

## 28. Croatia

### Legislative framework

A new Criminal Code and a new Criminal Procedural Code came into force in January 1998. One of the most important provisions in this legislation, in terms of its potential effect on the prison system, is the Article in the Criminal Code that extends the maximum prison sentence from 20 years to 40 years. The current Penal Executive Code (known as the Law on the Execution of Sanctions imposed for criminal offences, economic infractions and misdemeanours) dates from 1993 and a new law was due to enter into force on 1 June 2000, but implementation was postponed to 1 July 2001. This law, a draft of which was approved with only minimal exceptions by Council of Europe experts (Kühne and Baechthold, 1998), is reported to be fully in accordance with the European Prison Rules. It introduces the function of the 'Executing Judge' (i.e. judge supervising the way in which sentences of imprisonment are carried out), who is required to protect the rights of prisoners, supervise the legality of the imprisonment and ensure non-discrimination and equality of prisoners before the law. The duties of this official also include the suspension of sentences, authorising conditional release and taking decisions about post-release assistance measures. This is a crucial role for which training will be essential; the Council of Europe's Directorate of Legal Affairs has done some preliminary work in this area.

### Organisational structure

Since 1965 the prison system has been the responsibility of the Ministry of Justice, Administration and Local Government. The head of the prison administration, which is known as the Administration for the Execution of Sanctions, is Mr Josip Begović, a lawyer with a postgraduate degree in penology who formerly held a post in the Ministry of Internal Affairs. He was appointed Director General in May 2001. The Director General reports directly to the Minister of Justice. Previous heads of prison administration since Croatian independence in 1991 include Mr Ivica Šimac (until 1995) and Dr Vjekoslav Jazbec (1999 to January 2001). The senior management team also includes the Director of Legal Affairs and General Administration (Ms Marija Josipović), the Director of Treatment (Ms Vesna Babić) and the Director of Security (Mr Neven Putar). A total of 29 staff are employed in the prison administration headquarters.

There are 23 penal institutions with a total capacity of 3,415 at the beginning of 2001. Fourteen are district prisons (*okružni zatvori*), sometimes known as county prisons, for pre-trial detainees and prisoners sentenced to six months or less, six are penitentiary institutions (*kazneni zavodi*) for prisoners serving more than six months, two are institutions for the reeducation of minors and young adults aged 14-23 (*odgojni zavodi*), and there is a national prison hospital. The largest institutions are the high-security penitentiary institution at Lepoglava with

a capacity of 600 and the district prison at Zagreb (500); all others have capacities of under 300. Of the six penitentiary institutions, two are classified as high-security/closed (Lepoglava and Glina), one as semi-open and two as open; the other is a prison for minors, young adults and women (Požega). The oldest institution is Lepoglava which was established in 1854.

## Pre-trial detention

The rules governing pre-trial detention (remand imprisonment) are set out in the new Code of Criminal Procedure (see CPT, 2001/4 para 48) and regulations concerning their implementation ('House Rules') have been applied since December 1999. Although the criminal investigation must be completed within six months, the maximum possible length of pre-trial detention for a very serious offence is 2½ years, with a further six months being possible if authorised by the Supreme Court.

The level of pre-trial detention in Croatia is low. At the beginning of 2001 the number of pre-trial detainees in the prison system corresponded to only 18.7 per 100,000 of the general population of the country. This is one of the lowest rates in the region, similar only to those in other former republics of Yugoslavia.

A suspect may be held by the police for only 48 hours, after which any further detention must take place in a penal institution. The pre-trial process is under the jurisdiction of a court, which must decide whether to approve any activity in which a detainee wishes to be involved. It seems that this contributes to the very limited regime that is available for pre-trial detainees who, as reported by the CPT, are generally offered no work, no education and, with rare exceptions, no sporting activities (CPT, 2001/4). At Zagreb prison in March 2001 some work was available for pre-trial detainees but most were spending 22 hours a day in their cells. The investigating judge may authorise a detainee to have a television in his cell but it seems that this rarely occurs. The Ministry of Justice has undertaken to propose an amendment to the Criminal Procedural Code to reduce the authority of the court in respect of regimes for pre-trial detainees. However, the limitations are recognised to be partly a consequence of inadequate financial resources (CPT, 2001/5). Unlike sentenced prisoners, pre-trial detainees do not have the right of access to the Ombudsman.

## The numbers held in penal institutions

The prison population in Croatia rose by 14% in the seven years to the beginning of 2001, from 2,301 (a prison population rate of 48 per 100,000 of the national population) to 2,623 (or 60 per 100,000). The prison population rate fluctuated between 44 and 56 before rising beyond this in the year 2000. At the end of 2001 the numbers had fallen slightly to 2,584 (59 per 100,000), of whom 31.7% were pre-trial detainees, 4.1% were females and 2.1% were juveniles (under 18). 11.8% of the sentenced prisoners were not Croats.

The crime rate is said to be unchanged but there is concern at the rise in drug-related offences and organised crime. Public opinion is in favour of tougher sanctions.

Croatia's prison population rate of 59 at the end of 2001 is similar to that in its neighbours to the west and south, Slovenia and Bosnia and Herzegovina, but much lower than in Hungary to the north.

### Accommodation, overcrowding and living conditions

The number in the penal institutions at the beginning of 2001 was 77% of the total capacity. This is one of the lowest levels of occupancy in central and eastern Europe. However, four of the 23 institutions were over capacity: the district prisons at Bjelovar (105% occupancy), Karlovac (114% occupancy) and Split (109%), and the maximum security institution at Lepoglava (113%).

As elsewhere in central and eastern Europe, few prisoners are accommodated alone in single cells. However, steps are being taken to ensure that single cells are available, at least for those who need to be kept separate from others for their own protection or because they are seen as a threat to the good order of the institution or, in the case of pre-trial detainees, to the interests of justice. In Zagreb prison, which was opened in 1987, most cells are for three or four prisoners but about 60 (six in each of the ten accommodation sections) are for one. The largest number of prisoners accommodated in one room in the Croatian system is said to be twelve at Požega.

The official minimum space specification per prisoner is currently 4m<sup>2</sup> or 10m<sup>3</sup>, having been increased in 1997 from 3m<sup>2</sup> or 8m<sup>3</sup>. However, the stated capacities of the prisons are still based on the former specification and there is no strategy in place to amend them. The prison administration states that its aspiration is to have at least 8m<sup>2</sup> per prisoner throughout the system, which is the amount specified in the new law on the execution of prison sentences, which came into force on 1 July 2001 (Article 74). If the capacity level of each institution were reduced in line with the official minimum space specification of 4m<sup>2</sup>, national capacity would fall by approximately 25%; eight of the 23 institutions would be over capacity and the four that are overcrowded according to current capacity figures (based on 3m<sup>2</sup>) would be about 50% overcrowded. Certainly a number of cells visited in Lepoglava prison in March 2001 were accommodating more prisoners than was desirable. Double-bunked rooms for two and four and a triple-bunked room for three gave inadequate space per prisoner when all beds were occupied.

The CPT recommended that there should be more than 4m<sup>2</sup> per prisoner in cells that did not contain sanitary annexes, and more than 5m<sup>2</sup> in cells with such annexes. They also drew attention to the need to remove the metal window screens in Zagreb prison that were restricting light and ventilation. These were intended to prevent contacts during exercise periods between prisoners subject to restrictions on the grounds of a risk of collusion (CPT, 2001/4). The Croatian authorities accepted the need to replace the metal screens but stated that the work could only be carried out when funding became available (CPT, 2001/5). On a visit to Zagreb prison in March 2001 it was noted that prisoners had an increased amount of natural light because, as was explained, the screen had been removed in response to the CPT recommendation. It was reported that screens had been re-

moved from windows in all pre-trial prisons, but in one case (Rijeka prison, where the windows overlooked the street) an opaque barrier had been placed at a distance outside the windows.

The European Prison Rules (Rule 11) state that in principle males and females shall be detained separately and untried prisoners shall be detained separately from convicted prisoners. This appears to be achieved in the Croatian prison system. Rule 11.4 states that “young prisoners shall be detained under conditions which as far as possible protect them from harmful influences”. This is normally taken to include that they shall be accommodated separately from adults. Indeed the CPT, in paragraph 96 of its report on the Croatian prison system, made exactly such a recommendation. However, in Turopolje educational institution (for young offenders aged 14-21) the young offenders are divided into groups (fourteen to sixteen in each) that do not differentiate by age, with the result that 21 year olds and 14 year olds are in the same group and are not separated. It was said that the nature of the buildings does not allow for separation.

Hygienic conditions seemed to be good. The CPT drew attention to the need to ensure that sanitary annexes were properly partitioned to enable prisoners sharing cells to be accorded privacy when complying with the needs of nature. In the Croatian government response the authorities reported that in most prisons the sanitary facilities are separated from the rest of the room and that there were plans to do this elsewhere once the funds were available.

It was also stated that, in accordance with Rule 24, every prisoner has a separate bed, except that in Bjelovar prison, where there are insufficient beds, there are separate mattresses for those without beds. There are in general no restrictions on how prisoners wear their hair, but “beards, moustaches and long hair can be exceptionally prohibited for reasons of security or health” (Article 76 of the new law on the execution of prison sentences). Pre-trial prisoners wear their own clothes in Croatian prisons.

## Food

The quality and quantity of food are reported to be better than is provided in communal catering outside. Certainly the food in the five prisons visited in March 2001 seemed good or very good. The prison administration stated that the kitchens in Glina, Lipovica and Zagreb were particularly good. In Lipovica, for example, there was modern equipment and those working receive four meals per day. The menu showed that prisoners receive about 3,400 calories on Saturdays and Sundays and about 4,000 calories during the rest of the week. Special diets are also provided. The cooks are employees who are assisted by prisoners. Likewise in Zagreb various menus are provided: a standard menu, a diabetic menu (for twelve prisoners on the day that the prison was visited), a vegetarian menu (five prisoners), and it was reported that a total of 96 non-standard menus were provided. Pre-trial detainees can order food to be brought in from outside the prison. The menus are selected by the chef, the doctor and the director of the prison. The practice at Zagreb prison is 3,000 calories per day with an extra

meal for workers, including those involved only in light work. The national standard specifies at least three meals daily, comprising at least 3,000 calories per day. The composition and nutritional value of food must be supervised by a doctor or another medical expert (Article 78). It is reported that the prison administration does not have any difficulty in providing an appropriate, balanced diet.

## Medical services

Medical services in the Croatian prison system are also reported to be better than in the community outside, both in terms of quality and speed of delivery. Doctors and drugs are more readily available. It is of course the duty of the state, in depriving citizens of liberty, to ensure that their health is properly protected, whatever the standard of medical services in the community generally. The Ministry of Health has an overall supervisory role in respect of prison medical services. The standards of medical care that are specified for the whole population are applied also in the prisons. The most populous institutions, Lepoglava and Zagreb, are staffed as follows. Zagreb, which contains the Centre for Psycho-Social Diagnostics for the whole Croatian system and has a capacity of 500 prisoners, had 15 medical staff in post in March 2001. The head of the medical department is an occupational health specialist, there is also a second general practitioner, a psychiatrist - one of only two in the system, the other being located at the national prison hospital - two dentists and ten nurses or medical technicians. Lepoglava with a capacity of 600 had a medical staff of ten: two general practitioners, a dentist and seven nurses or medical technicians. There were vacancies for a psychiatrist - the one at Zagreb visited twice a month - a radiologist and a laboratory assistant. A surgeon, a pulmonary specialist, a laryngologist and a specialist in internal medicine also visited twice a month. The CPT drew attention to "serious shortcomings" in the standard of health care and attributed these to staffing shortages. These shortages - apart from the need to reinforce the provision of psychiatric care - have been rectified. Despite the Croatian government's response to the CPT report (CPT, 2001/5), which indicated in May 2000 that a psychiatrist was available weekly, the situation in March 2001 was still, as found by the CPT in September 1998, that he was available only fortnightly. At Lipovica open prison with a capacity of 220 there was no full-time doctor but the local village doctor visited twice a week on contract. The CPT was critical of the low number of health care staff in Šibenik and Split district prisons in 1998.

The national prison hospital, at Lišene Slobode near Zagreb, was purpose-built in 1961 and provides facilities and treatment for all types of prisoner who cannot be treated by the medical departments in the prisons. The hospital has bedspaces for 105 patients but was holding about 80 in the first three months of 2001. There is a staff of 125, including 15 doctors. Outside consultants are brought in as necessary. There are four wards - surgical, psychiatric, pulmonary and general. The medical director co-ordinates liaison and co-operation with the Ministry of Health. All prisons work closely with outside medical services, trans-

ferring patients as necessary. If a high security prisoner needs to attend a public hospital he is accompanied by two security staff but is not handcuffed.

The main problems facing the medical services are said to be drugs and psychiatric illness. Alcohol addiction is also a problem for many prisoners and the number is increasing; a treatment programme is in place. HIV/AIDS and tuberculosis are not major problems. There were about six AIDS cases in the prison system in early 2001. In accordance with WHO guidelines there is no compulsory testing for AIDS. There are also very few cases of tuberculosis. The number of drug addicts in the prison system is said to have risen substantially. The medical department at Zagreb prison saw 469 cases in 1999 but 500 in the year 2000.

On arrival at Zagreb prison, whether as a pre-trial detainee or as a sentenced prisoner, for assessment prior to transfer to the prison in which the sentence will be served, all drug addicts undergo a programme of detoxification (methadone therapy) and no-one is transferred until the treatment is complete. Prison sentences sometimes include a condition of drug (or alcohol) treatment. Staff work with addicts in small groups. The prison administration believes there is room for improvement in the treatment offered to drug addicts and it intends to make the necessary changes. Staff are becoming increasingly concerned at the importation of drugs into prisons by means of the packages that a prisoner may receive once a month and on the occasion of holidays (Article 126).

It was reported that many prisoners have psychiatric problems, sometimes associated with the recent war with Serbia, and that these problems frequently deteriorate in prison. The difficulties in appointing psychiatrists, to which reference has already been made, are said to be attributable to the inability to pay the high costs of such staff. (General practitioners in the prisons apparently are paid 20% less than doctors in the community but this does not lead to their departure because there is an excess of doctors in the community.)

Courts can now pass sentences including a specified period of psychiatric treatment. Although the Ministry of Justice has a contract with the Ministry of Health that such prisoners be treated in civil hospitals, there is a shortage of space and of psychiatrists and consequently the Ministry of Justice has decided to have a special wing for these prisoners. It is at Lepoglava and commenced work in January 2001. But, as indicated above, that prison is not adequately staffed for the purpose.

For dental treatment prisoners are taken to an outside dentist if there is no dentist in the prison. The prison administration pays for basic treatment and anything else that is medically necessary. Prisoners must pay for any cosmetic treatment.

There is a mother and baby centre in the women's prison in Požega. For the babies' first six months they may stay with the mothers, after which they are looked after by a nurse while the mothers work. In leisure time and during the night they are with the mothers. Having reached the age of two babies may be taken outside during the day to enable contact with other children. They are not allowed to remain in the prison beyond their third birthday.



In all the prisons medical staff are responsible for monitoring hygienic conditions, the kitchens and storage areas. They must also check the quality and quantity of food and record their comments. A national agency that safeguards health protection takes samples of the food for research purposes. A member of the medical staff ('the sanitary technician') is responsible for disinfection. Medical staff are also required to confirm the fitness of prisoners for solitary confinement and to examine a prisoner so confined at least once a week (Article 139 of the new law on the execution of prison sentences). The prison administration report that such prisoners are visited by medical staff every day, in accordance with Rule 38.3 of the European Prison Rules.

Medical staff in Lepoglava and Zagreb prisons reported that suicide by prisoners was rare (no case since 1996 and 1997 respectively) but that self-injury, including cutting wrists and swallowing objects, was much more common. However, in Lepoglava special efforts had resulted in a significant drop in such incidents, from 72 in 1999 to 25 in 2000. Staff in Zagreb prison commented that self-injury tended to be a reaction to court procedures/delays rather than events in the prison. In Lepoglava it was said that when cases were examined they were often found to be associated with gambling debts.

