment, funds are at least partially used to resolve the growing problem of overcrowding in prisons, ...reproduction of assets is at a standstill, ...many prison buildings are seriously dilapidated, reconstruction work is forever being postponed and there are delays with the restoration of machinery and equipment, ...repairs and maintenance are carried out only on the most urgent problems and emergency conditions".¹¹ The future of Czech remand prisons is in question as "...there is still little willingness to invest budgetary funds into the development of the prison system, ...resulting in a lack of funds which could particularly be used to provide adequate staffing in prisons (meaning the lack of specialised staff to work directly with inmates, allowing a more individualised approach) and also in optimising material facilities (meaning better accommodation capacity or more modern prisons)".¹²

II. General findings about the prisons visited

a) Information about facilities

⁸ Concept for the Development of the Czech Prison Service to 2015, Prison Service of the Czech Republic 2005, pg. 14-15, www.vscf.cz

⁹ Idem, pg. 14-15, www.vscf.cz

¹⁰ Idem, pg. 27, www.vscf.cz

¹¹ Idem, pg. 27, www.vscf.cz

¹² Valeš F.: The Prison Service and Criminal Justice, Czech Helsinki Committee, 2008, www.helcom.cz

13. Custody is provided in remand prisons¹³ or in special sections of prisons¹⁴ (the provisions of § 4 ECA). Systematic visits were made to four remand prisons: RP Hradec Králové, RP Litoměřice, RP Ostrava and RP Prague-Ruzyně. With the exception of RP Prague-Ruzyně, these are buildings (or complexes of buildings) in the centres of cities which form part of or are adjacent to court buildings. This places certain limits on the reconstruction or expansion of the buildings.¹⁵ The buildings date back to the first thirty years or so of the 20th century, so the prisons are approximately 80–100 years old.

14. The internal layout of the prisons cannot be described collectively, as each prison has its own specific structural and technical features. All the prisons house women and juvenile inmates (or defendants close to juvenile age) separately in compliance with the provisions of § 7 Paragraph 1 a) and § 26 Paragraph 1 ECA. RP Litoměřice has also set up a “high-security” section for people accused of particularly serious crimes; RP Prague-Ruzyně has something similar in the form of five cells for “extra supervision”. The ground floors of the prisons contain the escort sections and rooms for thorough personal inspections. Every prison has several cells for disciplinary punishments or “crisis” cells, as well as medical (isolation) cells.

Cells are the standard system of accommodation in remand prisons. The capacity of cells varies from one to eight prisoners; most often the cells contain 2-4 beds. Prisons also set up multi-purpose cells, especially as cultural rooms, which are often furnished with nothing more than furniture and equipment for watching television or a DVD. In many cases one cultural room serves more than one section or department (in RP Hradec Králové, for example, a room with a capacity for approx. 10 people is used by as many as 120 prisoners). Prisons also set up other special rooms (gyms, fitness halls, handicraft rooms, chapels, etc.); however, owing to the lack of space and the fact that prisons are overcrowded and prison buildings cannot be extended, these tend to be the exception rather than the rule. Prisons always contain rooms for inmates to meet with lawyers, visiting rooms, and exercise yards. In some prisons there are also exercise yards on the roof (e.g. RP Ostrava).

15. Remand prisons are never purely custodial; they also contain more or less separate sections, in some cases in outlying buildings,¹⁶ which serve for imprisonment purposes. These, however, are smaller sections which are used especially to house prisoners who work inside the remand prison. The exception in this respect is RP Prague-Ruzyně. Although profiled as a remand prison, the general reduction in the number of detainees means that half of the prison’s capacity is

¹³ According to the provisions of § 2 of Order of the General Director of the Prison Service of the Czech Republic No. 12/2010 on remand prisons and the profiling of prisons run by the Prison Service of the Czech Republic, these are Brno Remand Prison and Preventive Detention Facility, RP České Budějovice, RP Hradec Králové, RP Liberec, RP Litoměřice, RP Olomouc, RP Ostrava, RP Praha-Pankrác, RP Prague-Ruzyně and RP Teplice.

¹⁴ According to the provisions of § 3 of Order of the General Director of the Prison Service of the Czech Republic No. 12/2010 on remand prisons and the profiling of prisons run by the Prison Service of the Czech Republic, these are Břeclav Prison, Ostrov Prison, Plzeň Prison, Světlá nad Sázavou Prison and Znojmo Prison.

¹⁵ E.g. RP Hradec Králové is by the edge of the urban conservation zone in the historical heart of the city.

¹⁶ The RP Prague-Ruzyně complex also contains Domov sv. Karla Boromejského in Řepy, which houses women sentenced to a term in a supervisory prison; RP Hradec Králové is in the industrial zone of the city of Hradec Králové – cadaster of Pouchov, and contains men sentenced to prison supervision.

currently used for prisoners. The highest number of convicts in the remand prisons visited are those sentenced to prison supervision.

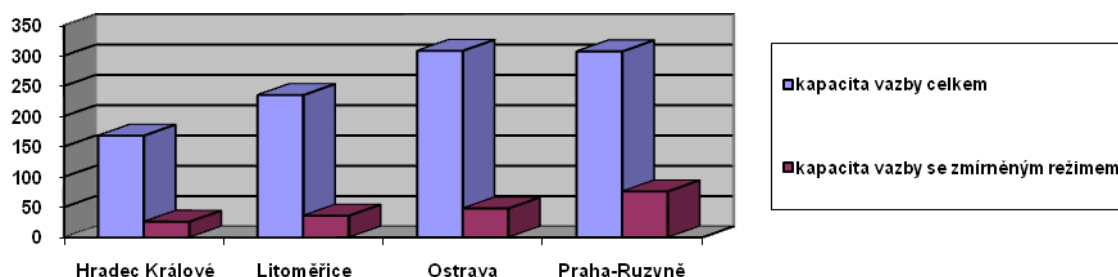
The sizes and basic capacities of the remand prisons visited are shown in the following table:

Prison	Custody capacity	Number of defendants	Imprisonment capacity	Number of convicts
Hradec Králové	168	169	245	293
Litoměřice	235	225	123	141
Ostrava	308	315	281	315
Prague-Ruzyně	307	247	467	403

The capacities of custodial remand prisons are almost 100% full; it is only in RP Ostrava where this figures is notably exceeded (102.3 %). In fact RP Prague-Ruzyně was only 81.6 % full at the time of the visit.

Custody with a moderate regime

16. “Prisoners may be placed into custody with a moderate regime if this poses no threat to the purpose of custody” (§ 8 Paragraph 1 ECA).¹⁷ The provisions of § 13 CRP (somewhat inconsistently in relation to ECA) also state that sections with a moderate regime may be used to house defendants whose conduct guarantees that their free movement within the section and contact with other defendants will not be detrimental to the purpose of custody and the internal rules. All the prisons visited had set up a department providing custody with a moderate regime (hereafter simply CMR). The proportion of this special type of custody to the overall capacity of the prisons visited varied:



¹⁷ These sections cannot house convicts who violate order and discipline or who cannot be placed there for safety reasons. These sections also cannot house convicts who are contraindicated by their doctor due to their medical condition or where a psychologist has recommended that a convict should not be placed there (the provisions of § 8 Paragraph 3 ECA).

*** Total custodial capacity * CMR capacity**

The proportion of CMR in the prisons visited is as follows: RP Ostrava 28 %, RP Prague-Ruzyně 24.8 %, RP Litoměřice 20.4 % RP Hradec Králové 15.5 %. The current trend in the prison service is to increase the proportion of CMR in remand prisons.

The structural and technical layout of a particular prison may limit the options available as regards setting up CMR and it is also necessary to take account of the legal obligation to keep different groups of defendants separate (the reason for custody, juveniles separated from adults, smokers from non-smokers, etc.).

17. As implied by the explanatory report to ECA, custody with a moderate regime may be applied with defendants whose conduct guarantees that their free movement within the section and contact with other defendants will not pose any threat to the purpose of custody. This should not be a special situation, as is currently the case based on the graph. **The Defender is therefore of the opinion that the current standard of custody should only be used for defendants in collusive custody, where there is a legitimate reason for their isolation. There is no reason not to place defendants in anti-escape custody or preventive custody in CMR a priori, provided that they fulfil the other conditions specified by the provisions of § 8 ECA, or the provisions of § 13 CRP.** Considering the current capacities of CMR prisons, however, this is impossible. On the other hand, in RP Prague-Ruzyně, for example, the CMR capacity (76 places) was only 79 % used.

18. In the prisons visited the CMR system was set up very generally, i.e. for any defendant who met the conditions specified by the law for placement in CMR, yet the law contains principles allowing certain groups of defendants to be given preferential placement in CMR. The provisions of § 73 Paragraph 2 CRP¹⁸ stipulate that CMR should be provided for juvenile inmates. However, despite the high proportion of juvenile defendants in RP Ostrava (see Graph 3 in point 8), none of them was in CMR at the time of the Defender's visits. The other prisons visited also had no special CMR for juveniles; nevertheless, considering the generally low number of juvenile defendants in custody the question arises as to whether there is a real need. On the other hand, there will always be a certain number of juveniles in custody and so they do need to be kept separate from the other defendants.¹⁹ The provisions of § 73 Paragraph 2 CRP state that there is no need to set up CMR for juveniles if the conditions of the prison do not permit it, yet with regard to the purpose of custody and the vulnerability of this group (which is taken into account in specific legislation applicable to juveniles in both ECA and CRP), the Defender is convinced that juveniles should be placed in CRM (provided that they comply with the legal requirements).

For another group – foreigners in expulsion custody – placement in CMR, regardless of the conditions within the prison, is stipulated by methodical order of the

¹⁸ "Where conditions in the prison so permit, sections providing custody with a moderate regime must also be set up for juveniles."

¹⁹ See the provisions of § 26 ECA, or the provisions of § 73 CRP.

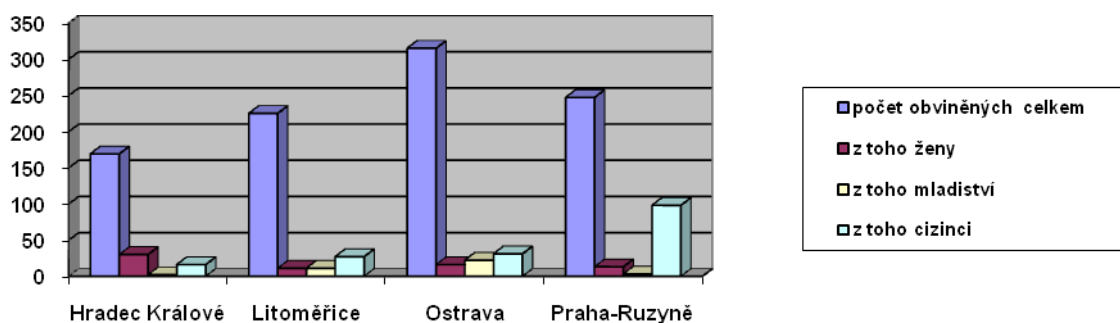
Senior Director of Penology No. 27/2009, which defines the principles for the preparation and issue of prison internal rules for defendants and publishes a consistent set of internal regulations for remand prisons and prisons.²⁰ This at least partly balances out the fact that after serving a prison term foreigners enter expulsion custody to await expulsion, where they face greater restrictions than they faced while imprisoned.²¹ A special CMR system for foreigners in expulsion custody (with a capacity of 18 places) has been set up in RP Prague-Ruzyně.

19. The Defender fully agrees with the Czech Prison Service's plans to provide greater CMR capacity and make greater use of free custody. He is also aware of the obstacles involved in further expanding CMR capacity (structural, technical, financial, factual – the need to keep certain groups of defendants separate); however, the Defender would like to urge the Czech Prison Service to make greater efforts and use initiative in this matter.

It is recommended that as part of the preparations for custody reform the General Directorate of the Czech Prison Service compile a time schedule for CMR expansion to ensure that by the end of 2010 the capacity of this type of section is at least 30 % of the capacity of remand prisons. The aim should be to ensure that all defendants held in preventive and anti-escape custody can be placed in CMR where they meet the legal conditions. It is also recommended that this plan take special account of juvenile defendants.

b) Information about defendants

20. The structure of defendants in remand prisons can be expressed as follows:



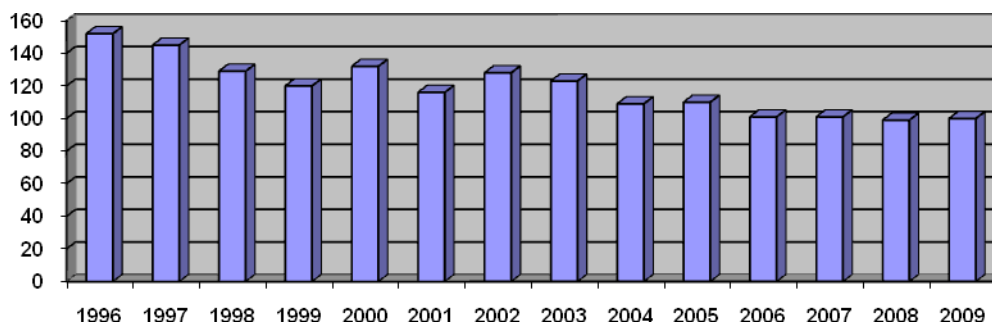
- Total number of defendants
- of which, women
- of which, juveniles
- of which, foreigners

²⁰ "Foreigners in custody for reasons specified in the provisions of § 350c of the Criminal Procedure, provided that they do not breach order and discipline, are placed into custody with a moderate regime."

²¹ Foreigners facing expulsion often remain in such conditions for up to two years. The statistics of the Prison Service of the Czech Republic show that most foreigners (almost half) are expelled within two months; for the remaining half, however, the time varies from two months to two years. Source: Monthly Statistical Report 2009, www.vscr.cz

There is a notably more significant number of foreigners in RP Prague-Ruzyně (a special office for the expulsion of foreigners has been set up in the prison). The number of foreigners held in custody has changed over the years. While there were 1656 foreigners in 1999, by 2001 this number had fallen to below half that figure. In 2008 there were only 505 foreign citizens held in remand prisons. By far the highest number of foreigners come from Slovakia, followed by citizens of the Ukraine and Vietnam (together making up more than half of all foreigners). A more relevant group also comprises citizens from Bulgaria, Macedonia, Moldavia, Poland, Romania, Russia and Serbia. The highest numbers of detainees from countries outside Europe come from North Africa (Nigeria, Algeria, Morocco); remand prisons also contain a large proportion of citizens from the former Soviet Union (Uzbekistan, Kazakhstan) or Mongolia.²² People from other states tend to be just isolated cases.

21. The length of time defendants spend in custody has also changed over time. The average length of judicial custody in days is shown in the following graph:²³



c) Information about staff

22. Custody is provided by the Czech Prison Service especially through prison guards²⁴ (another element of the Czech Prison Service – the judicial guard – works outside remand prison buildings) and also through civilian employees.²⁵ The custodial staffing situation, unlike the imprisonment staffing situation, does not face (and given the positive long-term trend in the number of people held in custody does not seem likely to face) the society-wide problem of the ever-increasing numbers of convicts in the Czech Republic and thus the need to take on additional staff. The following table shows the actual numbers of employees who work directly with defendants and serve exclusively in custodial sections (not imprisonment sections):

Prison	Basic breakdown of	Position	Number of
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²² Statistical Yearbook of the Prison Service of the Czech Republic 2008, www.vscr.cz

²³ Summary of the average length of judicial custody according to the courts (www.justice.cz), <http://portal.justice.cz/soud/soubor.aspx?id=62458>. These figures only apply to judicial custody, and do not include preparatory proceedings.

²⁴ The provisions of § 3 ECA and the provisions of § 1 Paragraph 1 PSJG.

²⁵ Order of the General Director of the Prison Service of the Czech Republic No. 21/2010, which specifies the duties of civilian employees and members of the Prison Service of the Czech Republic in relation to imprisonment, custody, and security detention.

	employees		staff (contractual)
Hradec Králové (168)	prison guard	head supervisor	10
		supervisor	16
	civil employees	tutor	2
		special teacher	0
		leisure-time teacher	0
		psychologist	2
		social worker	1
		priest (chaplain)	0.5
Litoměřice (235)	prison guard	head supervisor	15
		supervisor	24
	civil employees	tutor	2
		special teacher	0
		leisure-time teacher	0
		psychologist	0
		social worker	0
		priest (chaplain)	0
Ostrava (308)	prison guard	head supervisor	18
		supervisor	29
	civil employees	tutor	2
		special teacher	0
		leisure-time teacher	0
		psychologist	0
		social worker	0
		priest (chaplain)	0
Prague-Ruzyně (307)	prison guard	head supervisor	13
		supervisor	27
	civil employees	tutor	1
		special teacher	1
		leisure-time teacher	2
		psychologist	1
		social worker	2
		priest (chaplain)	0

Note: the priest (chaplain) is not de iure classed as a civil prison employee (according to Directive of the Director of the Czech Prison Service No. 21/2010); however, the service this person provides for prisoners and his status within the prison are irreplaceable (especially for those serving prison terms), therefore the position is listed in the table alongside the other civil employees.

23. This table clearly shows that staff appointed to work with defendants are almost exclusively prison guards. There are almost no civilian employees in the custody sections of prisons. In some cases teachers, psychologists, etc., work with inmates in custody and those serving prison terms. In RP Ostrava 3 psychologists look after around six hundred inmates (approximately 300 defendants and 300

convicts); the social staff are even worse off, as there are only two for the whole prison. RP Litoměřice has two psychologist positions, for both forms of confinement (so for roughly 350 prisoners), yet at the time of the visit only one position was occupied.

The fact that custodial staff consist of officers and fewer civilian employees in comparison to prison staff is understandable and the result of the actual concept of custody, the purpose of which is not educational. Defendants should use their time in custody particularly to prepare their defence, and they should have access to bodies active in criminal proceedings, lawyers, etc. Obviously, with the situation being what it is, when there are lengthy intervals between processes and some defendants spent months in custody, inmates need to be offered some other meaningful activities. The work of civilian employees in custody is wholly legitimate²⁶ and it is doubtful whether with current staffing levels the Czech Prison Service is able to comply with the stringent requirements concerning civilian staff as stipulated by the internal regulations of the Czech Prison Service.²⁷

In interviews with social workers, teachers and psychologists the staff of the Office heard several complaints with regard to the serious shortfalls in staffing, whereas sections containing inmates serving a prison term often had much higher numbers of staff than custody sections. Yet as regards the activities that that law states should be on offer to inmates, a prison term cannot be said to be any different on principle. These findings are corroborated and the staffing situation highlighted by the testimony of the defendants themselves, most of whom stated that for the great part of the day they had nothing to do.²⁸ However, it is essential to add that the lack of staff in remand sections is not the only cause; another factor, in some prisons crucial, is structural and technical considerations. If one cultural room with a capacity for 8–10 people is used by some 120 defendants, it is obvious that increasing the number of civilian employees will do nothing to resolve the problem of not enough activities. Another factor is overcrowding in prisons (remand prisons are slightly above 100 % of capacity; nevertheless it is necessary to take into account the fact

²⁶ Defendants, like convicts, must be offered educational, interest and sports programmes (Cf. the provisions of § 4a CRP and the provisions of § 36 of Regulation No. 345/1999 Coll., which issues imprisonment regulations, as subsequently amended); they must also be provided with social services (the provisions of § 57 CRP), etc.

²⁷ Order of the General Director of the Prison Service of the Czech Republic No. 21/2010, which specifies the duties of civilian employees and members of the Prison Service of the Czech Republic in relation to imprisonment, custody, and security detention.

²⁸ In one RP inmates get, for example, only an hour of table tennis once every two weeks, and then only provided that they have their own sportswear and a table-tennis ball. The prison also has a gym, which is only available for inmates who work. The majority of the remand prisons visited allowed inmates to go to the gym, although very little access was actually provided to those inmates who showed an interest. In another RP, thanks to a very active psychologist, women at least had the chance to do handicrafts (it should be considered whether this work should be provided by a psychologist - see General Directorial Regulation No. 21/2010; however, the Defender appreciates this psychologist's work as it at least provides the women inmates with some way of passing the time). Even book loans are restricted, as even though each of the prisons visited has a library, inmates have no chance of finding out what books are available; defendants must consider themselves lucky if they are offered a book by the librarian, an employed inmate (see point 44). The range of activities available varies from section to section and from prison to prison, although in general it can be described as inadequate. In some cases inmates claimed they did not even know about what activities were available, although in most cases demand far surpasses supply (e.g. as one defendant put it "...I registered for various groups but after 5 weeks in custody I still haven't been to one.").

that these prisons also contain people serving prison terms, and overcrowding is far worse in those sections, while common rooms, such as cultural and activity rooms, are used by both groups of inmates). If prisons were to reduce their capacity, more rooms could be used for activities and it would then be possible to consider taking on more professional staff.

The Defender is unable to specify the exact number of civilian employees required in each individual prison; nevertheless, he draws attention to the fact that current staffing levels in the remand prisons visited are almost certainly insufficient to allow the provision of special activities for inmates, especially as regards meaningful ways of spending time or social work. However, in the Defender's opinion, the lack of space for activities is a far greater problem.

24. Guard duty, demonstrations, escort duties, security, and the implementation of most of the defendants' rights are carried out by the prison guard. Guards can be divided up into those on supervisory duty, who supervise the custody of defendants in the individual sections, and guard duty (they guard the outer parts of the prison, give demonstrations, escort inmates and visitors – sometimes a special escort service is set up). The supervisory guards work more closely with defendants (which is why the graph in point 22 only shows this part of the prison guard service); these are represented by head supervisors and supervisors. These de facto implement most of the defendants' rights and are in closest contact with the defendants, or spend the most time with them. The position of head supervisor combines the roles of officer and tutor. Considering the fact that the system of sections and the number of defendants (and sometimes convicts) in each section varies from prison to prison, it is very difficult to estimate the staff/inmate ratio, or how many defendants there are at any given moment to one supervisor or head supervisor.