Staff believe that there are no significant problems resulting from sexual behaviour in the prisons. The general expert opinion in Croatia is that condoms should be available to prisoners but in 2001 they were not. Apparently they were available at a time in the fairly recent past, as a result of supplies given by an international organisation, believed to be the International Committee of the Red Cross.

## Discipline and punishment

The European Prison Rules state that "no prisoner shall be employed...in any disciplinary capacity" (Rule 34) and in Croatia there is no practice of giving prisoners a supervisory role from which they could acquire power, including quasi-disciplinary power, over others. Protection from bullying or intimidation is provided by placing a vulnerable prisoner in a separate room. Lepoglava has a special wing for 'difficult prisoners', which is intended to house those who are regarded as a danger to others. There are said to be few disciplinary problems in the Croatian prisons except at Lepoglava. At Lipovica open prison there is not even a punishment cell; disciplinary infringements are usually returning from home leave with alcohol on the breath, for which the usual punishment is loss of one visit. At Lepoglava there are 30 punishment cells, 25 of which were in use when the prison was visited in March 2001. There is no central monitoring of the numbers and types of disciplinary punishments imposed. Disciplinary isolation at March 2001 was for a maximum of 30 days but the new legislation reduces this to 21 days. The conditions of isolation are similar to those in a normal cell for one person. The director of a district prison cannot impose disciplinary punishment on a pre-trial detainee without the approval of the visiting judge. In Zagreb prison, the largest district prison, the judge visits once a week but since he himself can only impose minor punishments it seems that pre-trial detainees are rarely subject to disciplinary isolation.

## Information and complaints

Prisoners can make complaints to the director of the prison, to the prison administration and to the penitentiary judge. They can also contact the Helsinki Committee and the European Court of Human Rights. Complaints to such outside bodies used to have to be sent via the prison administration to enable them to be monitored, but this no longer occurs and all complaints are sealed. If the prison administration receives a complaint from a prisoner the prison will be asked to comment on the substance of the complaint. There is no central monitoring of the outcomes of complaints to the prison administration.

The European Prison Rules (Rule 41) state that every prisoner shall on admission be provided with written information about the regulations governing the treatment of prisoners, the disciplinary requirements of the institution and the authorised methods of seeking information and making complaints. Such information is currently given (but not in writing) on arrival at a prison or during the diagnostic assessment that follows a sentence of six months or over. House rules are also posted up in prison cells. The prison administration said that they had seen the information pack that is made available to prisoners in England and Wales and will hope to follow such a line in due course.

## Contact with the outside world

Pre-trial detainees are allowed visits twice a week (8 a month) for a minimum of 15 minutes. Juveniles are allowed 10 a month. Detainees are separated from their visitors by a glass screen and no physical contact is allowed, except at Požega prison. This is said to be a question of practice rather than law. The prison administration accepts that such closed visits are necessary only exceptionally, for example to prevent the importation of drugs. The searching of detainees following visits is generally an adequate means of countering such a danger. The CPT invited the Croatian authorities to move towards more open visiting arrangements for pre-trial detainees (CPT, 2001/4 para 105) but the government response was that such matters are within the jurisdiction of the courts (CPT, 2001/5 p.32). Sentenced prisoners are allowed open (contact) visits at least four times a month for a minimum of one hour. The new legislation specifies a right to visit twice a month and on the occasion of national holidays (Article 117). But the prison director may authorise additional or extended visits as part of a policy of providing so-called 'benefits' in order to encourage the positive development of the prisoner. Rooms are also available for unsupervised (conjugal) visits from spouses or official partners, for example in Glina, Lepoglava and Zagreb prisons.

Prisoners are situated as near to their homes as possible but those in 'penitentiary institutions' (for persons serving more than six months) are often some distance away, especially women and minors since Požega is the only such institution available for them. However, a prisoner in a closed institution who is not allowed home leave will be allowed longer visits and conjugal visits and also has the legal right to be escorted (at his own expense) to a prison nearer his home for the purpose of the visit.



There is no limit on the number of letters that may be sent and received by sentenced prisoners. Correspondence is checked in the closed institutions. Telephones may be used by sentenced prisoners, and also by pre-trial detainees if this is permitted by the judge. In Zagreb prison, for example, pre-trial detainees who use the telephone do so in the presence of a guard who will disconnect the call if the conversation turns to crime.

Sentenced prisoners may receive packages up to a certain weight containing authorised items (e.g. food, toiletries) once a month and on the occasion of national holidays. The prison director may approve more frequent and heavier packages. The receipt of packages is becoming a significant problem in the Croatian prison system. The importation of heroin has been detected on several occasions and staff believe that yet more has been brought in. Strange behaviour by the prisoners often leads to detection.

The Croatian prison system, as part of its 'benefits' policy, enables prisoners to have various kinds of supervised or unsupervised leave from the institution. A well-behaved prisoner is said to be able to spend as much as six days a month at home. Someone who has worked for eleven months may receive a vacation of 18-30 days at home.

Television programmes may be watched by prisoners in rooms set aside for leisure-time use. A prisoner may have a television in his room/cell provided that he pays the costs and the director approves. Approval is normally given unless a room-mate objects or there is some other powerful reason. Newspapers are available in prison libraries to which all have access.

## Religious assistance

Prisoners in Croatia are reported to have plenty of opportunities for religious practice. A room is allocated to which they can bring their denominational symbols for services. Roman Catholic priests visit to officiate at such services, and where there are a group of Serbs, as at Lepoglava, an Orthodox priest also visits. In Lepoglava a large room has been converted into a chapel which has been attractively decorated by prisoners. It is said that prisoners' interest in religious matters is not high. When, following independence in 1991, it was newly permitted there was more interest because of the novelty of the experience. But by 2001 the interest was at a low level similar to that in the community outside, although in Lepoglava about 50 prisoners were attending Mass on Sundays. Representatives of evangelical groups are not allowed into the prisons unless an individual prisoner asks for such a meeting. In one prison an evangelical college wanted to address the prisoners, but when the prison administration saw the proselytising nature of their intended programme, the request was refused.

## Prison staff

The Croatian prison administration reports that it is able to recruit and retain staff of adequate calibre. The high level of national unemployment makes it possible to choose from a large number of applicants and existing staff are not eager to leave. Nonetheless, staffing levels at pre-trial institutions are not quite up to

complement; at Zagreb prison, for example, security staff are 10% below complement and, although the prison can normally cope adequately with this shortfall, extra staff are sometimes brought in from other prisons when they are needed.

Staff salaries are similar to those of the police; overtime worked by security staff gives them a salary above the national average. A head of department at prison administration headquarters earns about 720 euros per month.

Staff morale is said to be generally quite good. They are glad to have a steady job that is regularly paid. Public attitudes to prison staff vary from institution to institution. In some places people think back to Communist times and staff are therefore not well-respected in the community but in Lepoglava, for example, the prison is very much part of the town and staff status is good. People are used to seeing prisoners working outside the walls. Some of the staff are the fourth generation working in the prison.

In order to improve public understanding of prison service work the acting head of the prison administration in March 2001 was planning a meeting with the media in order to make a presentation of objectives and practice within the prison system. Since the time when such work was closed to the public there had been little effort by the authorities to make such contacts. The need to do so was occasioned by sensational headlines and ill-informed reports. There was also a plan to have 'open days' and there was already a course for prison directors in communicating with the media. The prison service annual report was for the first time circulated and a major programme of public education was envisaged.

The Croatian prison administration is justifiably proud of the well-equipped training centre that it has established at Lipovica prison and for which the funds have been found within Croatia. It was opened in October 1999 following work by the OSCE and with assistance from the prison service of England and Wales. Training has focused mainly on new security staff but other courses have catered for senior management staff, medical staff and trainers. Special training is being provided in dealing with drug addicts and alcoholics and also concerning post-traumatic stress syndrome, which is of particular importance following the war with Serbia.

New staff receive 5-7 days initial training and then spend a few months working in a prison. If the director is satisfied with their approach they go to the training centre for 3-4 months. Opportunities are given for staff to complete their higher education. Staff do not make training visits to other countries.

The Prison Service employed 2,954 staff at the beginning of 2001, of whom 29 worked in the central prison administration. 1% were management staff (e.g. directors and other managers), 37% were custodial staff (e.g. guards and other security staff), 11% were treatment staff (e.g. psychologists, pedagogues, social workers and medical staff) and the remainder (some 50%) were engaged in connection with prisoners' employment, in administration and finance and in secretarial and other support functions.

Treatment staff in male prisons include a number of women but there are few women among the security staff. There was however a female head of security

in Bjelovar prison in recent years and at Požega prison for juveniles and young adults the security staff are mixed.

Croatian prisons do not usually have towers and dogs as part of their security measures. Lepoglava is the only prison with security towers, of which there are four. These are manned by armed guards who are reported to have strict rules governing the use of such weapons. If a prisoner gets on the wall he can be shot but this has not occurred since 1990. A prisoner was seen escaping in the year 2000 but was not shot at. Dogs too are only used at Lepoglava. In early 2001 a dog was being trained to detect drugs.

There are reported to be few incidences of staff needing to be dismissed. About twenty were dismissed in the year 2000, mostly for paying insufficient attention to prison rules or being drunk on duty, and none of them for bad behaviour towards prisoners.

Staff receive pension rights in respect of 16 months for every 12 months worked. Thus, if they started work at 18 it will be in their financial interest to retire at 40 since they will receive almost full pay. Under new legislation it is anticipated that 55 will be set as the age of retirement.

At all the prisons visited as part of this project – Glina, Lepoglava, Lipovica, Turopolje educational institution and Zagreb – there seemed to be a good working relationship between security and treatment staff. Regular meetings were held between the heads of treatment, security and sometimes also employment, to discuss the prisoners and decide on appropriate treatment and the benefits they should receive. In Lipovica these three staff work together in what is referred to as a mini-team. In Lepoglava it was said that an attempt is made to include security staff in every aspect of a prisoner's life. It is the head of treatment who calls such meetings and presides since he or she must make the final decisions about treatment. It was reported that although the relationship between security and treatment staff varies from prison to prison it is good in most.

## Treatment and regime activities

Each prison has a head of treatment and the senior manager with responsibility at the prison administration headquarters for treatment calls all these specialists to a meeting once a year in order to discuss policy and practice. This initiative is much valued by the heads of treatment and undoubtedly contributes to positive morale among treatment staff.

The main treatment staff working with prisoners, in addition to the medical staff, are psychologists, social workers, pedagogues and social pedagogues. Prisoners sentenced to no more than six months serve their sentences in the appropriate district prison where the treatment staff make an assessment in the prison's reception unit of the needs and capacities of each. All male Croatian prisoners who are sentenced to more than six months are first referred to the Centre for Psycho-Social Diagnostics at Zagreb prison for assessment. This practice has been followed since 1991. During a three week period prisoners are classified for security purposes, taking account of their offence, the length of sentence and their personal characteristics (for example, whether they are dependent on drugs

or alcohol). But the main purpose is to individualise each sentence by producing a treatment programme. The Centre is headed by a psychologist and there are two other psychologists, responsible mainly for conducting and interpreting personality and IQ tests and undertaking interviews in order to prepare a profile, three social workers who review the case file, interview the prisoner and provide comments on family circumstances and work capacity, a pedagogue who assesses the level of education and two social pedagogues who are responsible for devising the treatment programme. The other staff are a lawyer/criminologist, who establishes the level of criminal activity and the dangerousness of the prisoner, and three administrators.

Prisoners thus arrive at the prison to which they have been allocated with an individualised treatment programme. This is then amended to tailor it to available facilities in the receiving prison and the judgments of assessment staff there. The head of Zagreb's Centre for Psycho-Social Diagnostics advised that the programme they prepare is aimed a little higher than the receiving prison will be able to carry out.

For treatment purposes prisoners are normally divided into groups of 50 or 60 under a pedagogue (educator). In Turopolje educational institution the groups are of 14-16 and each has a male and a female pedagogue.

The welfare needs of pre-trial detainees are not well met in the Croatian system. A prison's treatment staff cannot be involved at all with detainees without the approval of the investigating judge, despite the fact that they will often be held for a long time and may be suffering post-traumatic stress from the war. On reception into the prison the social worker contacts the Centre for Social Work (CSW) in the community; the prison has a legal obligation to notify the family when a new detainee is received. It is the CSW who is called upon to deal with any family/accommodation/employment problems that may need to be resolved on the detainee's reception into prison. But the CSW is often unable to meet these needs. In Zagreb prison staff in the general and legal department give legal advice to pre-trial detainees, which supplements or replaces the reportedly inadequate attention that they get from attorneys, one of which must be assigned to each pre-trial detainee on their admission into a prison.

Treatment programmes in Croatian prisons are limited to three specific problems: alcoholism, drug addiction and post-traumatic stress. The prison administration would like to introduce programmes for sex offenders, violent offenders and long-term prisoners. Group work is undertaken in all prisons and this includes discussions of coping with family life. Formal education, including remedial education, is available at Lepoglava and in the institutions for juveniles; in other prisons special arrangements may be made for particular individuals. Some training in social skills is provided as part of guidance in good communication.

Other activities available for leisure times depend on the individual prison. They may include painting, sculpture and music. At Lepoglava an exhibition of prisoners' art is on display in a public building in the town near the prison. A member of the treatment department generally has responsibility for stimulating and organising free time activities. In Zagreb prison this includes painting, hand-

icrafts and also needlework. Football, basketball and tennis are also available there and sentenced prisoners may use a field just outside the wall. In Lipovica prisoners are involved in painting and there is also a lake-fishing section, a section that makes boats and a music section that gives concerts. An unusual but progressive feature is the fact that security staff run football and fishing activities, but not, it is said, in their role as security staff. One played in the prisoners' football team against another side but was unmasked when he attended a subsequent match in his uniform. In Lepoglava films are shown every Sunday and there are opportunities for painting and making wood sculptures (in the naïve style), one of which is displayed in the prison's entrance hall.

In order to stimulate prisoners' sense of responsibility and self-reliance there is a prisoners' committee at Lipovica prison. Each prisoner group has a representative and they meet without staff present and form proposals to put to treatment staff. Proposals are accepted whenever possible and all questions raised are properly answered. Other means of fostering self-reliance include giving the prisoners the opportunity to work outside the prison and giving them key work jobs carrying significant responsibility. The new law on the execution of prison sentences will allow prisoners in semi-open or open prisons to continue the jobs they held before they were convicted, only coming into the prison after the working day.

Sentenced prisoners are unlocked for most of the day but pre-trial detainees spend on average only about two hours out of their cells/rooms each day. The CPT recommended in a report on a visit in 1998 (CPT, 2001/4 p.90) that it should be the aim for pre-trial detainees to spend eight hours or more a day "outside their cells engaged in purposeful activities of a varied nature". They recognised that this required revision of the legislative framework governing remand imprisonment and of staffing levels. These changes had not yet occurred in 2001.

Preparation for release is regarded as commencing on the first day of the prison sentence. However, in practice there are no pre-release programmes. Long term prisoners held in the closed prison at Lepoglava are enabled to adjust gradually to conditions of freedom by being transferred to the prison's semi-open facility. Efforts to arrange accommodation and employment for prisoners who are about to be released are made through the CSWs, whose representatives come into the prisons, and particular efforts are made to assist juveniles. The Ministry of Social Welfare has social workers with responsibilities for such work. However, it is not clear how successful such efforts are. It seems that there is much scope for the improvement of pre-release work, both by prison staff and also in collaboration with the relatively under-developed CSWs and, for juveniles, with the Ministry of Social Welfare. There are no non-governmental organisations that provide assistance to prisoners after release. There is a system of conditional release for which prisoners can apply after serving half of the sentence. It is reported that almost everyone is conditionally released.

Public attitudes to released prisoners are reported to depend on the crime and

on the city or town to which the prisoners return. If they have served a short sentence for a comparatively minor crime then there is no difficulty, but if they have served a long sentence for a serious crime then public attitudes are always a problem.