The Defender has several times publicly criticised²⁹ the inadequate staffing levels in the Prison Service of the Czech Republic as well as the lack of prison capacity. This situation means that the rights of prisoners are infringed upon (see below) and also poses a potential security risk. Since then no progress has been made; the Defender is not aware whether talks have been held to exempt the Czech Prison Service from Governmental Resolution No. 436 dating from 2007. Therefore the Minister of Justice is recommended to begin negotiations to exempt the Czech Prison Service from its obligation to make annual staffing cuts.

III. Protecting the rights of defendants

a) Material measures

²⁹ In the course of his prison-related work the Defender hears complaints about under-staffing relatively often, and this situation has achieved notoriety over the years (e.g. point 9 of the Report on Prison Visits, www.ochrance.cz). This inadequacy was also confirmed by the General Director of the Prison Service of the Czech Republic, genmjr. PhDr. Luděk Kula, according to whom, for example, RP Prague-Ruzyně alone is lacking around 70 members of staff (We will continue to fight to increase the number of full-time jobs, Czech Prison Service, 2/2009, pg. 2-3).

Equipment in cells

25.

Point 18 of EPR states that accommodation for prisoners, particularly all rooms designated as sleeping areas, must respect human dignity and the need for privacy as far as possible and must comply with the medical and hygiene requirements with regard to the climatic conditions, particularly in terms of surface area, the number of cubic metres of air, lighting, heating, and ventilation. Point 21 of EPR states that each prisoner must have his or her own bed. Point 19.3 of EPR states that each prisoner must have free access to sanitary facilities which are hygienic and respect prisoners' right to privacy.³⁰

The provisions of § 9 ECA state that the basic equipment of a cell for every defendant must include a bed, a cupboard for personal possessions, a small table and chair for each occupant, as well as a toilet separated from the rest of the cell by an opaque screen. Each cell must have electrical lighting and signalling (call) facilities – see point 18.2 c) EPR.

The equipment in the cells of all the prisons visited were in compliance with these requirements, with the exception of one remand prison, where the tables did not have supports³¹, so could not be classed as chairs. It was also found that a cell in one remand prison contained three defendants, yet there were only two cupboards.

Defendants' bunk beds have dust-resistant pillows; all cells contain washbasins with cold running water. At the time of the visits the cells were adequately heated and could be ventilated. The toilets in the cells were separated from the rest of the cell by a partition or opaque screen, in some cases made of cloth. **It is recommended that prisons provide sufficient cupboards corresponding to the number of prisoners in the cell and that little tables should be replaced by chairs.**

26. At the time of the visits, with the exception of RP Ruzyně, the custody parts of the prisons were full to capacity, meaning that defendants were not placed in cells alone. Nevertheless the Defender draws attention to the fact that if this were to happen, it would essentially be almost solitary confinement, something the Defender cannot approve of.

It is recommended that cells for two or more people only be used to house one person if the person in question so requests; if such a request is made, it should be treated in the same way as when an inmate is placed into a solitary cell in compliance with the provisions of § 6 Paragraphs 2 and 4 ECA, and that the decision to oblige or refuse such a request should be made by the governor or deputy governor.

Lighting hygiene

27. In three of the prisons visited the cell windows are fitted with shutters consisting of a canopy made out of white-transparent polycarbonate in a metal frame set in front of the window with the upper edge fitting closely to the wall above the top

³⁰ CPT standards also cover hygiene facilities, Cf. e.g. point 49 of the 2nd report on CPT activities from 1991.

³¹ The prison governor informed the Defender that chairs had been ordered from the Czech Prison Service's own workshops.

part of the window and the bottom edge around 30–40 cm from the wall. The sides are filled in with plexiglass panels. Shutters are used for a number of reasons; besides security, they also dampen noise (shouting of other inmates) coming into the cells and prevent unauthorised contact between defendants (known as “koňování”) or with the outside world.

In some prisons the cells were very gloomy and the shutters were one of the factors which reduced daylight intensity – they let light in, but are not completely transparent and also get dirty easily, so artificial lighting has to be turned on, even during the daytime. Shutters also prevent air movement when cells are ventilated. The Defender considers it unacceptable that defendants only have artificial or mixed lighting in conditions where they are supposed to prepare their defence, a process which involves studying files and laws, corresponding with their lawyer, etc..

According to point 18.2 EPR, all rooms in which prisoners live, work, or gather must have windows which in normal circumstances are large enough to allow prisoners to read or work by daylight. Windows must be designed so as to let in fresh air, except where there is adequate air conditioning. In point 30 of its 9th report, which covers daylight and fresh air in cells, CPT acknowledges that for security reasons, particularly to prevent collusion or criminal activity, in certain (!) prisons such specific precautions can be taken, while on the other hand it states that it is always necessary to review each individual case where security precautions are to be stepped up for inmates, and that even in such cases nobody should be deprived of natural light and fresh air.

It is recommended that prisons only use shutters in exceptional or individually justifiable cases as stipulated by CPT standards. It is recommended that prisons reassess the need to use existing shutters with regard to the lack of daylight and the requirements of EPR and that they inform the Defender concerning any steps taken in this respect by the end of July 2010.

28. In the current situation it can be said that some cells receive virtually no daylight, or at least not enough to make it unnecessary to have artificial lighting on all day. The lack of daylight is one psychohygienic stress factor which has an adverse effect on inmates' behaviour and mental well-being. Yet some defendants can spend months in such conditions.

The intensity of lighting in prison facilities used to be governed by the internal rules of the Prison Service of the Czech Republic, although these rules were abolished and have not yet been replaced. The required intensity of daylight or artificial lighting is nowadays only specified in technical standards (which, however, do not apply directly to prisons or custodial facilities). As the laws are vague and complaints have been made about lighting intensity, ventilation in cells, etc., the Defender contacted the General Director of the Czech Prison Service to ask him to work with the head hygiene officer of the Czech Republic and the building office of

the Ministry of Justice to amend internal regulations to include binding standards covering lighting and, where applicable, microclimatic conditions in prison facilities. Otherwise this requirement is also based on Article 18.1 together with Article 18.3 EPR, which states that accommodation for inmates must comply with the medical and hygiene requirements with particular regard to climatic conditions, especially considering surface area, the number of cubic metres of air, lighting, heating, and ventilation. The specific minimal requirements must be defined in the national legislation.

The General Directorate of the Prison Service of the Czech Republic and the Ministry of Justice, as the building office serving the Czech Prison Service, are recommended to work in collaboration with the Ministry of Health to compile binding standards with respect to lighting (daylight, night light, artificial light, or mixed light) in prison facilities, which would also take account of shutters and the illumination of rooms by daylight. The Defender asks the General Directorate of the Czech Prison Service to issue a statement on what steps have been taken, by the end of May 2010.³²

29. The technical aspects of cell lighting allow two modes to be used – daytime and night-time. Lights are turned off at night, and night-lighting is only turned on for cell inspections. In rare cases the Defender found that defendants objected to daytime lighting being used at night. However, the Defender draws attention to the fact that he believes that in some cases the intensity of night-lights is too high (20 lux).³³ No maximal limit for night lighting, or other forms of lighting, has been set (see point 28).

It is recommended that prisons only use night lights during night-time inspections.

Exercise yards

30. The Defender considers the most serious technical problem in remand prisons to be the exercise corridors in prison yards.

Point 27.1 EPR states that, weather permitting, all inmates must have the opportunity to spend at least one hour every day walking or exercising in the open air. The prison administration must enable them to do this by providing suitable areas, facilities and equipment.

After the Defender's detailed criticism of exercise yards resulting from his systematic visits to prisons in 2006,³⁴ the director of custody and issued methodical guidelines on the principles covering the creation of areas for defendants and convicts to

³² This deadline is set in accordance with the Defender's request made in March 2010 as part of his investigations into individual complaints (File Ref. No.: 4/2008/NZ/PM). The Defender's request also related to microclimatic conditions in prison facilities, as well as lighting.

³³ E.g. in medical facilities (ČSN EN 12464-1, Light and Lighting – Lighting in Working Areas; tab. 5.7 – medical facility, point 7.3.5) night lighting is assumed to be 5 lx; the Defender assumes that lighting in cells should be something similar, or, considering the differences in regimen (lights are only turned on during inspections), should be slightly higher intensity.

³⁴ Point 40 of the Final Report on Visits to Prisons dated 2006

exercise outside (No. 31/2007), which state that prisons must provide suitable and reasonable space for defendants and convicts to exercise outside.³⁵ Exercise yards must be large enough to allow defendants and convicts to get some physical exercise, and may be fitted with structural and technical precautions appropriate to the type of prison. Exercise yards must be fitted with a reasonable number of benches with a seat height of at least 350. Part of the exercise yard must have a canopy to provide shelter in bad weather. Wherever possible, exercise yards should have grass surfaces and allow inmates to engage in simple sports activities.

The great majority of exercise yards in remand prisons failed to comply with these specifications. One example is the yard in RP Ruzyně, which is approx. 12 m long and from 1 m to no more than 5 m wide; or RP Litoměřice, where the exercise yards are not even partially covered over, nor are they equipped with benches or any form of sports equipment.³⁶ The situation is similar in RP Ostrava, where defendants often voluntarily refuse the chance to go outside. The question arises as to what possible benefit such exercise yards can have for inmates (who are herded into corridors when they come out of their cells) compared with staying in the cell.

Some of the prisons visited informed the Defender that in the future they would try to brighten up the exercise corridors (painting, simple exercise equipment) and would also try to cover open corridors to provide shelter in bad weather. One prison also informed the Defender that it was preparing an investment plan to improve exercise conditions by demolishing part of the exercise corridors, a step which was welcomed by the Defender.

Prisons face the problem of inadequate space for outdoor activities, while the chance for inmates to spend some time outside their cells at least partially compensates for the inadequate material provisions and lack of activities inside the prison. It is necessary to assure the appropriate technical and material facilities to allow inmates to spend time outside in a dignified and safe manner. Despite all the difficulties involved, the Defender feels obliged to recommend that prisons carry out structural and technical alterations to exercise yards so that time spent outside is not limited to walking up and down in cramped concrete runs. It is recommended that prisons whose exercise areas are designed in this unsuitable manner take immediate steps to alter them and brighten them up.

Also, where there no shelter is provided, it is recommended that prisons at least partially cover exercise areas so that inmates are not directly exposed to the rain yet still have visual contact with the outside; these measures should be implemented by the end of 2010.

³⁵ Compare point 62 of the CPT Report (CPT/Inf(2007)32), available at www.cpt.coe.int and the statement of the government of the Czech Republic, pg. 20, available at the same address.

³⁶ Due to the lack of space in RP Litoměřice, it is not possible for exercise areas to be equipped with facilities such as a table-tennis table, and under the current layout it would even be difficult to install benches.

Visiting rooms, rooms for meetings with a lawyer

31. All the prisons visited have visiting rooms. RP Ostrava has a total of 3 visiting rooms, one of which has a games corner and is for parents with small children; another room is divided up into cubicles with or without a partition, and there is also a spacious visiting room with tables and chairs, everything very tastefully furnished, including, for example, a television to keep children occupied, and a drinks machine. **The Defender considers this to be a fine example of good practice.**

Remand prisons also have rooms for inmates to speak to their lawyer. During the visits no infringement of privacy was found during these interviews and defendants did not make any comments or complaints as regards their right to see their lawyer (for an impecunious defendant's first contact with a lawyer, see point 59).

b) Protecting the rights of defendants

Informing inmates of their rights and obligations

32.

According to points 15.2 and 30.1 and 2 EPR, upon admission and whenever later necessary, all inmates must be informed, in writing and verbally in a language they understand, of the regulations governing prison discipline and their rights and obligations in the prison. Inmates must be allowed to retain a written version of the information provided. The provisions of § 5 Paragraph 2 ECA state that when taken into custody defendants must be demonstrably informed of their rights and obligations in accordance with this law, with CRP and with the prison's internal regulations. The provisions of § 8 Paragraph 1 CRP state that upon admission to prison defendants must be told of all the rights and obligations that affect them while in custody. A record of this process is made, which the defendant signs.

When taken into custody defendants are demonstrably informed of their rights and obligations as arising from both the Execution of Custody Act and from the internal regulations of the remand prison. Defendants sign a declaration confirming that they have been informed of their rights and obligations, and this information is available in a wide range of foreign languages, e.g. English, Bulgarian, French, Croatian, Mongolian, Macedonian, German, Polish, Romanian, Russian, Serbian, Spanish, Ukrainian and Vietnamese.

33. The internal rules of remand prisons are written in the Czech language. The investigations found that foreigners, particularly at the beginning of custody, were not given more detailed information about life in custody. It is evidently a very costly matter to have these internal regulations translated into several foreign languages, yet it is essential to provide foreign defendants with basic information about their rights and obligations, as well as information contained in certain appendices to the internal regulations (daily rotas, minimal range of goods available in the canteen, foods that are classed as an epidemiological risk, instructions for sending packages, conditions covering the use of radio receivers, television receivers and other such

items, surgery hours of the general practitioner and specialist, the preventive educational, interest and sports programmes available, bathing schedule); this information must be provided in a form that defendants can understand (either in translation or, for example, in the form of pictograms).

The Defender would consider it good practice if this information were provided to foreigners in one of the ways described above, in at least several different language versions.

Filing complaints

34.

The requirements regarding the complaints procedure are defined by point 70 EPR, which states that inmates, individually or as a group, must have adequate opportunity to submit requests or complaints to the prison governor or to another competent body. If a request is refused or a complaint rejected, inmates will be informed of the reasons and must have the right to appeal to an independent body. Inmates will not be punished for submitting requests or filing complaints. A competent body must review written complaints from inmates that are related if there is any reason to assume that the inmates' rights have been violated.

The right to file a complaint or secure and interview with the prison governor or deputy governor is covered by the provisions of § 34 of the Imprisonment Regulations and the provisions of § 60 and § 62 CRP.

The staff of the Office found that defendants were able to exercise their right to file complaints and other submissions within the prison, i.e. to staff members and PCD, as well as with other state bodies (General Directorate of the Czech Prison Service, supervisory state representative, the police...). They may also request an interview with the prison governor. The different sections have a complaints box; in the majority of facilities defendants can apparently also complain to the head supervisor or tutor during the morning inspections. Proper records are kept of complaints, and no specific shortcomings were found on the part of prison employees. Inmates may also contact a variety of international institutions and non-governmental organisations in accordance with international agreements and treaties on the protection of human rights and freedoms. According to the defendants themselves, they have no problems exercising these rights or filing complaints with the supervisory state representative or other institutions.

35. Although in formal and organisational terms the complaint mechanism works, in practice defendants often said that it was not worth filing a complaint, which corresponds to the frankly negligible percentage of complaints that are dealt with positively (in some cases fewer than 3 % of complaints).³⁷ Most of the defendants spoken to were aware that they could request an interview with the prison governor; they said that such interviews did take place, although they claimed that it was generally the first deputy governor that attended, if not the director. One minor

³⁷In 2009 a total of 83 complaints were filed in all four remand prisons visited; however, it was only in exceptional cases that they were deemed justified.

shortcoming was found in that a number of defendants in more than one of the prisons visited were unaware that complaints are collected from the complaints boxes by staff specially appointed with this task, not by the staff of the section in question, a fact which, if a complaint were directed against the conditions in a particular section, could discourage the inmate from placing the complaint. The Defender was informed by the prisons that this information is contained in their internal regulations, and also that inmates do not need to know this information. The Defender, however, believes that this information about the complaints box is important from the point of view of (mis)trust.

It is recommended that prisons place a notice on complaints boxes stating that complaints are collected by an appointed PCD member of staff; this should be done immediately.

c) Social and cultural conditions

Clothing worn by defendants

36.

Non-convicts in prisons must, according to points 97.1 and 2 EPR, be permitted to wear their own clothing, if it is suitable for prison conditions, and non-convicts who do not have their own clothes must be assigned garments which are different to the uniform worn by convicts. Point 20 EPR states that all categories of inmates who do not have adequate clothes of their own must be provided with clothes which are suited to the weather conditions yet which do not elicit feelings of humiliation or degradation.

While in custody inmates are permitted to wear their own clothes, underwear and shoes, provided that they are able to replace them at their own expense (§ 12 ECA). Inmates' own underwear must be replaced once a week; clothes and shoes as required. Items can be replaced by post, brought by visitors, or delivered to the prison (§ 29 CRP). If these conditions are not met, inmates must wear prison-issue clothes, underwear and shoes.

The Defender found that it is not possible for inmates to combine their own underwear with prison-issue clothing or prison-issue underwear with their own clothing. The Defender sees no reason for this, provided that the garments are hygienic and not aesthetically offensive and can be replaced at the inmates' own expense. The provisions of § 29 CRP allow the combination of own underwear and prison-issue clothing; Paragraph 2 § 29 CRP specifies a special rule for the replacement of underwear and could be interpreted as permitting inmates to wear their own underwear while the other clothing (sweatshirt, trousers, coat) are provided by the prison. This can also be corroborated in the wording of § 18 Paragraph 3 of Regulation No. 345/1999 Coll., which issues imprisonment regulations, which states that all convicts may wear their own underwear and socks.

It is recommended that prisons allow inmates to combine their own underwear with prison-issue clothing.

37.

In accordance with the provisions of § 15d Paragraph 2 of Order of the General Director of the Prison Service No. 7/2003 on equipment and equipment service in the Prison Service of the Czech Republic, a certain number of inmates may wear their own clothes and shoes for sport or interest activities, while the wearing of any combination of prison-issue and inmates' own clothes (sports clothes and shoes) is forbidden.

In the Defender's opinion there is nothing in the law to support this provision. Neither ECA nor CRP imply that defendants using prison clothing cannot use their own clothes for sports activities, or combine the clothes.

It is recommended that the General Directorate of the Czech Prison Service annul this provision and not prohibit the combination of prison-issue clothes and inmates' own clothes for sports or interest activities; this should be implemented immediately.

38. According to the provisions of § 74 Paragraph 2 CRP the prison administration may loan suitable sports clothes or shoes to juveniles, if they have none of their own. It was not found that any of the prisons visited loaned suitable sports clothes or shoes.

It is recommended that prisons provide juveniles with suitable sports clothes or shoes if they do not have any of their own.

Meals

39.

Meals for inmates are covered by point 22 of EPR. Inmates must be provided with meals appropriate for their age, medical and physical condition, religious persuasion, and cultural habits and suited to the work they perform.

Prisons provide defendants with regular meals in accordance with the conditions and values specified by the internal regulations of the Czech Prison Service and corresponding to the requirements concerning inmates' health, medical conditions and age (§ 11 ECA). According to point 22.4 EPR, three meals must be served a day, at reasonable intervals.

Meals are served three times a day; several diets and Muslim meals are prepared. The internal rules state that breakfast should be served from 6:00 a.m. (Hradec Králové) or 6:15 a.m. (Prague); dinner is served from 4:30 p.m. (Prague) or 5:00 p.m. (Hradec Králové). However, in one remand prison (Prague) dinner is actually served at 4:00 p.m., which is very early considering that lights-out is at 10:00 p.m., and there is a gap of 12 hours between dinner and breakfast which, in the Defender's opinion, is not a "reasonable time interval". The need to abide by this reasonable time interval obviously does not apply in cases where a cold dinner is served.

Hygiene

40.

Point 19.4 EPR states that prisons must provide suitable facilities to allow each inmate to take a bath or shower at a temperature corresponding to the climatic conditions, on a daily basis wherever possible, although at least twice a week (more often if necessary) in the interests of general hygiene. According to point 19.6 EPR, the prison administration must make the necessary hygiene products, including toilet supplies, available to inmates.

This obligation on the part of the Czech Prison Service is based on the provisions of § 35 CRP: Prisons are obliged to create the appropriate conditions for defendants to maintain personal hygiene by ensuring that they wash every day, shave regularly and perform normal hygiene routines; inmates who have no money will be provided with the necessary hygiene supplies by the prison administration. In accordance with the provisions of § 15g General Directorial Regulation No. 7/2003, such defendants are provided with soap, toothpaste, a toothbrush, comb, safety razor, shaving brush, shaving foam and toilet paper; women are provided with sanitary towels.

It was found that in the prisons visited inmates bathe twice a week in warm water, which is in compliance with the provisions of § 36 Paragraph 1 and § 4 CRP, as well as with EPR. Additional showers can be taken after sports activities, for example.

There is no consistent practice as regards entitlement to supplementary hygiene products provided by the prison, and the General Directorial Regulation does not cover such situations. According to defendants in Prague Remand Prison, more toilet paper is not provided for a month; in other cases it is said to be three months. In RP Litoměřice additional toilet paper is not provided to defendants individually at all, but placed en-masse in the cell, so there were three rolls of toilet paper to last a cell containing five defendants for one month. In other remand prisons defendants are provided with hygiene products on request as they start to run out. It is also important to take account of the fact that hygiene needs, and thus the amount of hygiene products required, are generally higher with women than with men, something the Defender believes must be considered in practice.³⁸ The Defender welcomes the practice of RP Ruzyně, where defendants are issued with toilet paper and soap every month and any additional supplies are provided on request, while all such requests are recorded to prevent any possible abuse of the system. The practice of issuing soap and toilet paper once a month was seen in more than one prison.

It is recommended that the General Directorate of the Czech Prison Service immediately amend General Directorial Regulation No. 7/2003 to state that toilet paper and soap must be issued at least once a month and that other hygiene supplies be issued on request.

Outings

41.

The provisions of § 18 Paragraph 2 ECA state that defendants have the right to take daily outings for a duration of at least one hour in a designated area within the prison complex; juveniles may spend up to two hours outside. This time outside may be limited or cancelled for important reasons.

³⁸ This requirement is stipulated by point 19.2. of the European Prison Regulations (hereafter "EPR").

It was not found that prisons make use of the provisions of § 74 Paragraph 2 CRP, which state that juveniles can be allowed to take air outside the designated area. The time that inmates spend being taken outside is not counted, which is right. The Defender met with claims that as the result of the bad conduct of one defendant (shouting), all the other defendants in that part of the block had their outings cancelled.