At present the community is not much involved in the life of the prison. It is reported that the new law will encourage more involvement. Current examples of community involvement are the concerts which are occasionally given by outside groups to the prisoners in Lepoglava and performances that are given at Christmas time in Zagreb. At present there is no such involvement on a regular basis and no assistance from the community in respect of the arts or recreational activities.

In all prisons it is reported that pre-trial detainees and sentenced prisoners have the opportunity of at least two hours exercise daily, unless they are in disciplinary punishment when they receive at least one hour's exercise. Additional recreational facilities are normally available only for sentenced prisoners, although pre-trial detainees can sometimes have sporting activity, for example where there is a table-tennis table in the exercise area.

## Prison work

It is reported that work is available for about 40-50% of sentenced prisoners and about 5-10% of pre-trial detainees. The permission of the court is needed for detainees to work. Sentenced prisoners are not required to work but almost all wish to do so because it affects their pay. It is to be noted that in 1994 70% of sentenced prisoners were reported to have work.

In Lepoglava prison in March 2001 there was work for 320 of the 618 prisoners. About 100 prisoners work alongside civilians in the production of furniture, another 25 in the metal-shop. Those in the semi-open section can work in agriculture. Ten to fifteen prisoners are employed in the public restaurant some 200 metres away from the prison. Others work on car repairs and others on the domestic and maintenance tasks necessary in any prison. Vocational training is available in woodwork, metalwork and working as restaurant staff (e.g. waiters).

In Lipovica there is a large factory which produces central heating radiators. About 50 of the 104 prisoners work there alongside some 350 civilians. Other prisoners work in the orchard, the vegetable garden, with pigs and sheep and on domestic and maintenance tasks. It is said that there is work for all except the five who are too sick or old.

Prisoners work 8 hours a day for a 5 day week. Pay is between one fifth and one third of what would be received outside. They keep two thirds of the pay whatever their other commitments (e.g. compensation, fines, alimony). They are entitled to send some of the money home. In the open prisons they can use money directly to pay for items in the prison shop/canteen; elsewhere a record is kept of the money they possess and of their transactions. Prisoners who have no work receive no pay but are given money for toiletries etc. if they cannot afford such items.



Safety and health regulations in prison employment are similar to those in work outside but it is said that Croats, both inside and in the community, are not inclined to observe them.

### Vocational training and educational programmes

There are vocational training opportunities at Lepoglava, Požega and Turopolje, and in semi-open and open prisons prisoners can obtain vocational training outside the prison. The prison administration regrets that it cannot always offer training for the type of employment that prisoners might choose. Staff at Turopolje say that the main problem is that the young prisoners they deal with often cannot get employment after their release.

There are educational programmes for younger prisoners at Požega and Turopolje. All are approved by the Ministry of Education. Certificates in respect of qualifications obtained do not reveal that they were achieved in a correctional institution. The regime at Turopolje educational institution (for prisoners aged 14-21) is education in the morning and employment in the afternoon.

Educational programmes are also available in the long-term closed prison for adults at Lepoglava. Prisoners are not paid for undertaking educational programmes but it is said that the new legislation will make provision for this.

### Inspection and monitoring

The prison administration's heads of treatment, security and general and legal affairs conduct inspections of the institutions in order to ensure that they are being run in accordance with the laws and regulations and with the objectives of the prison service. This is done either by means of a formal inspection visit or during one of the periodic visits that such senior managers make to the institutions. In the latter case any verbal recommendation that is made will be followed, if the prison director does not agree with it, by a formal letter requiring that the recommendation be carried out. A formal inspection leads to a written report setting a time limit for the implementation of its recommendations. Checks are made to ensure that they are indeed carried out to time and, if they require resources that are not available to the director, the prison administration accepts responsibility for providing these. There is no system of independent inspections of the prisons.

The Croatian prison administration spoke positively of its experience with the Council of Europe's CPT, which visited in 1998. They were in agreement with all the CPT's recommendations and made a number of changes in order to respond to them. However, as noted above, no improvement had been made to the conditions in which pre-trial detainees spend their imprisonment, a matter which is outside the authority of the prison administration, and there remained a need to strengthen psychiatric support. Overall, their assessment was that the CPT did not make criticisms of deficiencies of which they were unaware. Indeed, they asserted that they aim for higher standards than the CPT recommended.

The European Prison Rules, which provide the benchmark for assessing the quality of the management of prisons and the treatment of prisoners, are reported to be widely available in the Croatian prison system and used in staff training. The Director General and the directors of penal institutions have copies of these standards, as do other management staff at the national prison administration and in each penal institution. Copies are also said to be available to be read by other prison staff and by prisoners.

### Non-governmental organisations

It was reported in the early 1990s (Ajduković, 1993) that a number of representatives of NGOs were visiting prisoners at that time, including churchmen and members of the Helsinki Committee. There has been no expansion of such activities since then. Church representatives have continued to visit but the Helsinki Committee reports that in about 1998/99 the prison administration was reluctant to let them do so. Since then, if prisoners make a written request to them, they have always received permission for a visit. They report that there are few complaints nowadays (less than ten a year) and that prison staff seem dedicated to their work. Indeed, since the election in January 2001, the new government, including the Minister of Justice, is very supportive of NGOs. The Helsinki Committee did not seem interested in expanding its role in penal matters, mainly because it saw no significant threat to human rights in the actions of the prison administration and prison staff.

The International Committee of the Red Cross also visits prisons on a regular basis and some humanitarian aid has been provided. The only other NGO that had emerged in the penal field (but was now apparently inactive and had never played any significant role in respect of prisons) was a second Helsinki Committee, which was formed because the neutrality of the established Helsinki Committee during the war with Serbia was seen by some as being pro-Serb. The second Committee was thus created to take the Croat line. As stated by de Frisching and Heyes (2001) there is clearly “a need to encourage and promote the development of NGOs working in the prison and community supervision fields”.

### Other matters

The Croatian prison administration is very positive towards international co-operation but has not become closely involved in a network of regular contacts. There has been participation in Council of Europe meetings on prison matters and full co-operation with the CPT during and after their visit in September 1998. The new prison legislation was referred to the Council of Europe for comments (Kühne and Baechtold, 1998). The OSCE provided assistance with the creation of the staff training centre, with which, as mentioned above, technical co-operation was also received from the prison service of England and Wales. The prison administration report that they have also had visits from the prison services of the Czech Republic, Hungary, Macedonia and Montenegro.

The Croatian government is in the process of introducing ‘protective supervision’ (probation). In the absence of any more suitable organisation to manage such a system the responsibility is to be placed, at least initially, on the prison service. Responsibility for imprisonment and community supervision is under the same authority in several Scandinavian countries and elsewhere in the world. The Council of Europe held a seminar in Zagreb in March 2001 as part of the preparation for such a development.

The law entitles both pre-trial detainees and sentenced prisoners to vote in national elections. The prison administration reports that this is nevertheless difficult to arrange, as was the Census that was conducted in 2001.

### Important recent developments

The following are regarded by the prison administration as some of the most important recent developments in the Croatian prison system:

- the establishment of a new staff training centre at Lipovica (1999);
- the introduction of the new modern Criminal Code and Criminal Procedural Code (1998) and the forthcoming Penal Executive Code – ‘law on the execution of prison sentences’ (2001);
- the redevelopment of Glina prison as a closed penitentiary institution in order to take first time offenders and enable them to be separated from the long-term recidivists who will remain at Lepoglava which is itself undergoing the reconstruction of the wall and of one wing (2001);
- the completion of a new wing for the prison hospital – the section for mentally disturbed sentenced prisoners (2001).

### Current objectives

The following are some of the main objectives reported by the prison administration and directors of the penal institutions:

- to raise the standards (of the conditions and practice) in the prisons;
- to increase the capacity of closed institutions in order to cope with the need to hold more prisoners in such security conditions;
- to acquire more security equipment (e.g. video-surveillance cameras) and modernise the security vehicles;
- to establish treatment programmes for sex offenders, violent offenders and long-term prisoners, and to develop more effective drugs treatment programmes;
- to have some single cells in every wing of the penal institutions.

### Main problems

The following are some of the principal obstacles to the achievement of such objectives and to the advancement of the prison system in Croatia:

- the shortage of resources. The budget for the prison system has been too small to enable new investments (work on prison buildings) to be carried out as planned. This is seen not only as an obstacle to prison conditions but also as a threat to the quality of practice. The government has decided that though staff who retire can be replaced other vacancies cannot be filled. In these circumstances the prison administration reports that it is pleased that professional standards are nonetheless being maintained;
- the shortage of computers (most prisons do not have them) and of video-surveillance equipment;
- the slight increase in the number of prisoners and the perceived deterioration in the type of criminals being received. More serious cases are meaning that more places are needed in closed institutions and fewer prisoners are suitable for open and semi-open conditions;
- overcrowding in some closed institutions which would be recognised as serious if the capacity figure for each was based on 8m<sup>2</sup> of space per prisoner, as stated in the new law on the execution of criminal sanctions;
- the personal characteristics of prisoners, a high percentage of whom have psychopathic tendencies and an increasing number are drug or alcohol dependent and lack motivation to get involved in treatment programmes;
- security staff have an increasing number of duties placed upon them. Among these are acting as chauffeurs for senior Ministry of Justice officials.

## Achievements

Staff of the prison administration and in the prisons visited were asked to identify recent successes of which they were proud, some of which might offer constructive ideas that could be taken up by the prison systems of other countries.

They drew attention especially to the treatment programmes for alcoholics and for those suffering from post-traumatic stress. These have continued for some time and are similar to programmes being used in the community outside. The alcohol programme (some 3-4% of prisoners are said to be alcoholics) involves the creation of non-alcoholic clubs, and the use of education and therapy. Families are brought in to participate in the programmes. Less satisfaction was expressed about the drugs treatment programme but new legislation will make it possible to establish special units for drug addicts who were under treatment before admission to prison, and the prison administration is confident that this will be a positive development. Likely new premises for such a unit had already been identified by March 2001.

Further achievements of the Croatian prison service include:

- the emphasis on humanity, concern for prisoners as people, positive staff-prisoner interactions and a strong desire to improve standards;
- maintaining regular contact between prison administration headquarters staff and the penal institutions (e.g. meetings between the headquarters director of treatment and the heads of treatment from the institutions in

- order to discuss policy and practice);
- good co-operative working in many prisons, with regular meetings to discuss prisoners' progress and treatment, between the heads of the treatment, security and employment departments;
  - the establishment of a Centre for assessing and preparing a treatment programme for all prisoners given a sentence of more than six months (Zagreb, Centre for Psycho-Social Diagnostics);
  - productive economic units (factories) in the prisons, in which prisoners work alongside civilians from the community outside (e.g. Lepoglava, Lipovica, Požega);
  - the production of a 'General Information' leaflet (and a website) for the media and all other interested persons, including prisoners' families and visitors, about the prison, its functions, activities, facilities, organisation and regulations (Zagreb);
  - good links with the community outside the prison (e.g. Lepoglava);
  - the operation of a public restaurant, run by the prison and staffed by prisoners (Lepoglava);
  - the creation of a unit for older prisoners (Lipovica);
  - the participation of security staff in prisoners' leisure activities such as football and fishing (Lipovica).

When asked about successes of which they were proud staff sometimes gave answers which emphasised their dedication and explained why they found the job worthwhile and rewarding. Staff at Turopolje educational institution for young offenders aged 14-21 provide a particularly vivid example of this. The following is an amalgam of comments from the deputy director and senior staff responsible for assessment, security, treatment, education and work instruction:

“ This group of young people is on the social margins. They have difficult disturbances of personality. But if they are properly treated they have a chance to change themselves. They can learn how to express their feelings and that they are not less valuable than others who have had better or more successful lives. This approach has a crucial impact on good relationships between the staff and the children. The institution is caring about youngsters who would otherwise be lost to the community. There is mutual respect and love here and that is a reason to be proud. In schools outside they have been unsuccessful but here they can become successful and get certificates that can be very helpful outside. It is a special joy when they leave and acknowledge us; they write and phone and want to tell us that our efforts were really helpful. Money is not the reward; the reward is the satisfaction when you meet a young person outside and he is a complete person.”

## Conclusion

The progress that has been made is evidenced by this account of the prison system, recent developments, the objectives, the problems and the achievements. There is a positive atmosphere in the Croatian prison system and there are many examples of good practice. The following are suggestions as to some of the important outstanding tasks, in addition to the objectives listed above:

- to take steps so that neither legislation nor practice continue to block the introduction of a proper programme of regime activities for pre-trial (remand) prisoners, and to enable them to spend a reasonable part of the day out of their cells, engaged in purposeful activities of a varied nature;
- to establish, for each institution, a new capacity figure based on the amount of space per prisoner that is specified in the new legislation. If, in the short term, it is not possible to ensure that all prisons keep their numbers below the new capacity figures, target dates should be set for achieving full observance of the requirement in the new legislation;
- to develop a modern system for the regular collection of statistical information about the prison system and for its use in connection with policy and practice;
- to ensure that senior staff in the prison administration headquarters and the directors of all 23 institutions and their senior managers still possess and make full use of copies of the Council of Europe's European Prison Rules (1987), which was published in the Croatian language in 'Penološke Tema' (Zagreb, 1990) and distributed to all directors and heads of department at the time of publication. Copies should also be kept prominently in each prison library for the use of other staff and prisoners;
- to develop pre-release programmes and co-ordination with Centres for Social Work in the community. There is a need, in the interests of the prevention of crime and the resettlement of offenders, to strengthen the capacity of CSWs to provide post-release support for ex-prisoners;
- to make continued efforts to strengthen the provision of psychiatric support in the prison system, as recommended by the CPT.



## Annex 1

### CROATIA: Numbers in the penal institutions 1990-2001

Year (1 January)	TOTAL in penal institutions	Prison population rate (per 100,000 of national population)	National population (estimate)
1990	1,518	32	4,687,500
1991	1,074	23	4,685,800
1992	1,371	29	4,784,200
1993	1,604	34	4,778,600
1994	2,301	48	4,780,100
1995	2,388	51	4,670,200
1996	2,572	56	4,597,000
1997	2,156	47	4,565,400
1998	2,119	46	4,581,900
1999	2,227	49	4,527,500
2000	2,027	44	4,567,500
2001 (1/1)	2,623	60	4,381,000
2001 (31/12)	2,584	59	4,387,000

	TOTAL	Percentage of prison population	Rate (per 100,000 of national population)
<b>Pre-trial detainees in 2001</b>			
(1/1)	819	31.2	19
(31/12)	820	31.7	19
<b>Female prisoners in 2001</b>			
(1/1)	92	3.5	2
(31/12)	105	4.1	2
<b>Juveniles (under 18) in 2001</b>			
(1/1)	59*	2.2	1
(31/12)	53*	2.1	1
	<b>TOTAL among sentenced population</b>	<b>Percentage of sentenced population</b>	
<b>Foreign prisoners in 2001</b>			
(1/1)	259	14.4	
(31/12)	209	11.8	

\* In addition, 74 prisoners, mostly juveniles, were serving 'correctional measures' at the beginning of 2001 and 98 prisoners, again mostly juveniles, at the end of the year.

## Annex 2

### Croatian penal institutions: functions and capacity, 2001

District (or county) prisons (okružni zatvori) for pre-trial detention and sentences of six months or less, male and female adults

1	Bjelovar	74
2	Dubrovnik	34
3	Gospić	72
4	Karlovac	56
5	Osijek	180
6	Požega	67
7	Pula	150
8	Rijeka	140
9	Sisak	100
10	Split	120
11	Šibenik	90
12	Varaždin	90
13	Zadar	54
14	Zagreb	500

(State) penitentiary institutions (kazneni zavodi) for sentences of over six months

15	Glina	80	for sentenced male adults (closed)
16	Lepoglava	600	for sentenced male adults (closed)
17	Lipovica	220	for sentenced male adults (open)
18	Požega	275	for sentenced male and female adults (closed, open and semi-open sections)
19	Turopolje	103	for sentenced male adults (semi-open)
20	Valtura	140	for sentenced male adults (open)
21	Prison hospital – Lišene Slobode	105	for all categories

Penal institutions for minors and young adults (odgojni zavodi - educational institutions)

22	Požega	55
23	Turopolje	110

**TOTAL** (at beginning of 2001) **3,415**

## **Annex 3**

### **Croatia: principal sources of information**

Ms Marija Josipović	Director of legal affairs and general administration, acting head of the prison administration (Administration for the Execution of Sentences - AES) at March 2001
Ms Vesna Babić	Director of treatment (AES) and deputy director of Lipovica penitentiary institution
Mr Ivan Šantek	Director of Glina penitentiary institution
Mr Ivan Damjanović	Director of Zagreb district prison
Mr Stjepan Loparić	Director of Lepoglava penitentiary institution
Mr Ivan Vučić	Director of Turopolje educational institution for minors
Mr Damir Čumpek	Legal affairs and general administration department, AES
Mr Zvonimir Penić	Treatment department, AES
Mr Saša Rajić	Treatment department, AES
Ms Višnja Bunata-Blagović	Treatment department, AES
Mr Ranko Helebrant	Croatian Helsinki Committee for Human Rights
Mr Christoph Vogt	Head of Zagreb mission, International Committee of the Red Cross
CPT, 2001/4. Report to Croatian Government on the visit to Croatia [by the CPT in September 1998]. Council of Europe, Strasbourg	
CPT, 2001/5. Interim and follow-up reports of the Croatian Government in response to the CPT report on their visit in 1998. Council of Europe, Strasbourg	
De Frisching A. and Heyes J., 2001. Report of a Needs Assessment of the Croatian Prison Administration, conducted by the International Centre for Prison Studies, King's College, London for the British Embassy in Croatia from 19-24 March 2001.	
Kühne H-H. and Baechtold A., 1998. Expert opinions on the proposed law on the execution of prison sentences for Croatia (including the text of the draft law). Council of Europe, Strasbourg	

## 29. Czech Republic

### Legislative framework

The Penal Code and the Code of Criminal Procedure date from 1961 (Acts No.140 and 141/1961) and have been amended several times in the last few years, most recently with effect from 1 January 2002. An amendment to the Penal Code in 1993 abolished the situation whereby the court decided the type of prison in which an imprisonment sentence would be served and replaced it with the provision that, while the court would decide on the type of prison for the initial period of imprisonment, the prisoner could subsequently be transferred in accordance with an assessment of the prison service about behaviour in prison and psychological condition. However, this was revised by the Constitutional Court in 1995 on the grounds that only an independent court should decide on the type of punishment to be served.

The basic legislation regulating the prison system is the Prison Act of 1999, which came into force on 1 January 2000 (Act No.169/1999) together with the Prison Regulations, and the Pre-trial Detention Act of 1993, which came into force on 1 January 1994 (Act No.243/1993) and has since been amended, most recently at the beginning of 2001. Probation was introduced as an alternative to imprisonment by a law of 14 July 2000 on Probation and Mediation Service, which came into force on 1 January 2001 (Act No.257/2000).

The new Prison Act aims to increase the effectiveness of imprisonment by interaction with and positive motivation of prisoners, and to involve the community to a greater extent. It also seeks to ensure that it is the prison service rather than the criminal law that decides on the type of treatment that prisoners receive during their sentence, thus enabling decisions to be made flexibly on the basis of the best and most recent information. Changes in the new legislation limit prisoners' freedom to dispose of their money and affect their right to receive parcels (see paragraphs on Prison Disturbances, January 2000), their use of the telephone, visits, leave, disciplinary punishment, space allowances, the inspection of prisons and other aspects to which further reference will be made below.

### Organisational structure

Responsibility for the administration of the prison system reverted to the Ministry of Justice in 1968 after a break of 14 years. According to Act No. 555/1992 prison staff are divided into three categories: prison guards, court guards and management service. The prison and court guards have the status of an armed corps, while the management service provides the organisational, economic, educational, health care and other functions and is staffed by civilians (Valková, Meclová and Cerniková, 2001).

The Director General, head of the prison administration which is known as the General Directorate of the Prison Service of the Czech Republic (PSČR), is responsible to the Minister of Justice. The current Director General, Mrs Kam-

ila Meclová, was appointed in January 2000. Dr. Zdeněk Karabec was Director General for more than five years from 1990, when he was succeeded by Dr. Jiří Malý, the former first deputy Director General. Mrs Meclová, who had started her career in the Czech Prison Service as a psychologist in 1976 and was subsequently director of the prison for women and juveniles at Pardubice, was also first deputy Director General at the time of her appointment as Director General.

The General Directorate consists of the Director herself, the first deputy Director General, who is responsible for the Department of Prison and Court Guards (Security Department), the Department of Detention (pre-trial) and Imprisonment and the Health Care Department; a second deputy Director General who is responsible for the Economy (Finance) Department, the Administration (Legal) Department and the Department of Logistics and Production Activities; and the Secretariat, the Department of Control and Prevention (responsible for monitoring and for dealing with prisoners' requests and complaints) and the Personnel Department. There were a total of 239 staff employed at the General Directorate headquarters in the year 2000.

At the beginning of 2001 there were 33 prisons, 11 of which were predominantly for pre-trial detainees and 21 predominantly for sentenced prisoners. The other (Karviná) is intended for a similar number of each category. A thirty-fourth prison, predominantly for pre-trial detainees (Teplice) was opened during 2001. The capacity at the beginning of the year was 20,244, and at the end of the year it was 20,122, comprising 5,980 places for pre-trial detainees and 14,142 for sentenced prisoners; this is an increase of 2,107 places (11.7%) since the end of 1994.

The largest institutions, with capacities in excess of 1,000, are Plzeň (1,345), Valdice (1,294), Prague-Pankrác (1,075) and Vlnařice (1,055). Ten other prisons have capacities over 650. Two are sited in extremely old buildings: Valdice was established in the mid 19<sup>th</sup> Century in premises of a monastery built three hundred years earlier. Mírov was established as a civilian penitentiary also in the mid 19<sup>th</sup> Century; it is sited in a castle and has been used as a place of punishment since the 14<sup>th</sup> Century, at various times housing erring servants of the bishop and disgraced priests and being a correctional centre for monks (PSČR, 1996). Five other prisons (Liberec, Plzeň, Opava, Prague-Pankrác and Pardubice) were built between 1877 and 1891 under the Austro-Hungarian Empire. Turning from the oldest establishments to the most modern, six new prisons were added to the prison estate between 1994 and the end of 2001 (one prison was closed during this period); five of the six have capacities of about 150-200 and the other is for 470. (Details of building activities to increase accommodation capacity from 1993 onwards are in CPT, 1999/8 Annex 6 and the second Annex 7).

## Pre-trial detention

The level of pre-trial detention has fallen by almost one half since 1994, when it constituted 47% of the prison population and was at a rate of approximately 85 per 100,000 of the national population. There were reductions of 9% in 1995 and 8% in 1998 and, following the disturbances of January 2000 (see below),

further falls of 14% in 2000 and 23% in 2001. At the beginning of 2001 there were 58 pre-trial detainees in the prison system per 100,000 of the national population of the country (27.7% of the prison population); at the end of 2001 there were 45 pre-trial detainees per 100,000 (23.7% of the prison population). This is an average level for central Europe, higher than in most other European countries and lower than in the countries of the former Soviet Union. More defendants are now remanded at home, and the average length of pre-trial detention has fallen from 7 months to 5 months since March 2000. In Prague-Pankrác prison the average length of pre-trial detention fell from 12 months to 6 months between June 2000 and the end of that year.

Pre-trial detainees spend an average of one hour a day out of their cells in Pankrác prison, but a new unit has been established to hold 300 of the 750 pre-trial prisoners for whom there are places there. That unit has cells unlocked for 12 hours a day, but it was not full at January 2001 because insufficient detainees were considered suitable for such conditions. The Pre-Trial Detention Act of 1993 only guarantees one hour a day out of cell for walking exercise in the interests of the prisoner's health. But section 8 of the Act provides for a more lenient regime "with common social and cultural facilities where the accused shall be allowed to move freely at fixed times and to associate with the other accused placed in this department". Only a minority of pre-trial detainees in the Czech prison system experience this more lenient regime. The CPT recommends that the aim should be to ensure that all remand prisoners are able to spend a reasonable part of the day (i.e. 8 hours or more) outside their cells, engaged in purposeful activities of a varied nature (work, preferably with vocational value; education; sport; and recreation/association (CPT, 1999/7 para 56).

### The numbers held in penal institutions

The prison population, which had been reduced dramatically by a major Presidential amnesty at the beginning of 1990 (from 22,365 to 6,360), rose steadily throughout the 1990s. The total of 23,000 was passed in late 1999 and in January 2000 there were disturbances in 16 prisons. Overcrowding was seen as a major cause. It reached a maximum of 23,844 on 17 March 2000. On 23 March the Director General closed the prisons to all newly sentenced prisoners who had spent their pre-trial period at home. After three months such prisoners began to be accepted from a waiting list. The practice of courts and prosecutors has since changed: in the two years from the end of 1999 to the end of 2001 the number of pre-trial detainees fell by one-third and the number of sentenced prisoners by 9%. A greater use of conditional release is believed to be contributing to the reduction in sentenced prisoners.

In February 1998 the prison administration attributed the growth in the prison population to the long time spent in pre-trial detention (then averaging 7 months), the growing number of foreigners in the prison population (then 25%, mostly from the former Soviet Union and former Yugoslavia), a general growth in criminality and new types of (white-collar) crime (Council of Europe, 1998). By 2001 the crime rate was still regarded as high but it had declined slightly.



By the beginning of 2001 the prison population total had fallen to 21,538 (210 per 100,000), of which 27.7% were pre-trial detainees, 4.5% were female, 1.3% were juveniles (under 18), and 11.8% were foreign prisoners. At the end of 2001 the total was 19,320 (188 per 100,000), with 23.7% pre-trial detainees, 4.1% females, 1.1% juveniles and 11.0% foreign prisoners. This prison population rate of 188 is twice as high as that in the Czech Republic's neighbours Germany and Austria to the west and south west and higher also than Slovakia to the east. It is however lower than that in Poland to the north.

### Accommodation, overcrowding and living conditions

The number in the penal institutions at the beginning of 2001 was 106.4% of the total capacity, but by the end of the year the occupancy rate had fallen to 96.0%. Nevertheless twelve prisons were exceeding their overall capacity. No prison had overcrowding in its pre-trial accommodation, but twenty prisons were overcrowded in the accommodation for sentenced prisoners and the overall rate of occupancy in accommodation for sentenced prisoners was 104.2%.

The official minimum space specification per prisoner was raised to 3.5m<sup>2</sup> in 1990. The new Prison Act of 1999, dealing with the legal requirements for prisoners serving a prison sentence, excludes any reference to a minimum space allowance; so does the new pre-trial detention legislation, which came into force on 1 January 2001. However, the prison administration has continued to operate an unofficial minimum allowance of 3.5m<sup>2</sup> and the capacity figures for each prison were calculated on this basis. As a result of the decreasing numbers in the prisons the prison administration has since raised the standard to 4m<sup>2</sup> (from 1 February 2002) and expects to raise it to 4.5m<sup>2</sup> within the next two years.

The report of the CPT visit to the Czech Republic in 1997 (CPT, 1999/7) included the following comment: "... the existing standard of 3.5m<sup>2</sup> per prisoner in multi-occupancy cells does not offer a satisfactory amount of living space, in particular in cells of a relatively small size. The CPT recommends that the standard be raised. The CPT also recommends that cells measuring 8m<sup>2</sup> or less accommodate no more than one prisoner ...(and that) any cells measuring less than 6m<sup>2</sup> be taken out of service as prisoner accommodation." In their response to the report, the Czech authorities stated that these recommendations were being used as a target for the prison service in its efforts to reduce overcrowding. "The General Director of the Prison Service of the Czech Republic has been charged with designing a strategy as one of the major tasks of the Czech Prison Service in 1998" (CPT, 1999/8). As an annex to this response the Czech authorities included a detailed plan for increasing the number of places in the system by 4,380 by the end of 2002.

If the penal institutions had allowed 4m<sup>2</sup> per prisoner at the end of 2001, the minimum acceptable to the CPT for cells accommodating three or more prisoners, there would have been room for 17,607 prisoners, which means that the system as a whole would have been overcrowded by 11%. The average space per prisoner at the end of 2001 in the pre-trial sections of the two prisons with the largest number of pre-trial detainees was Prague-Pankrác 2.95m<sup>2</sup> and Prague-

Ruzyně 3.7m<sup>2</sup>. The average space for sentenced prisoners in the two prisons with the large number of sentenced prisoners was Valdice 3.0m<sup>2</sup> and Vinařice 3.5m<sup>2</sup>. The largest number of prisoners accommodated in one room in the Czech prison system is 20 but the prison administration reports that this occurs rarely. At the time of the CPT visit (February 1997) up to 23 prisoners were being held in dormitories in Mírov prison.

The prison administration reports that untried prisoners are always detained separately from convicted prisoners, women prisoners separately from men, and juveniles under 18 separately from adults.

Sanitary arrangements and arrangements for access are said to be adequate to enable all prisoners to comply with the needs of nature when necessary and in clean and decent conditions. The prison provides the toilet paper. Every prisoner is able to have a bath or shower at least once a week and more often if recommended by a doctor. Women may shower at any time. Pre-trial detainees are given the opportunity of wearing their own clothing if it is clean and suitable. The Czech prison administration is trying to improve the prison uniform but has no money for this. Sentenced prisoners too may wear their own clothes if they are washed regularly, in other words, if clean clothes are brought in by relatives or friends.

## Food and medical services

The quantity and quality of food that prisoners receive is believed by the head of the health care department to be close to average standards in communal catering outside. Some 45 Czech koruna are spent on food for one prisoner for one day (and 11-12 koruna on drinks). Until the year 2000 the rate was 35 koruna which was regarded as inadequate in terms of nutritional value. Efforts are made to produce a balanced diet (including meat, fruit and vegetables) but vegetables and fruit are expensive and consequently little of these is provided. Extra food is given to those involved in heavy work and to pregnant women. Some twelve different diets are prepared, in accordance with Czech law.

Each prison is required to have a nurse present, at least part-time, to control the nutrition in the prison. This dietary nurse is responsible for the menu and checks the quality and quantity of the food. Once a week the doctor approves the menu; he or she is also responsible for the quality of the meals. Kitchen hygiene is checked by external hygienists as from 2001; previously it was the responsibility of internal hygienists. As a result of this change the prison doctor is no longer required to supervise hygienic conditions. The external hygienist reports the situation to the Chief Medical Officer who advises the prison director of any defects that need to be remedied. It is the director's duty to act on such advice.

About half the prison kitchens are not in good repair, and although the medical staff report this to the director there is insufficient money for action to be taken. This is recognised to be an important issue and under the new system of inspection by an external hygienist the prisons will be liable to substantial fines if the kitchens are below standard and they would have to be closed. It is thought

that this will lead to much needed improvement in kitchen conditions.

The Czech prison health care service is more closely integrated with the national public health service outside than it was in 1994. This has been a deliberate policy. It is also considered to be of equivalent standard to the public health service, and the professional supervision of doctors and the control of infectious diseases, like the hygienic conditions, are regulated by the public health service as well as by the prison service. Prison health care is sometimes better than that outside since it can be quicker to get appointments and care within the prisons.

There are three prison hospitals, with a total capacity of 374 beds. The oldest, dating back to the 19<sup>th</sup> Century, is in Prague-Pankrác (139 beds), while a modern well-equipped hospital in Brno prison was opened in 1997 and has 170 beds. The third prison hospital is at Ostrov and is for TB patients only (65 beds). Every prison has its own medical centre with at least one doctor and three nurses for every 500 prisoners. In fact there were 134 full-time doctors employed by the prison service at the beginning of 2001 (34 of them on contracts), and a further nine vacancies. Four of the doctors are psychiatrists. Every prison has a dentist – ten of them prison service employees and the rest on contract. There are also 331 full-time nurses (no vacancies), 11 physiotherapists, and a further 28 staff including radiologists, laboratory workers, dietary nurses and auxiliary staff. Almost half the prison doctors are retired doctors from the public health service. (For further information about prison health care in the Czech Republic see MacDonald, 2001.)