It is recommended that prisons do not shorten the time inmates spend outside and do not cancel all defendants' outings due to bad behaviour on the part of one person.

Activities

42.

Point 27 EPR covers exercise and recreation for inmates and states that, weather permitting, all inmates must have the chance to spend at least one hour a day walking or exercising in the open air. When the weather is bad, alternative forms of exercise must be provided. According to EPR, organised physical activities and the provision of adequate opportunities for exercise and recreation must form an integral part of the prison regimen and the prison administration must enable such activities by providing suitable premises, facilities and equipment. Inmates must have the opportunity to engage in recreational activities, such as sport, games, culture, hobbies and other leisure-time activities and, where possible, should be allowed to organise such activities themselves.

EPR considers it crucial that a "satisfactory programme of activities" be provided, including for people in custody, as does CPT when it states that inmates should spend a "reasonable" part of the day outside their cells, which is considered to mean at least 8 hours and at least one hour for outdoor exercise.³⁹

According to the provisions of § 4a ECA prisons are obliged to allow defendants in custody to participate in preventive education, interest and sports programmes as far as they are able.

The range of activities available varies from section to section and from prison to prison, although in general it can be described as inadequate. Inmates do not have sufficient access to gyms and there are too many defendants for each cultural room. As mentioned above, the lack of leisure-time activities is not just the result of lack of staff, but is sometimes particularly down to the fact that there are no adequate premises for setting up cultural or other such rooms. Prisons can only set up such facilities (and from what they say, they would do so) if prison capacities were reduced so that some accommodation areas can be converted to activity rooms. In this respect the Defender can do nothing more than appeal for a solution to the capacity problems in the Czech Prison Service as a whole, which he has done several times already.

³⁹ Cf. points 47 and 48 of the 2nd report on CPT activities from 1991. According to this report, the regimen of time spent outside the cell should be more favourable to defendants than the regimen described above.

43. In relation to the need to fill defendants' time spent in custody in a meaningful way, it should be noted that (at the time of the visits) only 4 inmates were employed within the prison. The Defender is aware that prisons only have limited opportunity to offer inmates work and recommends that prisons which are unable to offer inmates work should provide them with a sufficiently varied range of leisure activities.

In the absence of work opportunities for inmates it is recommended that prisons offer defendants as wide a range of leisure-time activities as possible.

44. All of the prisons visited have a library. In some prisons there is no chance to browse the book collection, however; defendants must consider themselves lucky if they are offered a book by the librarian (an employed convict). This practice is in contravention of the provisions of § 52 Paragraph 1 CRP, which state that prisons must allow inmates to choose books. If the defendant is physically unable to visit the library, he must be given a list of books to choose from.

It is recommended that prisons make a list of their book collections to allow inmates to choose books.

Canteens

45.

Point 31.5 EPR states that inmates (who comply with the requirements concerning hygiene, order, safety and security) must have the opportunity to buy or otherwise acquire goods, including food and drinks, for their own personal consumption at prices which are not substantially higher than the prices in the outside world.

According to the provisions of § 16 ECA at least once a week defendants have the right to buy food and personal items from a guaranteed selection of goods as specified by the prison's internal regulations. In all the prisons visited there are canteens where inmates purchase food and drink. According to the provisions of § 31 Paragraph 2 of the Imprisonment Regulations, the prices of goods in the prison shop may not be higher than the prices in equivalent shops in the area around the prison.

The prices of goods in prison canteens are reasonable, although there are signs of attempts to occasionally put prices up in comparison to local standard prices. Price lists should state the price of all goods available, including electrical appliances and backup power supplies, which was not the case in some prisons.

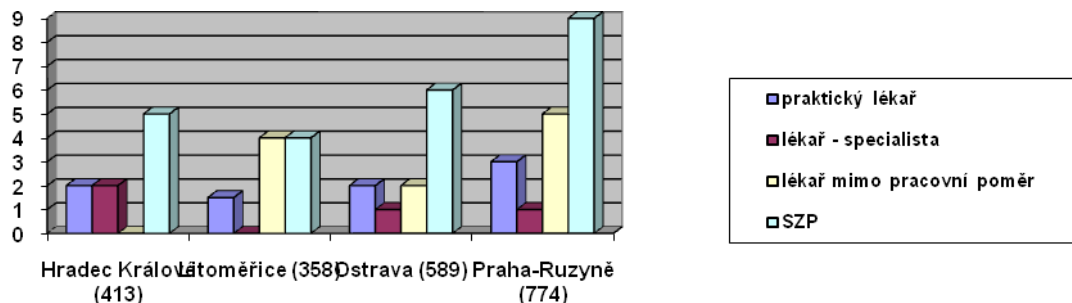
As the differences between prices in prison canteens and standard prices is often the cause of individual complaints by defendants or their friends and families, the Defender asked the Ministry of Finance to look into the matter.

d) Medical care

46.

In accordance with the provisions of § 18 ECA each defendant has the right to medical care to the extent and under the conditions specified by the provisions of § 9 Paragraph 2 of Law No. 20/1966 Coll., the Public Health Act, as subsequently amended, taking account of the restrictions arising out of the reason for custody. The appropriate provisions of the Public Health Act deprive defendants of the chance to choose their own doctor, clinical psychologist and medical facility; defendants' other rights are retained. In the internal regulations of the Czech Prison Service the provision of medical care is governed by the orders of the Justice Minister and the orders of the General Director of the Czech Prison Service.

The prisons have set up medical centres where doctors and medical staff who are full-time employees of the prison work; full-time prison employees generally include a general practitioner and a dentist. An overview of medical staff in the remand prisons visited is given in the following graph:



- General practitioner
- Doctor – specialist
- Doctor not on a contract
- Nursing staff SZP = střední zdravotnický pracovník?

Note: To facilitate comparison, the names of the prisons are followed by the entire prison capacity, as the medical centre provides medical care both to defendants and convicts. The number of individual staff members is given as whole full-time positions, not as the actual number of staff.

There is great demand for medical care. Considering the fact that remand prisons also house convicted inmates serving a prison term, doctors have to carry out preventive initial medical examinations not only for defendants (the provisions of § 18 Paragraph 4 ECA), but also for convicts (the provisions of § 28 Paragraph 2 c/ of Law No. 169/1999 Coll., on imprisonment, as subsequently amended), while providing routine medical care.⁴⁰

Medical staff in prisons

47. Specialist prison staff often include a dentist; external specialists that regularly visit prisons include a neurologist, psychiatrist, gynaecologist, dermatovenerologist, or internal medicine specialist. Where this kind of specialised medical care is not provided, there is the need to escort prisoners to external civilian medical facilities.

⁴⁰ According to the doctors, the initial examination of inmates can take approximately 40 minutes, which, in the case of remand prisons receiving as many as 30 new inmates a day and given staffing levels, is unfeasible.

RP Ostrava has an advantage over other prisons in that at night, at weekends, and on public holidays it operates an emergency medical service, so in this respect it is self-sufficient as regards the provision of acute medical care; defendants can be treated immediately at any hour of the day. Some prisons are attended by non-medical staff (e.g. radiologists, dental nurses, staff to apply methadone, etc.).

The management of all the prisons claimed it was difficult to fill doctors' positions; at the time of the visits not all the doctors' posts were fully occupied in RP Litoměřice and RP Ostrava. In RP Litoměřice this has long been a problem, as only one of the full-time medical positions is occupied: one way of illustrating the situation would be to say that in the 10 months prior to the visit the second vacancy had been rejected by 13 doctors who had been addressed directly about the position. According to the information available to the Defender the lack of general practitioners is also a problem in other prisons not included in the visits. The lacking medical care is contracted (tendered) out to externs. The problem can be expected to get worse as the older doctors currently working in prisons go into retirement.

48. While in prison each defendant is, in accordance with the provisions of § 18 ECA, obliged to undergo preventive initial, periodic and final (or special) medical examinations to the extent specified by the doctor, including any necessary diagnostic and laboratory examinations and vaccinations, as well as preventive measures stipulated by public health bodies. If a defendant's condition requires medical care which cannot be provided in the prison, this care must be provided in a medical facility outside the prison. The guard duty for the defendant in such cases is provided by the nearest prison. In practical terms, the lack of doctors means that prisons are unable to ensure that when admitted to prison defendants undergo a preventive initial medical examination on the day they are admitted (e.g. at the weekend), and it is necessary to wait until the doctor comes to the prison. This initial medical examination forms the basis for subsequent regimen-based measures, e.g. registration of the defendant, but especially serves to discover any potential infectious illnesses (tuberculosis, hepatitis, venereal disease, etc.). This fact was also criticised by CPT under point 90 of the report on the visit in April 2002 to Plzeň Prison.⁴¹

It is recommended that prisons ensure that people taken into custody are given a preventive inspection by a doctor on the same day they are admitted.

Consideration for decency and privacy

49.

Article 10 Paragraph 1 of the Convention on Biomedicine⁴² states that *everyone* has the right to privacy in relation to information about their health. In accordance with the provisions of § 55 Paragraph 2 d) of Law No. 20/1966 Coll., the Public Health Act, as subsequently amended, medical staff are obliged to maintain confidentiality concerning information they discover in the course of their work, with the exception of cases where such information is passed on with the consent of the person in

⁴¹ Compare: CPT/Inf (2004) 4, point 90.

⁴² Ministry of Foreign Affairs Memo No. 96/2001 Coll. m. s, on the adoption of the Convention on the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Biomedicine; the Defender drew attention to this matter in point 52 of the Report on Prison Visits, available at www.ochrance.cz.

question. In accordance with the provisions of § 15 Paragraph 3 of Order of the Minister of Justice No. 4/2008 on the provision of medical care to persons in custody and serving prison terms, or in accordance with the provisions of § 130 Paragraph 2 h) of General Directorial Regulation No. 11/2006 on prison and judicial guards, an officer of the Czech Prison Service may be present when medical care is provided in order to safeguard the medical staff at the doctor's or nurse's request; in such cases the principles regarding the protection of sensitive personal data must be observed.

In three of the prisons visited an officer of the Czech Prison Service was present during most medical examinations, and this was generally taken for granted by all concerned. The reason that a prison officer is present is that there are fears for the safety of the medical staff. This practice is in contravention on the generally binding laws as well as with the internal regulations of the Czech Prison Service. The practice of always having an officer of the Czech Prison Service present during examinations without prior assessment of the risk posed by a specific inmate was also criticised by CPT in its reports.⁴³

The appropriate provisions on custody do not currently specify any rule corresponding to this in the provisions of § 23 Paragraph 2 of Ministry of Justice Directive No. 345/1999 Coll., which issues imprisonment regulations, according to which medical examinations of inmates must be performed out of hearing range and, unless the doctor decides otherwise, out of sight of prison service staff. However, this does not change the fact that this practice is unlawful with regard to the generally binding laws. An amendment to CRP to include a similar rule would in practice help to protect the rights and interests of both parties, defendants and medical staff. The Defender criticised this practice of an officer of the Czech Prison Service always being present in his summary report on prison visits back in 2006 (see point 52 of the Report on Prison Visits) and recommended, for example, that surgery doors be fitted with a glazed peephole; the Czech Prison Service promised to comply with this and make the necessary changes.

It is recommended that prisons take steps to ensure the protection of sensitive information relating to defendants (i.e. fit doors with peepholes) and inform doctors that an officer of the Czech Prison Service may remain within sight (at his request) but not within hearing range. Considering that the Czech Prison Service promised to fit doors with peepholes or take steps to resolve this problem back in 2006, the Defender feels obliged to urge the service to rectify the situation by the end of 2010.

Mandatory healthcare fees

50. According to the constant jurisprudence of the European Court of Human Rights, the state has a particularly positive obligation to protect the health of persons deprived of their liberty, an obligation which also includes the provision of reasonable medical care.⁴⁴ A number of complaints concerning medical care were heard from

⁴³ Most recently, for example, in point 51 of the Report on CPT Visits in the Czech Republic in 2008, CPT/Inf (2009) 8.

⁴⁴ Cf. *Hurtado v. Switzerland* dated 8 June 1993, §79; *Keenan v. United Kingdom*, Ruling No. 27229/95 dated 3 April 2001, § 111. Reasonable according to the European Court does not mean that care provided in prison hospitals must always be of the same standard as at the best hospitals outside the prison; nevertheless, the state must ensure that the health and physical and mental well-being of the detainee is adequately provided for,

defendants, most recently especially in relation to mandatory healthcare fees payable in accordance with the provisions of § 16a of Law No. 48/1997 Coll., of the Public Health Insurance Act, as subsequently amended (hereafter simply PHIA).

According to this provision, each insurance policy holder receiving medical care, with the exception of policy holders specified by law, is obliged to pay the medical facility a mandatory healthcare fee of 30 CZK. Exemption from the obligation to pay mandatory healthcare fees is granted by, amongst others, the provisions of § 16 Paragraph 2 a) of the law, to policy holders in children's homes or in institutional school care facilities or protective care facilities; in accordance with the provisions of § 16 Paragraph 2 b) this fee is not charged in cases of court-ordered protective treatment or when a policy holder is, for reasons stipulated by a special law, placed without his or her consent into institutional care, if the court approves that the policy holder is taken into and held in institutional care or when in security detention, and in accordance with the provisions of § 16 Paragraph 2 d) this fee is not charged if the policy holder can present a ruling, notification or confirmation no older than 30 days issued by a material need assistance body relating to a benefit provided in accordance with a special law.

The Defender familiarised himself with how comments made as part of interdepartmental comments procedures on the amendment to PHIA had been dealt with and found that the Ministry of Justice had requested that an exemption from the obligation to pay mandatory healthcare fees be incorporated into the provisions of § 16 Paragraph 2 PHIA for people in custody and serving prison terms.⁴⁵ This suggestion was rejected, as increasing the number of groups of insurance policy holders exempt from the duty to pay mandatory healthcare fees was not in line with the Ministry of Health's plans.

The Defender does not intend to use this as a platform to argue about whether or not people in custody or serving prison terms should be obliged to pay mandatory healthcare fees. This is a political decision and one which is still open. Based on his visits and also on his findings from investigating individual complaints, however, the Defender sees it as appropriate to look at certain factors which are worth considering in relation to mandatory healthcare fees.

In the case of defendants in custody, or people suspected of committing a crime yet not found guilty or convicted, there is a paradoxical situation as regards the payment of mandatory healthcare fees. Leaving aside people with savings, either from their own earnings or gifts from relatives, then defendants with no income cannot take advantage of the exemption from the duty to pay mandatory healthcare fees in accordance with the provisions of § 16 Paragraph 2 d) as people in material

amongst others, by the provision of the requisite medical care. Cf. *Khudobin v. Russia*, Ruling No. 59696/00 dated 26 October 2006, § 93.

⁴⁵ Specifically it requested that the draft be amended to include new points d) and e) in the following wording:

"d) in the case of a defendant or convict who has not been assigned work and who, during the course of the calendar month, has not received any income or other cash (with reference to the provisions of § 35 Paragraph 2 a) of Law No. 169/1999 Coll., on imprisonment),

e) in the case of a defendant or convict who receives medical care provided by the Prison Service of the Czech Republic".

In the comments procedure a request was also made to exempt defendants and convicts from the duty to pay mandatory healthcare fees by the government envoy for human rights, Ing. Jan Litomiský.

need, as Law No. 111/2006 Coll., on material need assistance, states that defendants are not considered to be people in material need.⁴⁶ Also, defendants in custody cannot work (while at liberty they would be able to work to earn money to pay the fee), as for practical reasons work inside the prison is assigned to convicts, and there is no other work available.

Convicts are better off than defendants in this respect, as those who have not been assigned work, have not refused work for no good reason, and have not received any income or other cash exceeding 100 CZK in the course of one calendar month are provided with social pocket money. The length of time that a defendant spends in custody, which ends either with the defendant being discharged or sentenced to a prison term, where the situation can then be resolved and, in the case of a prison term, is, paradoxically, better, depends entirely on state bodies – i.e. bodies involved in criminal proceedings. Another group exempt from mandatory healthcare fees are minors (or adults under the age of 19) who have been ordered into protective care, which is a protective measure imposed on convicted juveniles in accordance with Law No. 231/2003 Coll., on juvenile criminal matters, while minors in custody are not exempt from the duty to pay mandatory healthcare fees.

It can also be said that not only from the legal viewpoint, which is crucial, but also from the factual viewpoint, which merely intensifies the shortcomings of the former, mandatory healthcare fees can prevent some defendants from gaining access to care which is not actually life-saving but which could *maintain* or *improve* the defendant's medical condition.

Medical care provided to foreigners

51. Special attention should be given to the provision of medical care to members of foreign states, as the existing law says nothing about the provision of care to foreign defendants. In the case of foreigners serving prison terms the provisions of § 79 of the Execution of Imprisonment Act state that medical care provided to a defendant who is not an insurance policy holder as defined by the Health Insurance Act is to be paid for by the Czech Prison Service. When editing this report the Defender found that the Ministry of Justice had acted on his suggestion that an amendment be made to the law amending Law No. 326/1999 Coll., on the residency of foreigners in the Czech Republic, and on the amendment to certain laws, as subsequently amended, Law No. 325/1999 Coll., on asylum and on the amendment to Law No. 283/1991 Coll., on the Police of the Czech Republic, as subsequently amended, and other related laws, according to which the provisions of § 176 of Law No. 326/1999 Coll., on the residency of foreigners in the Czech Republic, as subsequently amended should be supplemented with the clause: "Medical care for foreigners in security detention, custody or serving a prison term must be provided to the extent specified in the provisions of § 176 Paragraph 1⁴⁷ and in the provisions of

⁴⁶ § 3 Paragraph 1 f) of Law No. 111/2006 Coll., on assistance in material need

⁴⁷ § 176, Medical care for the duration of detention of foreigners:

(1) Foreigners in denetion must be provided with medical care

a) immediately to treat conditions which

1. pose an immediate life-threatening risk,
2. could intensify pathological changes resulting, in sudden death,
3. cause pathological changes if urgent medical attention is not provided,
4. cause sudden suffering and pain,
5. cause changes in the person's behaviour or endanger the person or those around him, or
6. are related to pregnancy and childbirth, with the exception of abortions at the request of a foreigner,

§ 134 Paragraph 2. The costs of the medical care provided in accordance with the first sentence which is not paid for in accordance with other laws or international treaties must be paid for by the state. Medical care provided to a foreigner upon that person's request outside the framework as defined in the first sentence must be paid for from the foreigner's own funds."

The Defender supports this proposal to resolve the situation.

Fitness to undergo disciplinary punishments

52.

In accordance with the provisions of § 63 Paragraph 3 CRP, before entering solitary confinement as a disciplinary punishment the defendant must be examined by a doctor to determine whether the defendant is medically fit to undergo this disciplinary punishment, and must also be examined by a doctor at least once a week during the course of this disciplinary punishment.

Point 42.3 EPR states that defendants in solitary confinement must be visited by a doctor, or at least by a medical worker, once a day.

In some cases, however, it was found that the doctor did not see inmates before they were placed in solitary confinement and the consent of the doctor is purely on the basis of the defendant's medical documentation.

It is recommended that prisons abide by CRP and immediately introduce the practice of a doctor actually physically checking each person before they enter solitary confinement as a disciplinary punishment.

e) Communication with the outside world

Visits

53. Prisoners' right to receive visitors is governed by the provisions of § 14 ECA and § 44 -§ 47 CRP. In one case it was found that a remand prison failed to respect the provisions of § 14 Paragraph 5 ECA, which states that in justified cases the prison governor may decide that for security reasons the visit must take place in a room where the visitor is separated from the defendant by a partition. In the case of defendants in collusive custody the remand prison adopted a system of non-contact visits for all defendants, regardless of their conduction on previous visits, i.e. no justifiable reason was given for these measures. The remand prison has since rectified the situation.

It is recommended that prisons only insist on non-contact visits in cases where such a measure has been deemed justifiable on the basis of the defendant's previous conduct.

54. Two examples of good practice as regards visits are the prisons in Hradec Králové and Ostrava, where if a visit has to be cancelled although through no fault of the visitor (due to bad weather, transport problems, etc.) and the prison is informed of the fact, the visit may be scheduled for a different time.

Correspondence

b) in connection with quarantine or other measures relating to the protection of public health.

(2) The cost of medical care provided in accordance with Paragraph 1 or in accordance with the provisions of § 134 Paragraph 2 are to be paid by the state, even if the person is no longer in detention.

55. Prisoners receive and send correspondence at their own expense without restriction. According to the provisions of § 13 Paragraph 2 ECA, in the case of collusive custody, the body in charge of proceedings should check the correspondence within 14 days of receipt. However, according to the Czech Prison Service, there is a problem in that such bodies do not always abide by this deadline. **It is recommended that prisons check to ensure compliance with the legal deadline for the checking of correspondence and the superior body of the body charged with checking the correspondence should be notified of any failure to comply.**

Telephone calls

56.

The provisions of § 13a Paragraph 1 ECA state that in legitimate cases defendants who are not in collusive custody should be allowed to use the telephone to contact someone close to them.

The practice varies from prison to prison and the legitimacy of requests to use the telephone is assessed differently everywhere; sometimes prisons are very restrictive, when they only allow telephone calls for serious family matters, such as illness. Considering the fact that the break-off of contacts and ties with close friends and family should be kept to a minimum, not only for the sake of the mental well-being of defendants but also with a view to their future return to civilian life, and that such contacts and ties should in fact be strengthened, it seems appropriate that telephone contact be permitted as much as possible. One example of good practice in this respect was Prague-Ruzyně Remand Prison, where all that was required to use the telephone was an administrative request stating that the defendant wanted to contact a close friend or family member. See also points 57–60 of the Report on Prison Visits from 2006. It is interesting that CPT, in its report on visits to Czech prisons in 2002 refers to the fact that in many European countries prison inmates are guaranteed regular access to the telephone, with no permit system in place. Where there is the risk of collusion, telephone conversations can be monitored.⁴⁸

It is recommended that prisons take “justified cases” to include regular contact with friends and family (obviously while keeping other security measures in place).