The availability of medicines is good; some of them must be paid for, as in the community outside, if prisoners can afford to do so. Most cannot and they receive them free. Every newly admitted prisoner receives a full medical check-up, as in the public health service, and additionally a lung x-ray (for TB) and a blood test (for syphilis). Prisoners who are working must pay health insurance, as citizens outside do.

The prison health care department reports that there is no serious problem of alcohol addiction. The courts send 20-30 people a year to prison with an order that they should have preventive treatment in respect of alcohol abuse. Prisoners are asked on admission if they are alcoholics and registered addicts will receive appropriate medicines to the best of the prison service's ability. A treatment unit for 30 alcoholics is to be opened in Liberec in 2002.

Many prisoners have been using drugs before admission to prison but the numbers are stable. Check-ups on entry revealed that 22% of new prisoners in the year 2000 tested positive. Research has shown that there is, however, little use of drugs in prison and few prisoners could be described as having a drug problem. Medicines are misused but the use of hard drugs is exceptional and confined to individuals. A three-year drug strategy (1997-2000) concentrated on reducing the supply of drugs entering the prisons, primary prevention and education of prisoners, and treatment for hard drug users. During the period 2001-2004 the emphasis is on drug-free units. There is special treatment of drug addicts in Opava, Plzeň and Rýnovice, including a unit for 160 at Plzeň which was treating only 100 addicts at the beginning of 2001 because of shortage of staff.

Prisoners in high-risk groups (homosexuals, prostitutes and drug users) were mandatorily tested for HIV/AIDS until 1994, when legislation guaranteeing anonymity and voluntary agreement to testing was adopted by the prison service. Prisoners diagnosed with HIV are not isolated and their condition remains confidential, except that the prison director will be informed if an infected prisoner asks to be segregated. HIV/AIDS is not regarded as a problem in the Czech prison system and at the beginning of 2001 just seven prisoners were known to be HIV positive. The numbers are not increasing. Counselling is provided before voluntary tests and after a positive diagnosis. Post-test counselling is done by public health specialists.

Tuberculosis is regarded as a problem but the numbers are not increasing. In 1999 medical check-ups on admission revealed 85 cases who needed to be transferred to Ostrov TB hospital for treatment; in 2000 the number was 60. Prisoners very rarely die of tuberculosis in prison; if it is clear that they will not survive, a pardon is normally obtained and they are released.

Although there was once (until 1963) a special department in Pankrác prison for mothers with babies, the practice since then has been for pre-trial women who are pregnant to ask the court to release them. If this is not allowed they are transferred to Pankrác prison hospital three weeks before the delivery and to a public hospital for the actual birth, if the court allows. In the last ten years five babies have been born in Pankrác hospital. According to the law the babies have to be placed in a children's home while the mother remains in custody. This has led to criticisms and the new Prison Act has authorised a mother and baby unit within the prison system. This was under construction at the beginning of 2001 and will have four places for mothers and babies.

There were 33 deaths in Czech prisons in the year 2000, following similar numbers in the previous three years (1997: 34, 1998: 33, 1999: 21). Nine of these were suicides; none were as a result of tuberculosis. The suicide level has remained stable, despite the steady increases in population until March 2000.

As mentioned above, the medical staff are responsible for the quality and quantity of the food. Hygiene and cleanliness of the institution are now supervised by external hygienists. Nonetheless medical staff are still expected to advise the director or such matters and on sanitation, heating, lighting and ventilation and the suitability and cleanliness of the prisoners' clothing and bedding.

It is one of the duties of medical staff to provide preventive health information. This is part of the so-called 'harm reduction policy', the guidelines for which are set out by the prison administration's department of health care. Every six months there are meetings of the chief doctors from all prisons in order to discuss key issues.

The CPT delegation which visited Prague-Pankrác and Mírov prisons in February 1997 "formed a generally favourable opinion of the medical services". They reported that the number of doctors, specialists and other health care workers employed, as well as their hours in attendance in the prison, were sufficient. Further, the premises and level of equipment were satisfactory in both establishments and they were generally impressed by the professional competence dis-

played by the doctors and other medical staff. They added that it was “noteworthy that few complaints were received from prisoners about health care services” and concluded by saying that “the delegation was satisfied that the level of care provided to prisoners was of an adequate standard and, more particularly, comparable to that which would be available to persons in the community at large” (CPT, 1999/7 para 58).

## Discipline and punishment

The section of the Prison Act 1999 which deals with discipline and punishments deals first with rewards for good behaviour (Article 45). Disciplinary punishments (Article 46) range from a warning, through reduction of pocket money and prohibition of a package, to a fine, forfeiture of an object used in the disciplinary offence, placement in a closed unit for up to 28 days (except for time to undertake treatment tasks), to placement in a segregation unit for a period of up to 20 days for adults (isolation punishment) or 10 days for juveniles. However, disciplinary sanctions are said to be used sparingly in the Czech prison system. The CPT commented that they found no evidence of excessive resort to disciplinary sanctions in the prisons they visited.

The CPT noted however that, while pre-trial detainees who were in isolation punishment were allowed a mattress on their bed at night as well as a blanket, sentenced prisoners in isolation punishment only received a blanket. They recommended that all prisoners should have a mattress (CPT, 1999/7 para 75). In their response the Czech authorities notified the CPT that the obligatory nighttime provision of mattresses in disciplinary cells would be added to internal regulations in 1998 (CPT, 1999/8 p.22). The CPT noted that disciplinary cells were of adequate size and were equipped with at least a wooden bed, some storage space, a washbasin and a lavatory. They recommended that regulations be amended to allow all persons placed in such cells to have access to reading matter.

## Contact with the outside world

Pre-trial detainees may be visited at least every two weeks with each visit lasting for at least 60 minutes. Until 1999 visits were guaranteed only every three weeks and for 30 minutes. The CPT had commented that the equivalent of 10 minutes a week was insufficient to allow prisoners to maintain good relations with their families and friends (CPT, 1999/7 para 65); the new regulation allows 30 minutes per week. The CPT commented that in February 1997 they found that most visits to pre-trial detainees were conducted under closed conditions (e.g. prisoner and visitor separated by a glass screen), and they recommended that such visits should generally be conducted under reasonably open conditions (CPT, 1999/7 para 66). The prison administration advised in January 2001 that while they considered a 50/50 split between closed and open visits was about right, discussions on these matters were left to the individual prison directors. The situation was complicated by the considerable increase in visits.

Under the Prison Act of 1999 sentenced prisoners may be visited for a maximum of three hours in a month, regardless of their security category. Previously the visiting entitlement depended on the prison regime. However, the new Act actually reduces the length of visiting in the lower security prisons. Prisoners may now receive private (intimate) visits from their partners, something that was not included in previous legislation although in practice it was permitted. It is principally envisaged for prisoners in high security prisons; for those in lower security establishments it is considered better to allow the maintenance of sexual relations to be enabled through temporary releases from prison. There are no arrangements for prisoners to receive long visits, including overnight stay, from their families. It is often impossible, in present circumstances with overcrowded prisons, to locate prisoners near to their homes. The maintenance of positive family ties is also obstructed by the fact that prisons may be difficult to reach and family members may find the journey a considerable problem both in terms of time and money.

There is no limit on the number of letters that prisoners may send or receive. However, all correspondence, except letters to and from lawyers, official bodies and international human rights organisations, may be read by the prison authorities. This does not delay the letters of sentenced prisoners but there may be some delays if the correspondence of a pre-trial prisoner suspected of collusion is checked by a law enforcement authority (CPT, 1999/8 p.13).

The use of a telephone is not permitted to pre-trial detainees. But the new Prison Act allows such contact with family and friends “in reasonable cases” (Article 18). The prison administration would like this qualification to be dropped, and to use credit cards for prisoners’ calls. Prisoners used to be allowed to receive parcels containing food and personal items once every two weeks, but this has now been restricted to twice a year (four times a year for juveniles) in order to prevent the importation of drugs into the institutions. It is intended to phase out parcels altogether; the prison canteens are said to have a wide enough assortment of the items that prisoners need and it is envisaged that prisoners could be sent money to use there. Underwear, other clothing and objects relating to treatment, education or hobbies are not restricted and may be received as often as necessary.

Prisoners may be granted home leaves for three day periods (known as an ‘interruption of punishment’) and they may be on leave in this way for up to 20 days in a year (30 days for mothers visiting their children) “as a kind of reward” and up to 10 days a year “for pressing family reasons” (Article 56).

Prisoners may watch television in the group rooms, though not usually in their cells where radios only are available. Those in the lowest security categories may be allowed to attend cultural, educational and sporting events outside the prison accompanied by a member of the prison staff, if the director of the prison agrees. Outside groups also come in to contribute to cultural and educational activities and sometime to provide entertainment.

The Czech prison administration is concerned to encourage the openness of the prisons to the general public, to the extent that this is consistent with the



privacy of the prisoners and the protection of the society. All prisons have been developing communication and contacts with local government bodies, schools, cultural institutions, halfway houses and civic groups. As far as conditions allow, access is granted to students working on their dissertations or learning about the problems of the penal system.

## Prison staff

The Czech prison service employed 10,088 staff at the beginning of the year 2000, an increase of almost 40% on the total at the beginning of 1994. The number working in the prison administration headquarters increased from 109 to 239 during this period. There were vacancies for 173 security staff on a typical day in 2001 and 146 non-uniformed staff. Of the 9,849 staff working in the prisons (at 1.1.2000) 395 (4%) were management staff, 5,967 (61%) were security staff, about 900 (9%) treatment staff, 463 (5%) medical staff, 21% administrative and other staff. The overall ratio of prison staff to prisoners, based on the total of 10,088 at the beginning of the year 2000, was 1 : 2.3 or, if the ratio is based only on management, security and treatment (including medical) staff in the prisons, 1 : 3.0. At the beginning of 2001 the staff total was approximately 10,800.

In the six years from 1.1.1994 to 1.1.2000 the number of security staff increased by 50% but the number of educators and pedagogues doubled and more psychologists and social workers were also appointed (see 'Treatment and regime activities' below).

There is a significant turnover of staff with 65% of uniformed (security) staff staying less than 5 years. Prison salaries are about 20% more than the national average but staff morale is said to be low because there has been no increase since November 1999 and the requirements of the new legislation meant that there was insufficient money to give staff a bonus at the end of 2000. The public attitude to prison security staff is still said to be unfavourable more than a decade after the end of communism. The prison administration maintains contact with all forms of media and tries to acquaint the general public with the work of prison staff and the problems of the penal system.

Initial training for new recruits to the prison service is set by law at up to 12 months. After one month's service, an eight month course is undertaken. They are then evaluated before being commissioned as permanent members of staff. There are various kinds of more advanced training, including for specialists. Educators and social workers are trained, for example, in helping prisoners with relationships with their families. (See also Annex 5 of CPT, 1999/8.) Particular efforts are being made to improve the ability of prison staff to communicate with prisoners, to improve management skills and to broaden their knowledge of various methods of working with prisoners.

In the year 2000 a number of staff, mostly specialists, switched from uniformed status to civilian. This is part of the demilitarisation of the service. It is said that security staff, who remained uniformed, learned from this that uniforms were not essential to their work. The prison administration reports that



prisoners are generally well treated by security staff and that, since 1994 when a new system of security was developed in order to minimise the use of force, there has been a substantial decrease in the use of the baton (truncheon). However the CPT drew attention to four incidents which took place in the 8 months before their visit in February 1997 (CPT, 1999/7 paras 40-41). The prison administration responded by drawing this matter to the attention of all prison directors and giving “a strong message to prison officers that ill-treatment of prisoners is unacceptable and will be subject to severe sanctions .....” (CPT, 1999/8 p.20). (The number of incidents of the use of coercion had risen from 579 in 1996 to 703 in 1997; 40% of such incidents were physical restraint, and 35% the use of handcuffs or restraining harness. The use of the baton rose from 111 in 1996 to 156 in 1997 but had fallen by one third by the end of the year 2000.) In 2001 it was up to the prison director to decide what equipment security staff should have in prisons with the two highest levels of security. Truncheons are not carried visibly in prisons with low security category. In practice directors are reluctant to limit the carrying of equipment for fear of the criticism that would follow an unexpectedly serious incident in which equipment was needed but not available. The head of the security department, in his guidance to prison directors, advises against the carrying of truncheons. New technology has been adopted for security in three prisons, eliminating the need for towers and the staff to man them. Dogs ceased to be used for security purposes in 1993 but were reintroduced in 1997 for the detection of drugs; there are now 10 centres involving some 100 dogs, and there are also some 250 dogs for use in escorting and to prevent escapes.

The Czech prison service employs a considerable number of women staff in men’s prisons. They are seen as lightening the atmosphere and improving the behaviour and smartness of male staff as well as prisoners. They work at the prison gate, in operational centres and also in prisoners’ accommodation areas. Men are little used in women’s prisons.

Misbehaviour by staff is not a significant problem in Czech prisons, the prison administration reports. There is some corruption, involving the smuggling of mobile phones, and up to 20 cases a year lead to disciplinary proceedings.

## Treatment and regime activities

If a prisoner receives a sentence longer than 3 months the Prison Act requires that a programme of treatment shall be prepared which is designed to have a positive effect in respect of rehabilitation (Article 40). The programme is based on a report, which takes account of the prisoner’s personality, the reasons for the offences and the length of the sentence. The report is a collection of the results of psychological, medical and social/educational assessments (Article 41) prepared over a period of 4-6 weeks. A prisoner who has not been in pre-trial detention will first go to an admission unit for about ten days in order to be given basic information and check-ups and then be classified and transferred to the prison in which the sentence will be served.

The number of hours that sentenced prisoners spend outside their cells each

day depends on the type of prison to which they are allocated, the availability of employment and the facilities in the prison. The prison administration's policy is to make every possible effort to ensure that at least three hours a day are spent out of cells in addition to any time spent on employment. Leisure activities include sport, handicrafts, music, gardening, visual arts and technical skills. In prisons with minimum security prisoners can move freely and without restriction within the institution; in those with maximum security every movement is organised and supervised and even work may take place within the cells. The facilities within the prison which affect the time spent out of cells include the availability of gyms and recreation areas. In the absence of full employment it is recognised that in most prisons there are insufficient constructive activities to occupy prisoners during a normal day.

It is envisaged that a treatment team should include eight 'educators', two pedagogues, one social worker and one psychologist, and should work with a group of 160 sentenced prisoners. The educator is the member of staff whose duty it is to take a special interest in the progress of his or her group of prisoners, leading their leisure activities, checking their mail and dealing with problem situations that may arise. The pedagogue provides teaching for those who need to complete their elementary education, organises artistic and musical groups and conducts group therapy. The social worker prepares the prisoners' treatment programme, may be involved with prisoners' families and liaises with social curators in the community in connection with resettlement and after-care. There is thus supposed to be one educator for every 20 prisoners (one for every 10 juveniles). In practice each group in 2001 was of 20-30 prisoners, which means that the groups have halved in size since 1994 when the normal size was 40-60 prisoners.

The treatment teams work in a multi-disciplinary way and prepare programmes based on a policy framework coming from the prison administration. The programmes are for approval by the prison directors and the prison administration, by whom they are randomly checked. Each team must meet at least once a month; in practice they meet more often. Written records must be kept of the meetings. The system is still being developed. Flexibility is allowed from prison to prison. At least twice a year they meet with the head of detention and imprisonment at prison service headquarters and are able to influence central policy making. Training for such team working was due to begin before the end of 2001. The official policy is that all people who work with prisoners are involved in treatment, including security staff, but security staff are not yet integrated into these treatment teams.

There are more than 850 educators and pedagogues, 112 social workers and 83 psychologists in the prison system (compared with 425, 70 and 62 respectively seven years earlier). These increases reflect a policy of strengthening the treatment activities of the Czech prison system. However, there are still considered to be insufficient staff in these categories. It is to be noted that teams of specialists work not only with sentenced prisoners but also with pre-trial detainees.