57.

The provisions of § 13a Paragraph 2 ECA state that in urgent cases defendants who are not in collusive custody should be allowed to use the telephone to contact someone who is not a close friend or family member.

The internal regulations applying to defendants in all the remand prisons visited class serious reasons for permitting the use of the telephone as requests to speak to a solicitor or lawyer with a view to receiving legal advice in civil law matters. This limits the group of people who are not close friends or family members in a way which is in contravention with the law. The Defender believes that in urgent cases inmates

⁴⁸ Cf. CPT/Inf (2004) 4, point 96

should also be allowed to call other people. In relation to this he also refers to points 57–60 of his Report on Prison Visits from 2006.

It is recommended that prisons do not limit people other than close friends and family to merely lawyers and solicitors; each request to call someone other than a close friend or family member must be considered and assessed on an individual basis.

58. There is a problem as regards telephone rights in cases of defendants who do not speak Czech. Some prisons do not allow inmates who cannot speak Czech to make telephone calls. The Defender criticised a similar practice during his investigations into individual complaints filed by defendants, when he stated that telephone conversations between a defendant (convict) and his or her family constitutes the specific enforcement to one's right to a family life and private life as stipulated by Article 8 of the European Convention.⁴⁹ This right to a family life and private life may only be restricted if such a restriction is in compliance with the law. The Defender believes that preventing telephone calls in languages other than Czech is not in compliance with the law, as the fact that the convict speaks Romany (or any other foreign language) does not constitute an immanent suspicion that a crime is being plotted (the provisions of § 43a Paragraph 3 CRP). Moreover, preventing a person who speaks Romany other foreign language from making a telephone call constitutes unlawful inequality (i.e. discrimination) in comparison with inmates who speak Czech, specifically on the basis of Article 3 Paragraph 1⁵⁰ (ban on discrimination), together with Article 7 and Article 14⁵¹ CFRBF, and Article 8 of the European Convention. Such actions or negligence can be classed as discrimination if one person is treated less favourably than another person in a comparable situation based on a reason which is prohibited by law and also where there is no legitimate purpose to such action or when such action is enforced by unreasonable means. Discrimination must also involve at least an element of intrusion on the person's dignity which the person in question considers degrading. In the case of convicts who speak Romany, the grounds for this unlawful discrimination would be their language and, hence, their ethnic origin.

It is recommended that prisons instruct the appropriate staff that the mere use of a foreign language cannot constitute grounds for not permitting (interrupting) a telephone call.

⁴⁹ Declared in the Czech Republic as Federal Ministry of Foreign Affairs Memo No. 209/1992 Coll., The Right to Respect for Family Life and Private Life; 1. Every person has the right to respect for their family life and private life, place of residence and correspondence. 2. State bodies may not interfere with this right, with the exception of cases where such interference is in compliance with the law and essential in a democratic society in the interests of national security, public safety, the country's economic prosperity, to prevent crime and unrest, to protect public health or morals, or to protect the rights and freedoms of others.

⁵⁰ Article 3 Paragraph 1: All people are guaranteed the basic rights and freedoms, regardless of sex, race, skin colour, language, faith and religion, political or other views, national or social origin, membership of a national or ethnic minority, property, family, or other status.

⁵¹ Article 14: Ban on Discrimination – The exercising of the rights and freedoms recognised by this Convention must be assured without discrimination on any grounds, such as sex, race, skin colour, language, faith and religion, political or other views, national or social origin, membership of a national or ethnic minority, property, family, or other status.

59. Prisons do not allow defendants to call their lawyer if they do not have the money to buy a telephone card. This can be seen as going against the principles of good administration as the otherwise legitimate practice (that defendants pay for their calls) could result in denial of the right to legal aid (protection) in a specific case. While one cannot argue that if at liberty the person would have to pay for the call anyway, as in person he could visit his lawyer in person or seek other forms of (legal) aid. By depriving a person of his personal freedom the state is taking on certain obligations, including ensuring that the person in custody is not deprived of any of his rights (the right to legal aid in accordance with Article 37 Paragraph 2 and Article 40 Paragraph 3 CFRBF), providing that person with a certain minimal standard of security (this does not just apply to food and clothing, but also undoubtedly the exercising of one's rights) and ensuring that other rights are not unreasonably restricted. Article 40 Paragraph 3 of the Charter explicitly states that "the defendant has the right to be given time and opportunity to prepare a defence and to defend himself (...) through a barrister". This "opportunity" clearly includes a material and technical dimension, i.e. the opportunity to contact a lawyer and discuss the preparation of a defence with him, etc. A defendant cannot be deprived of the right to legal aid on the grounds of lack of money to make a call; therefore, it is recommended that defendants who have no money at all be allowed to make at least the first telephone call to their lawyer free of charge.

It is recommended that the General Directorate of the Czech Prison Service issue a methodical measures to enable defendants who demonstrably have no money to exercise their right to legal aid by allowing them to contact their solicitor or lawyer by telephone at the expense of the prison; this should be implemented by the end of July 2010.

f) Internal security

Disciplinary offences

60.

The handling of disciplinary offences by defendants is covered by section IV. ECA, section V. CRP and section V. of methodical order No. 28/2007 on the principles covering the compilation and issue of prison internal regulations.

During interviews with staff and defendants and study of the documentation no excesses were found, i.e. the excessive or unreasonable imposition of disciplinary punishments or the imposition of multiple punishments for a single offence (respecting the principles of *ne bis in idem*), etc. Where disciplinary punishments were imposed, there was in fact an effort to first apply more moderate punishments, i.e. a verbal rebuke, reprimand or a ban on making purchases; prisons generally imposed more severe disciplinary punishments, such as solitary confinement, only in exceptional cases and after repeated violation of prison rules, which is in accordance with the principles stipulating an individual approach and the grading of sanctions.

Violence amongst defendants

61.

According to the provisions of § 61 CRP defendants in custody have the right to protection against unlawful violence, all forms of debasement of human dignity,

insults and threats. Prisons must act in accordance with their internal regulations⁵² so as to detect and avoid violence amongst inmates.

Once every 7 days certain groups of defendants (defendants marked out and listed as possible victims of violence, those with low body weight and those with low IQ) are subject to a visual body check, generally when washing, in order to determine whether they show any evident signs of physical violence. In exceptional cases the supervisor carries out a visual check in a special, appropriately equipped room. It was not found that during this visual check the dignity of defendants was not respected or that there was any physical contact or verbal exchange between defendants and supervisors that could justifiably be considered degrading. At least once a month these groups of defendants are given a preventive medical examination to check for potential traces of violence.

62. The trend as regards violence amongst inmates or violence towards prison staff remains unchanged, or has fallen in some prisons (an average of one to several cases in each prison per month). No specific cases of violence by staff towards inmates were found, although from the testimony of inmates, certain signs or the more or less frank testimony of certain employees and managerial staff one can justifiably assume that this does occasionally happen, particularly in places that are not under effective camera surveillance. These, however, are only individual cases, and in all the cases in question the management and prevention and complaints departments were informed of suspicious behaviour on the part of the staff members. In two prisons (RP Hradec Králové and Ostrava) it was found that employees with aggressive tendencies had been sacked.

Inspections of cells and personal inspections

63.

The provisions of § 21 Paragraph 3 ECA state that prisoners are obliged to undergo a personal inspection when being admitted to prison, transferred outside the prison, or when there is the suspicion that a prisoner is carrying something which is banned within the prison. The provisions of § 7 Paragraph 2 CRP state that the personal inspection, as well as the guard duty during the inspection, must be carried out by a person of the same sex. According to the provisions of § 46 Paragraph 3 CRP a staff member is, for security reasons, authorised to give defendants a personal inspection prior to or after a visit, including visits by solicitors or lawyers representing the defendant in another matter (§ 14 Paragraphs 8 and 9 ECA). Inspections, whether partial, technical or personal or inspections of items of baggage, are covered by General Directorial Regulation No. 11/2006. Technical inspections of cells are performed by the appropriate prison guards together with a supervisor without the prisoner present; the property and belongings of the prisoner must be treated with respect.

When the personal lockers of defendants are inspected, one of the occupants is always present in the cell. The routine is that first of all a technical inspection is performed, followed by an inspection of the personal lockers. There were isolated

⁵² General Directorial Regulation No. 82/2006 on the detection and avoidance of violence amongst defendants and convicts

claims by defendants that during the technical inspections the defendants' personal belongings were damaged or destroyed; however, this could not be adequately verified as no formal complaint had been filed by the defendant who was present when the lockers were inspected. This inspection is performed immediately after the technical inspection and the defendant in question must have been able to see whether the defendant's belongings had been damaged or destroyed.

64. As regards thorough personal inspections, it should be mentioned that in one remand prison the facilities in room in which personal examinations are carried out does not comply with the requirements of the provisions of § 140 Paragraph 2 of General Directorial Regulation No. 11/2006 and that the room was not carpeted. The prison has since arranged to have this rectified.

As was found in prisons back in 2006⁵³, in one remand prison the Defender found that when defendants are stripped naked for thorough personal inspections, this does not show respect for human dignity, as these inspections are carried out in a group. This is inadmissible. During thorough personal inspections defendants must not be exposed to the view of other defendants. An example of good practice was seen in prisons which had resolved this by using screens (cubicles).

It is recommended that the General Directorate of the Czech Prison Service amend General Directorial Regulation No. 11/2006 to include provisions covering the need to assure protection of defendants' (and convicts') privacy and dignity during thorough personal inspections and to ensure that these inspections are not carried out in groups or, where others are present, defendants should be separated by screens, cubicles, etc.; this is to be implemented by the end of July 2010.

Means of coercion

65.

According to point 68 EPR the means by which restraints⁵⁴ are used are defined in the national legislation. The use of chains and shackles is prohibited. Restraints cannot be used for longer than absolutely necessary. Handcuffs, straitjackets and other similar physical restraints must not be used except in the following circumstances: either in unavoidable cases as a means of preventing escape during transport, provided that they are removed when the inmate appears before the court or an administrative body, unless such a body should rule otherwise, or upon the order of the governor, if other measures to manage the inmate have failed, to ensure that the inmate cannot harm himself or other inmates or cause serious damage to property; in such cases the governor must immediately inform a doctor and submit a report on the matter to the prison's superior body.

The most commonly used means of coercion are handcuffs, touching and grasping. It was found that handcuffs are not generally placed on defendants inside the prison. Inmates are, however, handcuffed when they leave the prison, and it very often occurs that a restraining collar, known as the "bear", is also placed on defendants, who meet certain, though not wholly transparent, criteria. The decision as to whether

⁵³ Report on Visits to Prisons 2006, point 84

⁵⁴ This term is understood to include several types of coercive equipment as specified by the provisions of § 17 Paragraph 2 PSJG.

to use the restraining collar is regularly left down to the subjective discretion of the head of the escort service, which generally bases his decision on the nature of the crime the person in question has been accused of (in some prisons the decisive factor is whether the law imposes a sentence of more than five years for the crime, while in others the important factor is whether it was a violent crime).

The Defender considers this situation, where a blanket approach is taken with all persons accused of a certain crime on the basis of just one criterion, to be unsound. The decision to use coercive equipment – a restraining collar – when a defendant is being escorted should not just be taken on the basis of the length of the person's sentence or their crime, but also other factors: behaviour in custody, the age or physical and medical condition of the defendant.⁵⁵ The Defender highlighted the need to take an individual approach to the use of coercive equipment or the application of other restrictions in his Summary Report on Prison Visits in 2006.

It is recommended that prisons should base decisions as to whether or not to use coercive equipment on an individual assessment of the security and safety risks posed by each inmate. These risks must be continually reassessed. It is also recommended that handcuffs and restraining collars are put on carefully and in a reasonable manner, not too tightly.

g) Special categories of defendants

Juveniles

66.

The conditions of juvenile custody are covered partly by the provisions of § 25 - § 26a ECA and § 72 - § 75 CRP and by the internal regulations of the Czech Prison Service,⁵⁶; particular matters are dealt with by special laws⁵⁷.

The legal requirements concerning the special treatment of juveniles are generally observed⁵⁸, with the exception of time spent in the open air outside the designated exercise area. There are regular visits by staff of bodies for the social and legal protection of children⁵⁹, although these tend to be mere formalities.

⁵⁵ The staff of the Office of the Public Defender of Rights also came across a case where handcuffs and a restraining collar were used when escorting a 16-year-old juvenile defendant, approximately 150 cm in height and in a very weakened state, purely because he had been accused of theft.

⁵⁶ E.g. Article 31 ML 27/2009, which defines the principles for the preparation and publication of prison internal regulations.

⁵⁷ E.g. Law No. 359/1999 Coll., on the social and legal protection of children, as subsequently amended.

⁵⁸ Juvenile defendants are generally placed in cells in a separate section of the prison. Juveniles have advantages over adults as regards their entitlement to visitors (once a week for ninety minutes), receiving food and other personal packages (up to the weight of 5 kg once every 2 months), time spent outside (can also go outside the designated exercise area and can remain outside for up to two hours), more moderate disciplinary punishments, etc.

⁵⁹ According to the provisions of § 34 of Law No. 359/1999 Coll., on the social and legal protection of children, as subsequently amended, which states that appointed persons must visit children in custody and in prison at least once every three months.

67. The staff of the Office obtained information that difficult-to-manage juveniles are sometimes placed in a cell with adult defendants for “disciplinary” reasons. The provisions of § 26 Paragraph 1 ECA state that juveniles must be placed in cells separate from the other defendants. A juvenile may only be placed in a cell with an adult in exceptional cases if it can justifiably be proven that such a procedure is more beneficial to the juvenile so as to abide by the purpose of custody or to prevent the defendant from being exposed to any moral or other form of risk. The Defender would most of all like to point out that the law only permits a juvenile to be placed in the same cell as an adult in exceptional cases, and not as a form of punishment.

68.

The provisions of § 26 Paragraph 8 ECA stipulate that prisons are obliged to ensure compulsory school attendance for juvenile prisoners. § 26 Paragraph 8 ECA is clarified in greater detail by the methodical instruction of the director of the custody and punishment department of the General Directorate of the Czech Prison Service No. 19/2004.

The systematic visits showed that there are problems as regards prisons’ compliance with the obligation to ensure compulsory school attendance. Officers of the Czech Prison Service said that school staff were unwilling to come to the prison, as there is nothing to state which school should provide lessons; juveniles are most often taught by a local special teacher. Some schools, according to the prison staff, try to get out of this duty. (For example, lessons are actually given by a tutor, who also gives the pupils marks and the school just “confirms” these marks as a formality.) In one case it was found that a number of times in the past a pupil had not been taken to the appropriate school to sit retests, whereupon the pupil’s compulsory school attendance finished in a lower year.

However, there are examples of good practice, such as the cooperation between RP Ostrava and CZŠ Přemysla Pittra (Church Basic School of P. Pittr) in Ostrava-Přívov, which has resulted in very high standards (sadly the exception as compared to other prisons) of compulsory school attendance, with lessons taking place in RP Ostrava and given by teachers from this school. The school allegedly managed to secure the necessary official approval, so as regards the school syllabus the school actually has its own detached site in the prison. Although this cooperation is undoubtedly favoured to a certain extent by the specific local conditions⁶⁰ and is also dependent on the willingness of those involved (the devotion of the teachers together with that of the prison’s special teacher), **this is an exceptionally successful example of good practice in the exercising of public administration on the part of RP Ostrava. It is recommended that other remand prisons set up or begin to set up similar facilities in collaboration with a suitable local school.**

69. Several juveniles had been ordered into institutional care prior to custody. It was not found that the relevant institutions had contacted the juveniles or shown any interest in them. The Defender draws attention to the fact that in many respects these

⁶⁰ CZŠ Přemysla Pittra is a specialised and nationally acclaimed school focusing on the education of pupils from socially and culturally disadvantaged environments.

defendants are at a disadvantage compared to other inmates who have families (visits, replacement clothes, packages, pocket money). The Defender considers that it should be part of good pedagogic practice that the appropriate tutor from the institute or children's home take an interest in their charges, even when they are in custody; not only because the juvenile could soon be released from custody and therefore ties should not be severed, but also from the point of view of upbringing the state should meet its commitments and make at least some attempt to secure foster care for the juvenile in question. There should also be some form of compensation for the aforementioned disadvantages faced by people from institutions or children's homes who have no family (visits, replacement clothes, packages; i.e. as well as pocket money⁶¹).

It is recommended that prisons, for example through a social worker, actively begin to collaborate with school facilities to assure the social rights and justified interests of juvenile defendants.

70. It was generally found that the range of suitable leisure activities was very limited⁶² (see points 23 and 42); however, the Defender cannot condone this, particularly in the case of juveniles, as **this could be one of the main causes of heightened aggression (directed against property and people) which is often witnessed. The Defender therefore urges prisons to actively arrange and provide suitable leisure-time activities with special emphasis on juvenile defendants.**

Women

71.

The basic laws are defined by the provisions of § 27 - § 28 ECA and § 76 - § 78 CRP and in the internal regulations of the Czech Prison Service. The individual legal standards are contained in further provisions of ECA and particularly CRP (e.g. restrictions on disciplinary punishment for pregnant women in the provisions of § 78 CRP, etc.).

Women's specific hygiene requirements were mentioned in point 40 and are generally respected. According to the defendants in some remand prisons, the presence of a female supervisor during medical check-ups (see point 49) was also noted in gynaecological examinations. **In this respect the need for a supervisor to be present seems especially difficult to justify.**

⁶¹ As those coming from institutional care forfeit this legal entitlement in accordance with the provisions of § 31 Paragraph 3 of Law No. 109/2002 Coll.

⁶² If the main and often practically the only leisure-time activity is watching television or films on DVD (often with very violent themes), or if certain juveniles only get the chance to participate in sifferent activities once every two weeks, for example, this is in no way ideal as it can – given the length of criminal proceedings in the Czech Republic – lead to the social deprivation of juvenile inmates.

It was verified that personal checks on women are always carried out by a woman/female supervisor. Defendants stated that these inspections were carried out correctly and in a decent manner.

Foreigners

72.

The legal basis is defined by the provisions of § 27 - § 28 ECA and § 79 - § 80 CRP. There is then a relatively extensive set of laws in internal normative regulations relating to these provisions.

Remand prisons contain foreigners who are awaiting expulsion in expulsion custody. It was not found that foreigners were treated any differently. Foreigners are informed of their right to receive consular visits. However, foreigners in expulsion custody are not always placed in sections with a moderate regime (see point 18). The problems as regards the provision of medical care to foreigners were mentioned in point 51.

IV. Conclusion

73. As is evident from this report, owing to long experience in this field the Defender is aware of the staffing and financial situation of the Prison Service of the Czech Republic, which, he believes, cannot be described as optimal. However, considering his role as a national preventive mechanism working to prevent mistreatment, he cannot overlook or refrain from listing the shortcomings he found, or accept the excuse that these shortcomings are due to lack of funding or staff, or substandard buildings. The Defender is aware that resolving a number of these problems will be no easy matter, and therefore in conclusion he would like to highlight the points he considers as being crucial, fundamental, and a priority. He is also aware that implementing these changes will be a gradual process.

Ministry of Justice

74. The Defender recommends that the Ministry of Justice
- begin negotiations to exempt the Czech Prison Service from its obligation to make annual staffing cuts (point 24) and to inform the Defender of progress with this matter **by July 2010**;
 - actively cooperate with the General Director of the Prison Service and the Ministry of Health to draw up binding standards for lighting in prison facilities (see point 28).

General Directorate of the Czech Prison Service

75. The General Directorate of the Czech Prison Service is **urgently recommended**

- to **immediately** amend General Directorial Regulation No. 7/2003 to stipulate the intervals at which basic hygiene supplies should be issued (see point 40),

- to inform the Defender **by the end of May 2010** about progress with the preparation of lighting standards (see point 28),
- to issue a methodical measure **by the end of July 2010** to treat the right of destitute defendants to legal aid in that the prison will pay for the defendant's first telephone call (see point 59),
- to amend General Directorial Regulation No. 11/2006 **by the end of July 2010** to include the obligation to protect the dignity and privacy of defendants during the course of through personal examinations (see point 64),
- to ensure that **by the end of 2010** at least 30% of prison capacity comprises custody with a more moderate regime.

76. Most of the Defender's recommendations are aimed at remand prisons in the Czech Republic, not just those visited. Primarily they describe optimal situations and practices; therefore, the Defender requests that the General Directorate of the Czech Prison Service inform the governors of all remand prisons or dedicated prisons which also contain custody sections of his conclusions and recommendations.

Remand prisons

77. **Fundamental recommendations** for remand prisons:

- take immediate steps to rebuild and brighten up exercise yards and by the end of 2010 have them partially covered over (see point 30),
- immediately introduce the practice by which defendants are given a physical check-up by a doctor before being placed in solitary confinement (see point 52),
- inform the Defender by the end of July 2010 of their position on the removal of or reassessment of the need to use existing shutters on windows (see point 27),
- take steps to ensure that defendants' sensitive personal information is respected during medical examinations/treatment (see point 49), by the end of 2010.

Other **fundamental recommendations** as regards practices the Defender would like to see in remand prisons:

- to ensure that defendants are given a medical examination on the day they are admitted into prison (see point 48),
- to allow the greatest possible contact between defendants and their friends, family and others, providing that the conditions specified by the law are respected (see points 56 and 57),
- to actively collaborate with a local school to ensure compulsory school attendance on the part of juvenile defendants (see point 68).

Conclusion

78. Considering the fact that certain recommendations (not only fundamental recommendations) relate not just to confinement but also to custody (points 27, 30,

35, 36, 38, 41, 44, 49, 52, 58, 68, 69), the Defender requests that the General Directorate of the Czech Prison Service take suitable steps to inform prison governors of the Defender's recommendations and to take such recommendations into account itself.

79. The Defender would like to thank the prisons he visited for their cooperation and assistance and hopes that this report will be a further step towards constructive cooperation in improving conditions in the Czech Prison Service.

JUDr. Otakar M o t e j l
Public Defender of Rights