In the year 2001 a new category of prisoners was instituted: young adults aged 18-26 are to be a special focus of attention. All prisons have treatment programmes for this age group. Special programmes have also been prepared for prisoners with particular needs, for sexual deviants and for prisoners aged 60 or over, in addition to the medical programmes referred to earlier. There is a special department for sexual deviants at Kuřim prison and preparations were being made early in 2001 to open a psychiatric unit at Brno for prisoners with border-line criminal responsibility. There are units for psychopaths in Mírov and Plzeň.

Considerable efforts are made to prepare prisoners for returning to life in the community. In the six months before the end of their sentence they are encouraged to take more responsibility in organising their own life within the prison. A special pre-release programme is in operation at the high security long-term prison at Mírov. For prisoners with shorter sentences efforts are made to assist in the finding of accommodation and employment and in dealing with the various authorities with which they will have to cope. The social workers have the main responsibility for liaison with social curators in the community but educators and pedagogues are also involved in pre-release preparations. The community social support network is said to have improved little in recent years and to be less than satisfactory. It has become clear that prisoners need assistance in having the correct documentation (identity card) on release. Emphasis is placed on the prisoner taking as much responsibility as possible; thus if he asks for something to be done he is advised how to do it for himself.

The legislation envisages every prisoner receiving at least one hour's exercise every day. The prison administration reports that it is not only required by law but also emphasised as part of policy that this shall take place. The CPT in February 1997 found that pre-trial detainees did not always receive an hour's exercise at the weekend, if an insufficient number of staff were present. Again, patients in the prison hospital were not always being given the opportunity to go outside (CPT, 1999/7 para 72). In their response the Czech authorities explained that the problem was caused when extra guards were needed to escort prisoners to court. All prison directors were reminded of the need to provide all remand and sentenced prisoners, including patients in prison health care facilities, the opportunity of the amount of exercise guaranteed to them under the law (CPT, 1999/8 p.22). It is understood that this deficiency has indeed been corrected.

## Conditional release and probation

Conditional release is decided by the courts after prisoners have served a half or a third of their sentence. It may be requested by the prisoner, the director of the prison, or a lawyer acting on the prisoner's behalf. The decision is taken after consideration of a report from the prison. As a result of the Probation and Mediation Services Act 2000 the term 'conditional release' is being replaced by 'parole' and this will involve some supervision and after-care by a probation officer.

Although there were probation officers as early as 1996, their work expanded greatly during 2001. The principal focus was in connection with developing

alternatives to criminal proceedings, including mediation activities. They also prepare pre-sentence reports for the court, supervise sentences of community service, monitor compliance with compensation orders and supervise offenders on whom suspended sentences have been imposed. They also started parole supervision during 2001 (Meclová, 2002).

## Prison work

Sentenced prisoners are required to work if they are fit to do so and work is available for them. Arrangements for prison employment in the Czech prison service were described in the previous report (Walmsley, 1996 pp. 245-6); some 50% of sentenced prisoners were working in 1994. At the beginning of 2001 about 40% of sentenced prisoners had employment and this had risen to about 45% by the end of the year. Some others have occasional work. The new legislation has in practice reduced the amount of money that prisoners have. It provides that prisoners with work must have the cost of their accommodation deducted from their pay; once money has been deducted also for alimony and compensation to victims and they have sent an amount to their family, they rarely receive more than 20% of what they have earned. This was one of the factors contributing to the disturbances of January 2000 (see 'Prison disturbances, January 2000' below). Prisoners without work are expected to repay their accommodation costs after their release, unless three years after release they are earning no more than the state minimum wage of 5,000 koruna (145 euros) per month. It is not expected that many will ever pay this money.

It is exceptional for a pre-trial detainee in the Czech prison system to have employment, likewise (in Prague-Pankrác at least) for a foreign prisoner. The pay received depends on the number of hours worked, based on the state minimum wage.

Prisoners who are not working are given 50 koruna a month as pocket money (but a packet of cigarettes costs 35 koruna).

In Prague-Pankrác prison, for example, where sentenced prisoners are mainly employed on the maintenance of the prison, the numbers employed have fallen (from 85% to 60%) since the increase in November 2000 in the minimum wage because prisons have no extra money to pay for the increase.

Employment may be for private employers, involving working either inside or outside the prison, or it may be work required for the functioning of the prison, as cooks, carpenters, agricultural workers or cleaners. "In the past hundreds of prisoners were employed by a single employer. Today, different employers each employ fewer than a hundred prisoners" (Valková, Meclová and Cerniková, 2001).

The need to employ as many prisoners as possible is strongly felt within the Czech prison service but, as in other countries of central and eastern Europe, the large state-owned enterprises which employed so many prisoners before 1990 collapsed or were privatised and it is this which has significantly reduced the proportion with work. "In April 1998, the government, having considered various options for the employment of prisoners, passed a decree as a first step towards the realization of the principle that the state should commission work

from the prison service. Of importance to the Czech penal system is the government's admission that, without state participation, it is impossible significantly to increase the number of employed prisoners" and any additional employment requires initial investment in production capacity (Valková, Meclová and Cerniková, *ibidem*). However, this recognition has not resulted in any significant state action to improve the employment situation. Furthermore there are doubts as to the extent that a largely unskilled labour force could successfully carry out more than a minimum of state orders for work. The possibility of providing state incentives to employers who provide work for prisoners has been considered but it is not clear how such a solution would comply with the principle of equal conditions for all within the framework of economic competition (Ministry of Justice, 2000).

### Education and vocational training

The prison administration regards education and training as an especially important part of the work of the Czech prison system and more important, in terms of a prisoner's potential for future employment, than prison employment. The philosophy that education and training are at least as important as prison employment has held sway since 1965. At present students and trainees are not paid but it is recognised that they should be.

Education in the Czech prison service is provided by the Vocational Training Centre (VTC), whose management is based at the headquarters of the prison administration. The work of the VTC is conducted in School Education Centres which are located in six prisons – Opava, Pardubice, Plzeň, Rýnovice, Valdice and Všehrdy. Each centre provides theoretical education and practical training. The teachers are prison service employees who are university graduates and instruction is also given by 'masters of skills and practices' who have at least higher education and a qualification in teaching. The organisation of the VTC and its School Education Centres is under the supervision of the Ministry of Justice, while the teaching is supervised by the Ministry of Education.

The main education and training is at three levels: for those who successfully completed the ninth grade of their elementary school, for those who did not reach the above standard, and for those who successfully completed special elementary school. In addition, courses are provided for those who are illiterate and in cognitive skills training, and there are various professional courses for obtaining or extending a qualification. Courses may be full-time or part-time, short-term or long-term and day courses or evening courses.

The four education centres in prisons for juveniles are designated as apprentice schools; education is mandatory for all prisoners under the age of 18, and some prisoners aged 18-26 are selected for forms of vocational training. In the prisons for juveniles and young offenders two-year full-time apprenticeships are available for electricians, dressmakers (for women), machine metal processors, bricklayers, carpenters, chefs and gardeners and, in the prisons for adults, two or three years full time for machine metal processors. Full-time courses other than apprenticeships are provided in most of the above skills and practices and also in glass-cutting, painting (for men) and domestic science (for women). Part-

time courses include basic computer skills, German language, English language, welding, bookbinding, and being a blacksmith. In the academic year 1999/2000 303 students were taking apprenticeships and they obtained 108 vocational certificates (compared with 176 and 47 respectively in 1993/94). 668 students took courses and 406 certificates were obtained (compared with 430 and 111 respectively in 1993/94).

## Inspection and monitoring

The prison administration has a well-developed system of inspection. Each institution has a full inspection every three years, while partial inspections occur more often, based on particular themes. As a result at least two inspections of some kind take place at each institution during any year. The inspection process is seen as a vital means of pressing for continual improvement in the prison service.

The 1999 Prison Act has made the public prosecutor responsible again for checking that all legal requirements are being followed in the prisons. The prison administration considers that prosecutors are well-qualified to carry out this task. These functions were removed from the prosecutor's office in 1994 when it was expected that the role would be assumed by a new inspection team in the Ministry of Justice. Another independent body which monitors the conditions in the prisons is the Helsinki Committee, and prisons are also regularly visited by an expert from the Office of the President.

The Council of Europe's CPT visited the Czech prison system in February 1997, as already noted, and made 21 recommendations, some of which have been mentioned. They covered such matters as prisoners' complaints, the use of force, overcrowding and the space allowed per prisoner, the prison regime and regime activities, confidentiality concerning medical matters, visiting entitlements and arrangements, opportunities for exercise, and conditions in disciplinary cells. The Czech authorities responded positively to these recommendations.

The CPT recommended "that the Czech authorities conduct a review of procedures currently used to process prisoners' complaints, with a view to ensuring that they offer appropriate guarantees of independence and impartiality, and do not discourage persons who may have been ill-treated from pursuing a complaint (CPT, 1999/7 para 42). The Czech authorities, in response, pointed out that the CPT findings did not accurately reflect the way that complaints were being handled, and gave a detailed description of the procedures and the way in which they conformed to legislation and to Instructions from the Director General. The Ministry of Justice nevertheless conducted a review of the procedures in the first half of 1998, as a result of which the Prison Act of 1999 provides that pre-trial detainees and sentenced prisoners may lodge complaints with the relevant national and international bodies. The national bodies include the Helsinki Committee and the Office of the President and the international bodies include the CPT. At the beginning of 2001 the prison administration reported that the number of complaints had fallen.



The European Prison Rules, which provide the benchmark for assessing the quality of the management of prisons and the treatment of prisoners, are reported to be widely available in the Czech prison system. The Director General and the directors of the penal institutions have copies, as do management staff at the prison administration headquarters and in each prison. Copies are also said to be available to be read by other prison staff and by prisoners

### Prison disturbances, January 2000

In 1998 there were three mass protests in the form of refusal to eat for one or two days. The reasons included the small rations of food, overcrowding and the consequent deteriorating prison conditions, the low rate of employment and the poor condition of articles of clothing. The prison administration managed to control these disturbances but the causes were not removed (Valková, Meclová and Cerníková, 2001). However, the most serious occurrences in the Czech prison system in recent years were the disturbances that took place in sixteen prisons from 10-13 January 2000, and involved a quarter of the prison population. What were individual protests in one prison (refusal of food and of an order to move to the dining room) spread rapidly after pictures were shown on the television news. Calm was restored through communication and negotiation with prisoners, with the result that there were no casualties and material damage was minimal (Meclová, 2002).

The disturbances coincided with the introduction of the Prison Act 1999 on 1 January 2000 which, among other things, requires prisoners to pay for their stay in prison and, as mentioned, reduces the number of packages they may receive. The prison administration identified a number of reasons for the disturbances, including increasing tension in the prisons as a result of long-term overcrowding, deteriorating living conditions and prison environment (because of the shortage of resources), and deficiencies in staff selection and training. They pointed out that even management staff were given insufficient training, that inadequately trained staff cannot manage continuously stressful situations and that this itself contributed to the tension; also they considered there to be insufficient educators and a disproportionately high number of security staff. Other reasons identified included prisoners' boredom as a result of lack of jobs and lack of opportunities to use their free time in meaningful ways.

The prison administration considered prisoners to have legitimate grievances in respect of overcrowding, catering, hygiene, clothing and cleanliness and quality of mattresses and blankets. Prisoners also complained about a large number of aspects of prison life, including the new costs, which they felt should only apply to prisoners with employment.

The prison administration concluded that emphasis should be placed on creating more accommodation and reducing the prison population, making probation and parole more effective, increasing the financial resources available, improving the prison environment, finding employment for more prisoners and dealing with the numbers, structure and training of staff. Modest changes have been made in response to these requirements but the prison administration re-



gards the changes as insufficient. Nonetheless they have succeeded in maintaining order in the prisons and in January 2001 they were able to report that there was no longer a significant level of tension. Overcrowding was diminishing and the food allowance per prisoner had been increased.

### Non-governmental organisations

There are few NGOs in the Czech Republic and not many of them are interested in prisons. Those that wish to visit prisons have to sign a collaboration document concerning confidentiality etc. The Salvation Army, Caritas, HOPE and the Czech Helsinki Committee all make visits, the first three in connection with religious and charitable activities and the Helsinki Committee to monitor the work of the prison service. The prison administration welcomes the work of NGOs and considers that any negative assessment (e.g. by the Helsinki Committee) is helpful in achieving change. They would welcome more NGOs becoming involved in the after-care of prisoners.

### International co-operation

The Czech prison service is involved in international co-operation especially with Slovakia but also with the German states of Bavaria, Lower Saxony and Saxony and with Poland. There are contacts with the training centres in Bavaria and Norway. Plzeň prison is twinned with Zwolle in the Netherlands but no other twinning arrangements were reported. Periodically an international conference is held in Kroměříž, Moravia. The Czech prison service also participates in Council of Europe activities.

### Other matters

Both pre-trial detainees and sentenced prisoners are entitled to vote in national elections, but not in local government elections.

An annual report is prepared but not formally published. The prison service now has a web-page at [www.vscr.cz](http://www.vscr.cz) and continues to publish the fortnightly 'Aktuální Informace' (Topical Information), containing general information for prison staff and details of the number and type of prisoners in each prison. The magazine-format – 'České Vežeňství' (Czech Prison System), is published four times a year and is available for sale to the public. It is distributed to courts, government departments, social curators and specialist libraries, and "creates a platform for lawyers, doctors, psychologists, the police, researchers and other specialists to voice their opinions on the prevention of criminality, penal policies and penological and penitentiary issues" (Valková, Meclová and Cerníková, 2001). An English language version of a special issue giving descriptions and pictures of each prison was published in 1996. Each issue has an English translation of the contents. Articles include descriptions of initiatives that are not current practice in the Czech Republic: an issue in the year 2000 had several contributions on conditional release with supervision (parole), which was legislated for by the Probation and Mediation Services Act 2000.

## Important recent developments

The following are regarded by the prison administration as some of the most important recent developments affecting the Czech prison system:

- the increase in the number of civilian staff and the corresponding reduction in the role of the military 'armed corps' within the prison service;
- major disturbances in Czech prisons in January 2000, in the context of considerable overcrowding and inadequate living conditions;
- mass activity in 2001 by Russian speaking pre-trial detainees and sentenced prisoners, imprisoned in connection with organised crime activities;
- adoption of new legislation (the Prison Act 1999 and amendments to the Pre-trial Detention Act 1993) and implementing regulations;
- amendment of the Code of Criminal Procedure, Penal Code and other legislation in order to achieve a gradual reduction in the prison population, especially in respect of pre-trial detention;
- revision of the penal philosophy towards less use of imprisonment and increased use of alternative sanctions.

## Current objectives

The following are some of the main objectives reported by the Czech prison administration:

- to establish pre-release units in all prisons with high and maximum security;
- to establish drug-free zones in all prisons;
- to provide the various types of preventive medical treatment that are imposed by the courts as part of the sentence of imprisonment;
- to establish necessary specialised units: e.g. for mothers with children, for prisoners who are permanently unable to work, for mentally disordered inmates, and for inmates with behavioural disorders;
- to take measures to improve arrangements for the imprisonment of sentenced foreign prisoners;
- to take measures to improve arrangements for the imprisonment of those sentenced for organised crime;
- to improve the material conditions, the space available per prisoner, and the staffing of the institutions in order that there may be enhanced treatment of prisoners;
- in accordance with the approved document 'Concept of security of the Czech prison service', to improve communications and signalisation, structural and technical measures, and thus to minimise the use of force in connection with the internal and external security of the institutions;
- to move closer to the conditions prevailing in European Union member states.

## Main problems

The following were identified by the prison administration as some of the main problems, which are obstacles to the achievement of the objectives and to the advancement of the prison system in the Czech Republic:

- the overcrowding in the prisons;
- the inadequacy of the prison budget. The prison service received only 50% of the money needed for investments in 2000-01. Despite an agreed staff salary increase of 6%, money was only given for a 4% increase, leaving the prison service to find the missing 60 million koruna. After a recent prison escape leading to a murder a review established that 1.2 billion koruna were needed for security. Parliament only approved a small part of this, and no money at all was received;
- lack of interest in the prison system on the part of the Government;
- the shortage of employment for prisoners;
- the voices of those who see the intensification of repressive measures as the only solution are growing stronger;
- insufficient constructive activities to occupy pre-trial detainees and sentenced prisoners.

## Achievements

The prison administration was asked to identify recent successes of which they were proud, some of which might offer constructive ideas which could be taken up by the prison systems of other countries. They drew attention in particular to:

- the fact that despite unfavourable financial conditions and insufficient space there continues to be gradual improvement in the quality and quantity of treatment of prisoners in order to prepare them to become law-abiding citizens, and the danger of slipping into the mere provision of security and surveillance is being successfully resisted;
- having managed the mass disturbances of January 2000 in a peaceful way so that there were no casualties and material damage was minimal;
- having thwarted planned activities by Russian-speaking prisoners imprisoned for organised crime;
- the fact that all prisons have special treatment programmes for young adults aged 18-26, which encourage them to take more responsibility for themselves and organise their own lives.

Further achievements of the Czech prison system, some of which others may wish to adopt, include:

- increasing the official minimum space allowance to 4m<sup>2</sup> (from February 2002);
- the creation of a pre-trial detention unit (at Prague-Pankrác prison) where prisoners are unlocked for 12 hours a day;

- increasing the amount of money spent on food per prisoner per day;
- the development of three-year drug strategies (1997-2000, 2001-04) with special treatment units at three prisons;
- pursuing a 'harm reduction' policy for health care, including the provision of preventive health information, and having six-monthly meetings between the chief doctors in the prisons and the head of health care at the prison administration;
- the increase in the frequency and length of visits to pre-trial detainees;
- the considerable increase in the number of educational staff, and also psychologists and social workers, with the result that each educator's group averages 20-30 prisoners, and there are 83 psychologists working in the prison system;
- the creation of multi-disciplinary treatment teams, meeting regularly, preparing programmes, and at least twice a year holding discussions with the senior official in the prison administration who is responsible for treatment and monitors their work;
- the emphasis placed on education and vocational training;
- paying more attention to the treatment of foreigners;
- the policy of encouraging the openness of the prisons to the general public, to the extent that this is consistent with the privacy of the prisoners and the protection of the society;
- the publication of a magazine-format journal (České Vežeňství) which creates a platform for criminal justice experts to discuss prison matters and gives information about new initiatives to improve the criminal justice system in so far as it bears on the prison service.

## Conclusion

The progress that has been made is evidenced by this account of the prison system, recent developments, objectives and achievements. Relations between staff and prisoners are generally good and there are many examples of good practice.

The following are some of the most important outstanding tasks, in addition to the objectives listed above:

- to amend the practice whereby pre-trial detainees are generally separated from their visitors by a screen. Such a practice is only necessary for exceptional cases;
- to ensure that prisoners have a balanced diet including an adequate amount of fruit and vegetables;
- to make every effort to increase the proportion of sentenced prisoners for whom work is available;
- to develop regime activities for pre-trial detainees and sentenced prisoners so that they all spend a reasonable part of the day out of their cells/rooms, engaged in purposeful activities of a varied nature;
- to develop still further the training for all types and levels of staff.

## Annex 1

### CZECH REPUBLIC: Numbers in the penal institutions 1990-2001

Year (31 December)	TOTAL in penal institutions	Prison population rate (per 100,000 of national population)	National population (estimate)
1989	22,365	216	10,362,100
1990	8,231	80	10,305,600
1991	12,730	123	10,312,500
1992	13,967	135	10,325,700
1993	16,567	160	10,334,000
1994	18,753	181	10,333,200
1995	19,508	189	10,321,300
1996	20,860	202	10,309,100
1997	21,560	209	10,299,100
1998	22,067	214	10,289,600
1999	23,060	224	10,278,100
2000	21,538	210	10,266,500
2001	19,320	188	10,254,900

	TOTAL	Percentage of prison population	Rate (per 100,000 of national population)
<b>Pre-trial detainees in 2001</b>			
(1/1)	5,967	27.7	58
(31/12)	4,583	23.7	45
<b>Female prisoners in 2001</b>			
(1/1)	968	4.5	9
(31/12)	789	4.1	8
<b>Juveniles (under 18) in 2001</b>			
(1/1)	273	1.3	3
(31/12)	207	1.1	2
<b>Foreign prisoners in 2001</b>			
(1/1)	2,534	11.8	
(31/12)	2,126	11.0	

Note: Amnesties in 1993 and 1998 led to the release of 22 and 995 prisoners respectively.

## Annex 2

### Czech penal institutions: functions and capacity, 2001

		capacity	places for pre-trials/sentenced	security levels for sentenced prisoners* (prisons for male adults unless otherwise stated)
1	Bělušiče	646	0/646	<u>medium</u> and low
2	Brno	684	533/151	high, medium and <u>low</u>
3	Břeclav	130	116/14	medium and <u>low</u>
4	České Budějovice	370	276/94	medium and <u>low</u>
5	Heřmanice	751	0/751	<u>medium</u> and low
6	Horní Slavkov	799	218/581	medium
7	Hradec Králové	459	289/170	medium, low and <u>supervision</u>
8	Jiřice	753	507/246	medium and <u>low</u>
9	Karviná	207	103/104	high, medium and <u>low</u>
10	Kuřim	610	0/610	medium and low
11	Kynšperk nad Ohří	470	0/470	low
12	Liberec	247	199/48	medium and <u>low</u>
13	Litoměřice	400	332/68	medium and <u>low</u>
14	Mírov	344	0/344	<u>high</u> and medium
15	Nové Sedlo	445	0/445	<u>medium</u> and low
16	Odolov	161	0/161	low
17	Olomouc	320	258/62	medium and <u>low</u>
18	Opava	470	126/344	medium, <u>low</u> and supervision, including women and juveniles
19	Oráčov	762	0/762	medium and <u>low</u>
20	Ostrava	805	705/100	medium and <u>low</u> , including women
21	Ostrov	922	114/808	<u>medium</u> and low
22	Pardubice	639	44/595	high, medium and <u>low</u> , including women and juveniles
23	Plzeň	1,345	464/881	high, <u>medium</u> , low and supervision
24	Prague-Pankrác	1,075	746/329	medium, <u>low</u> and supervision
25	Prague-Ruzyně	869	689/180	medium, <u>low</u> and supervision, including women
26	Příbram	677	0/677	<u>medium</u> and low
27	Rýnovice	518	0/518	high, <u>medium</u> and low
28	Stráž pod Ralskem	788	62/726	medium and <u>low</u>
29	Světlá nad Sázavou	146	0/146	medium and <u>low</u> (women only)
30	Teplice	159	135/24	low
31	Valdice	1,294	0/1,294	high, <u>medium</u> and low
32	Vinařice	1,055	0/1,055	<u>medium</u> and low
33	Všehrady	618	0/618	low and supervision, including juveniles
34	Znojmo	184	64/120	low

**TOTAL** (end of 2001)                      **20,122**    5,980/14,142

\* the main security category is underlined. Supervision is the lowest of the four security categories. Most prisons that have places for pre-trial detainees include women and juveniles among these.

## Annex 3

### Czech Republic: principal sources of information

Mrs Kamila Meclová	Director General, Prison Service of the Czech Republic (PSČR)
Dr Jana Hladíková	Head of department of administration and law, PSČR
Mr Miloslav Mádle	Head of department of prison and court guards, PSČR
Mr Michal Řeháček	Head of department of (pre-trial) detention and imprisonment, PSČR
Dr Alexandr Voboda	Head of department of health care, PSČR
Mr Martin Vana	Head of the Vocational Training Centre, PSČR
Dr Eduard Vacek	Editor of journal 'České Vežeňství' (Czech Prison System), and responsible for publications of the PSČR
Mr Jaroslav Gruber	Director of Pankrác prison, Prague
Dr Petr Havlasek	Director of prison hospital, Pankrác prison
Mr Otakar Michl	Interpreter, formerly of public relations department, PSČR

Information supplied by the Czech prison administration from 1994 onwards.

CPT, 1999/7. Report to the Government of the Czech Republic on the visit to the Czech Republic [by the CPT in February 1997]. Council of Europe, Strasbourg

CPT, 1999/8. Response of the Czech Government to the CPT report on their visit in 1997. Council of Europe, Strasbourg

Council of Europe, 1997 and 1998. Replies submitted by the Prison Service of the Czech Republic to questionnaires on overcrowding and prison population size. Strasbourg

Karabec Z., 2002. Alternatives to imprisonment in the Czech Republic. Unpublished paper.

MacDonald M., 2001. Prison Health Care in the Czech Republic, Hungary and Poland. HEUNI Paper No.16, HEUNI, Helsinki

Meclová K., 2002. A view on the course of transformation in the Czech Republic from 1989 to 2002. Paper presented at 13<sup>th</sup> conference of directors of prison administration, 6-8 November 2002. Council of Europe, Strasbourg

Ministry of Justice, 2000. Information on prison disturbances. Unpublished document.

PSČR, 1996. 'České Vežeňství' (Czech Prison System), Issue 4/1995, Prague

PSČR, 1997 and 2000. Ročenka (Yearbook) 1996 and 1999. Prague

PSČR, 2000. 'České Vežeňství' (Czech Prison System), Issue 2/2000. Prague

PSČR, 2000 etc. 'Aktuální Informace' (Topical Information), 12/2000 etc. Prague

Valková, H., Meclová K. and Černíková V., 2001. 'Czech Republic' in 'Imprisonment today and tomorrow' (second edition), eds. van Zyl Smit D. and Dünkel F. Kluwer Law International, The Hague, London and Boston.

Vana M., 2000. Vocational Training Centre of the Prison Service of the Czech Republic. Prague

Walmsley R., 1996. Prison systems in central and eastern Europe: progress, problems and the international standards. HEUNI Publication Series No. 29, HEUNI, Helsinki



## 30. Estonia

### Legislative framework

Following the re-establishment of Estonian independence in 1991 a modified version of the former Soviet Criminal Code was adopted in 1992 and, to regulate the prison system, a Code of Enforcement Procedure was adopted in June 1993 and enacted in the following month. A major change compared with the previous code was the requirement that prisoners must maintain positive contacts with society and be motivated to correct and improve their behaviour (Sootak et al., 2001). Under the new Code the court continued to determine the type of penal institution in which a particular prisoner should serve his sentence. However, the previous system of corrective labour colonies was abolished. Three types of prison were created: closed, semi-closed and open, and each of these had three levels of confinement: quarantine (the strictest level, used for prisoners on their arrival in the institution), general and preferential. The director of the prison decided on transfers between the levels of confinement. The new Code allowed prisoners in open prisons or in the preferential confinement level of a semi-closed prison to leave the institution unsupervised to work or study and for authorised home leave and vacations. Responsibility for the prison system transferred from the Ministry of Internal Affairs to the Ministry of Justice in August 1993.

In mid-1996 a decision was taken to reform the whole system of criminal law, with an Imprisonment Act, replacing the 1993 Code of Enforcement Procedure, as part of the new structure. This Imprisonment Act was adopted in June 2000 and came into force on 1 December 2000. A new Criminal (Penal) Code was adopted in June 2001 with a view to coming into force in 2002, and a new Criminal (Penal) Procedural Code, to replace the one dating back to 1961, was expected to be adopted in 2002. The new Imprisonment Act is intended “to further update the Estonian prison system by applying principles of incarceration recognised in Europe and the recommendations of the Council of Europe” (Ministry of Justice, 2000). The main changes to the 1993 Code are the categorisation of prisons as either closed or open (with the removal of the semi-closed category); the abolition of the three in-prison levels of confinement, on the grounds that such levels were conducive to corruption in prisons (Sootak et al., *op. cit.*); making imprisonment more flexible, so that the regime can be in a form suitable for each individual prisoner; focusing on the re-socialisation of prisoners during their sentence; increasing the independence and decision-making powers of the prisons; organising the prison service in such a way that it has a career structure for prison staff; and giving higher priority to the training of prison staff.

## Organisational structure

What was formerly known as the Estonian Correction Department, was renamed the Estonian Prison Board, subsequently being reorganised on 31 December 1999 as the Department of Prisons of the Ministry of Justice. The prison system thus became directly subordinate to the Ministry of Justice in the same way as the court system, public prosecutor, probation and civil enforcement.

Mr. Heikki Sikka was Director General of the prison system in 1994. He was succeeded in 1996 by Mr. Olavi Israel, who was then succeeded in 1999 by the present Director General Mr. Peeter Näks. The Director General is assisted by two deputies. One, the 'deputy for imprisonment', is responsible for the surveillance and supervision department, the security department, the social department and the records department; the other, the deputy for economic affairs, is responsible for the economic, utility and employment departments. Three departments, the general department, the financial department and the personnel department, report directly to the Director General. A total of 27 staff were employed in the prison administration headquarters in 2001.

There were nine penal institutions operating during the year. The Central Prison (in Tallinn) accommodated pre-trial prisoners (male and female) and male prisoners with life sentences. It also contained the Central Prison Hospital. A second prison in the capital, known as Tallinn prison, also held pre-trial prisoners, as well as first-time offenders who were serving their sentences in a semi-closed section. There are three other closed prisons for males (Ämari, Murru and Pärnu), an open prison at Rummu and institutions for females (women and juveniles) at Harku, for pre-trial male juveniles (Maardu) and for sentenced juveniles (Viljandi). The former closed prison at Rummu was merged with Murru closed prison at the beginning of 2001.

The total capacity of the system in mid-2001 was 4,905, with the three largest institutions having capacities of at least 900 – Murru (1,850), Central (980) and Tallinn (900) – Ämari having a capacity of 550 and the other five all having capacities under 200, the smallest of all (Rummu open prison) having a capacity of just 45.

In the seven years since mid-1994 the capacity of the system rose by over 600 places, mainly due to increased capacity at Murru prison. Sooniste open prison has been closed down. New pre-trial accommodation has been built at Tallinn prison to 'a good European level'. A new prison at Tartu, originally intended for 500 prisoners but now to have a capacity of 1,000, is due to be completed in September 2002. It will serve as a regional remand prison for southern and western Estonia and two thirds of the prisoners will be pre-trial detainees. The Central Prison, including the hospital, is due to be closed by the end of 2002, with the hospital facilities moving to Viljandi.

## Pre-trial detention

The level of pre-trial detention is more than 10% higher than it was in 1994. At the beginning of 2001 there were approximately 113 pre-trial detainees in the prison system per 100,000 of the national population, and at the end of the year

the rate was 111. This is the third highest figure in central and eastern Europe and ten times higher than in its northern neighbour Finland. It is however not as high as the rate in its southern neighbour, Latvia, which has the highest rate in central and eastern Europe (157 at the end of 2001).

It is reported that pre-trial detainees normally spend at least one hour a day out of their cell/room, which is the bare minimum to enable them to have outdoor exercise as stipulated in Rule 86 of the European Prison Rules. However the CPT recommends (e.g. CPT, 2001/4) that such prisoners should spend a minimum of eight hours outside the cell/room, engaged in purposeful activities of a varied nature.

### The numbers held in penal institutions

The prison population has remained fairly stable in the 1990s, fluctuating between 4,200 and 4,800 which is between 280 and 350 per 100,000 of the national population. At the beginning of 2001 there were 4,803 prisoners in the system; at the end of the year there were 4,775. Of these 31.5% were pre-trial detainees/remand prisoners, 4.3% were females and 2.1% of sentenced prisoners were juveniles under 18. 4.7% of the sentenced population were classified as foreign prisoners. However, more than 50% of prisoners (57% in the year 2000) are not Estonian citizens, the majority of these being so-called 'non-citizens' of Russian descent.

Estonia's prison population rate of 351 (both at the beginning and at the end of 2001) was similar to that of Latvia, its neighbour to the south, but some six times higher than the rate in Finland to the north. The Estonian government states that "it is hoped that once the necessary structures allowing more frequent recourse to the alternative sanctions to imprisonment, for instance probation, are fully operational, the rate of incarceration will drop considerably and will approach the rates generally found in the Nordic countries. As a preliminary objective it will be sought to reduce the number of prisoners .... to around 2,000" (CPT, 2002/27 page 63).

### Accommodation, overcrowding and living conditions

The number in the penal institutions at the beginning of 2001 was almost 98% of the official capacity of the system; at the end of the year the level was 95.5%. Overcrowding was reported both in pre-trial institutions and in prisons for sentenced prisoners.

The minimum space specification per prisoner in Estonia is 2.5m<sup>2</sup>, unchanged from the situation in 1994. The CPT regards 4m<sup>2</sup> per prisoners as acceptable in accommodation for three prisoners or more so long as prisoners spend quite a lot of time out of their room. If Estonia's current minimum space specification were raised to 4m<sup>2</sup> there would at present be more than 50% overcrowding in the system.

The prison administration reports that different categories of prisoner are separated in the Estonian system in accordance with Rule 11 of the European Prison Rules. Untried prisoners are always detained separately from convicted pris-

oners and women prisoners from men. However juveniles (under 18) are not always detained separately from adults. Some sentenced prisoners aged 18-21 are accommodated with sentenced juveniles under the age of 18.

As elsewhere in central and eastern Europe, very few prisoners are accommodated alone in single cells. The largest number of prisoners in one room in any prison in Estonia is 28. The room is 79.6m<sup>2</sup>, thus affording each prisoner 2.84m<sup>2</sup> of space.

Sanitary installations, and arrangements for access, are reported to be adequate to enable all prisoners to comply with the needs of nature when necessary and in clean and decent conditions. The prison provides some toilet paper but prisoners must supply extra. All prisoners are able to have a bath or shower at least once a week. Pre-trial detainees are given the opportunity of wearing their own clothing if it is clean and suitable. Prisoners receive a change of underclothing once a week. Every prisoner has a separate bed.

### Food and medical services

The quality and quantity of food received by prisoners are said to be close to average standards in communal catering outside. The prison administration reports that it is able to provide a balanced diet, including meat, fruit and vegetables. Special diets are provided for health reasons and for religious reasons.

It is reported that the medical officer or one of his staff regularly advises the director of a prison on the quality, quantity, preparation and serving of food, the hygiene and cleanliness of the institution and the prisoners, the sanitation, heating, lighting and ventilation and the suitability of prisoners' clothing and bedding.

The Council of Europe Nord-Balt Prison Project, under which Nordic and Baltic countries co-operate in the development of the prison systems of the Baltic countries, organised an expert mission in 1997 to assess the factors influencing the health of prisoners in Estonia (Arpo and Bolli, 1997). The experts, Dr. Leena Arpo, Chief Medical Officer in the Finnish Prison Administration and Dr. Karl Bolli, Head of Medical Services at a prison in Switzerland, reported that prisoners entering Estonian prisons had a high prevalence of tuberculosis and sexually transmitted diseases. They commented that the conditions of imprisonment, particularly overcrowding, increased the risk of the spread of infectious diseases. They also reported that within the prison environment, the number of prisoners injuring themselves was increasing and that problems associated with alcohol abuse were also on the increase. They advocated a close relationship with the Department of Health and with community health services, and the introduction of health education and health promotion programmes. Following this report, and similar health care reports in respect of Latvia and Lithuania, proposals to follow up the reports' recommendations were prepared by Dr. Rosemary Wool, Secretary General of the International Council of Prison Medical Services and agreed by the steering group of the Nord-Balt project.

Health care in Estonian prisons is now said to be organised on the same basis as in the community. Indeed, a decision was taken in 2001 to transfer the re-

sponsibility for prison health care to the civil health care system. This is to take effect in 2002. At present in-patient (stationary) treatment is performed at the prison hospital in the Central prison. This hospital has 160 beds and separate tuberculosis, surgery, psychiatric and internal diseases departments.

The prison administration reports that in 2001 many prisoners have an alcohol problem, but the numbers are no longer increasing. There is no treatment programme for dependency on alcohol. By contrast the number of prisoners with a drug problem *is* increasing and a treatment programme is in place. HIV/AIDS is also a problem, with the numbers increasing; 300 prisoners, or one in every sixteen, were reported to be infected at the end of 2001. In accordance with WHO guidelines there is no policy of testing all prisoners for HIV.

The severest health problem among prisoners is tuberculosis. From 1992 to 1996 the number of cases of tuberculosis doubled. 68 new cases were identified during 1996 and in all there were 262 known cases within the prisons (6% of the prison population). A National Tuberculosis Prevention Programme, including penal institutions, was established to run from 1998-2003. The numbers then began to fall. In 1999 39 new cases were identified, 22 of which were in respect of prisoners newly admitted to the prison system. In October 2001 the Director General reported that the number of prisoners with TB had decreased to 48. There was just one death from TB in the year 2000, among a total of seven prison deaths from all causes.

There are thus signs that tuberculosis is being brought under control but there is concern over the rise in the number of HIV positive prisoners.

## Discipline and punishment

The disciplinary measures in the Estonian prison system were described in the previous report on prison systems in central and eastern Europe (Walmsley, 1996 p.420). The conditions in which the punishment of isolation is served continued to cause concern to Council of Europe experts who visited all the prisons in 1997. They recommended that the cells in four prisons be refurbished or that all windows be modified to admit more natural light and fresh air ventilation (Lakes and Gronholm, 1997).

Following a recommendation they made in 1997, the CPT found in 1999 that the punishment cells in the juvenile prison had been completely renovated and had good access to natural light and adequate artificial lighting, and were properly ventilated. Each prisoner had a mattress at night. The cells were clean and in a good state of repair. The closed isolation rooms in the same prison, which were used for a less rigorous form of punishment, were however in a poor state of repair, and recommendations had not been fully implemented; in particular, prisoners still used a bucket to comply with the needs of nature (CPT, 2002/28 para 37). The Estonian authorities stated that under the new Imprisonment Act of 2000 a locked cell was no longer prescribed as a disciplinary sanction; there would thus be only one type of isolation punishment (lasting up to 45 days for adults and 20 days for minors) and other disciplinary sanctions would be used whenever possible (CPT, 2002/29 pp.10-11).

## Contact with the outside world

Pre-trial detainees and sentenced prisoners are allowed to be visited at least once a month, the former subject to the approval of the prosecutor or court. Sentenced prisoners may also receive private (intimate) visits from their wives/girlfriends, and long visits of one to three days from their families. The prison administration reports that pre-trial detainees are physically separated from their visitors by a screen and may not touch them. There is no restriction on the number of letters that may be sent or received, but prisoners' letters are read by prison authorities if there is a court order to that effect. Both pre-trial detainees and sentenced prisoners are allowed to speak to their family and friends by telephone, although at their own expense and under the supervision of the administration.

As mentioned above, the 1993 Code of Enforcement Procedure introduced home leaves and vacations to prisoners in certain categories. Home leave and vacations may now be granted to sentenced prisoners for up to 21 days per year. The 2000 Imprisonment Act likewise emphasises the importance of prisoners maintaining their socially important and positive contacts with the outside world and establishing new ones, so as to increase their capacity to cope with life on their own after release.

The Estonian prison administration continues to co-operate with religious groups from the community. A prison chaplaincy service (The Estonian Association of Prison Chaplains) was established in 1997 in collaboration with the Estonian Council of Churches in order "to satisfy the religious needs of inmates and to organise spiritual activity" (Ministry of Justice, 2000). There is now one prison chaplain in each institution but the prison administration considers that in the larger institutions, where there are more than 400 prisoners, a single chaplain is insufficient to meet the needs of all prisoners. Prisoners are recognised as having the right to participate in religious events and meet with the chaplain and the prison must therefore ensure that they are able to do so. Prison chaplains introduce religious literature to inmates, arrange meetings with representatives of different denominations and religions and conduct services and other events.

## Prison staff

The Estonian prison service employed 1,929 staff at the beginning of 2001, of whom 27 worked in the prison administration headquarters. In the prisons there were 97 management staff, 1,071 security staff, 202 treatment staff (including psychologists, social workers, medical staff and teachers), and 532 other personnel (e.g. administrative and secretarial staff and others working in connection with prisoners' employment). There were vacancies for 390 security staff and 38 treatment staff. The overall ratio of prison staff to prisoners at the beginning of 2001 was thus 1 : 2.5 or, if the ratio is based only on management, security and treatment staff in the prisons, 1 : 3.5.

Staff numbers have been falling in recent years. In October 1994 there were 2,346 staff in post, including 118 in the prison headquarters. The drop of over

400 staff between 1994 and 2001 (with some 350 of these departing between 1999 and 2001) is partly attributable to the fact that there were many non-citizens among the staff numbers (nearly 1,400 in 1997) and the Public Services Act of 1995, which set requirements for public servants in regard to Estonian citizenship and language skills, banned the use of people who were not citizens of Estonia from 31 December 2000. The process of discharging non-citizens and those who did not know the Estonian language continued in 2001 and at the end of the year there were 1,784 staff in post out of a complement of 2,365 (a 25% vacancy rate). It is the intention of the prison administration that staff morale and job satisfaction should be improved by a series of measures, including the raising of salaries to the same level as those of police officers and the improvement of working conditions.

Staff training is an area in which much work has been done in recent years as part of the Council of Europe Nord-Balt project. The prison administration is concerned to improve the professional skills of prison staff and following a seminar in Vilnius in 1999 a 'Basic Training Framework' was established, setting out the aims, curriculum and methods of such training. The document was translated into Estonian and a new training programme for Estonia was finalised, similar to that used in Finland. In Spring 2000 a new training establishment for junior staff was opened in Tallinn under the Ministry of Education who were assuming responsibility for the training of prison staff. Nevertheless the prison administration was very much involved in formulating the basic training. A new 'junior' prison staff training programme started in Spring 2001 and a correspondence training course, for officials who lacked professional training, was launched at the same time. Staff training for the new Tartu prison began in the autumn of 2001. A training manager has been appointed in each prison to provide further training beyond the basic course, which currently involves at least 40 hours for a new member of the security staff. College training, lasting for a year, is available for a small number of new security staff.

Some 25% of the staff in institutions for male prisoners are women, working in the treatment and security departments and in administration. In the institutions for female prisoners approximately 50% of staff are men, working in management positions, in security and in administration.

## Treatment and regime activities

The treatment staff include 15 psychologists and 45 social workers. Prisoners are organised into groups led by a social worker who co-ordinates their activities. The usual number of prisoners in such a group is about 100, though it is fewer in institutions for juveniles and more (about 150) in pre-trial accommodation. On entering a penal institution prisoners go through an admission stage in a separate section of the prison. They are informed of their rights and obligations and, after being medically examined and interviewed by a social worker to establish their background circumstances and by other specialists to establish their general vocational and continuing education needs, an individual treatment plan is prepared, in respect of their location and employment and any other requirements. The next stage of imprisonment is described as the 'basic phase' and its



principal aim is to translate the individual treatment plan into action. The final stage is the 'release phase' involving preparatory activities, provision of social assistance and, for those who have committed lesser offences and have demonstrated reliability and good behaviour in a closed prison, transfer to an open prison (Ministry of Justice, 2002).

The Imprisonment Act 2000 contains a new section on social work in prisons. Social work has been undertaken in Estonian prisons since 1994, but there is no educational institution in the country that provides training in social work with offenders. The new emphasis on social work is a result of recognition that merely supervising prisoners does not help in achieving the objective that they will not commit further crime after their release. Recidivism is seen as related to the difficulties ex-prisoners face in resuming normal life after a prison sentence without committing offences, in getting income by lawful means and in maintaining relations with family and friends. Social work in prisons consists of counselling, organising leisure activities (including cultural activities and sport) and social study programmes including family therapy and education.

The Imprisonment Act thus aims to assist prisoners in maintaining contacts outside the prison and in developing the capacity to cope on their own without criminality. The Act stipulates, that, on admission to prison, they must be advised of the social benefits available to the next-of-kin and how to ensure that their property is retained. In preparation for release, prisoners are assisted to arrange their personal and financial matters and are helped to complete all necessary documentation. They must also be informed that they are entitled to social welfare. Upon release a social worker forwards the personal data and documentation about the previous history of those prisoners who need social welfare to the relevant local government agencies and establishes whether specific assistance is available (Sootak et al., 2001). Pre-release preparation also includes, for long-term prisoners, arrangements to ensure a gradual return to society, family life and employment after release by means of a pre-release regime with semi-open or open conditions.

Treatment programmes available include courses in anger management and in positive thinking. For juveniles there is also treatment for drug abuse. Vocational training is also available for sentenced prisoners.

The cells/rooms of sentenced prisoners are unlocked throughout the day (7am-10pm). Every prisoner is allowed at least one hour of walking or suitable exercise every day (including week-ends) in the open air.

## Conditional release and probation

There is a system of conditional release, now called probation, under which some 25% of prisoners are released before the end of their sentence. The prison proposes to the court that the prisoner be released early if he/she has been of good behaviour through most of the sentence, has shown responsibility towards work and education, and has fulfilled all obligations deriving from civil claims. In accordance with the Probation Act 1997, a probation system was introduced in 1998. It provides for two types of probation supervision – probation as a

conditional sentence instead of imprisonment and probation supervision (parole) during the period of conditional release. The probation service works closely with the prison authorities and a prison social worker will liaise with the probation officer who is to supervise a prisoner on conditional release.

The probation service is steadily expanding. In late 1999 there were 165 probation officers and some 6,600 persons on probation (approximately 600 of whom were on conditional release). In October 2001 these numbers had risen to 175 and 7,150 respectively, but the latter figure included fewer on conditional release (400). There were 17 field offices for probation staff.

## Prison work

Sentenced prisoners are required to work if they are fit to do so, if work is available for them and if they are not studying. At the end of 2001 28.3% had work. There was no employment available for pre-trial detainees. Prisoners received an average of 10 euros per week; no money is given to prisoners who are unable to work or for whom no work is available.

This rate of employment is slightly lower than that recorded in mid-1994 (31%); it had reached a higher level in the period between 1994 and 1999. In 1999 when the average rate was 40.5% the prison administration reported that production capacity had continued to decrease due to the low level of technology and of the vocational skills of the prisoner workforce and a tightening of the competition. Of those working in that year, 22% were involved in production work, 10% in construction and repair work within the prisons, 1% in contractual construction and repair works, 8% in other contractual work, 54% in domestic and maintenance work and 5% in unremunerated work. At the end of 2001, of the 926 sentenced prisoners (28.3%) who had work 352 were engaged in production activities and the other 574 in domestic and maintenance work.

At the beginning of the year 2000 the following was the nature of the production work being undertaken in four prisons. In the other institutions work was confined to activities necessary for the smooth running of the establishment (e.g. repairs and maintenance, cooking, laundry, cleaning).

- Harku prison was mainly manufacturing sewing products, including uniforms for prison officers. Production for use outside the prison service included children's slippers and products manufactured under sub-contracts. Annual production capacity was approximately 2.2 million Estonian kroons.
- Ämari prison was manufacturing sheet-metal vessels and gardening tools. Clothing and linen were being manufactured for the prison's own use. Annual production capacity was approximately 2.3 million Estonian kroons.
- Rummu prison was manufacturing wooden and metal furniture as well as chimney supplies and gardening carts. Annual production capacity was approximately 1.0 million Estonian kroons.

- Murru prison was manufacturing wooden details, metal construction tools and metal containers. Annual production capacity was approximately 2.4 million Estonian kroons.

The Estonian government decided in January 2000 to transfer the making of road and traffic signs from the Transport and Communications Ministry to prisons, in an effort to contribute to prisoners' rehabilitation (Newsletter, Penal Reform Project in Eastern Europe & Central Asia No. 9, 2000. ICPS/PRI, London). Also in order to improve the employment of prisoners and the management of production resources, the Ministry of Justice decided to separate the organisation of production work by prisoners from the daily work of the prisons. A public limited company 'Estonian Prison Industry' with 100% state ownership was established at the beginning of February 2001. Its main objectives are stated (Ministry of Justice, 2002) as:

- more efficient and productive organisation of production work, proceeding from the demands of the market;
- clear separation of the material resources used for production activities from the budgets of prisons;
- reducing the costs of the prisons; and,
- increasing the employment of prisoners.

## Education and vocational training

The Estonian prison administration regards education in prison as a particularly useful activity, helping the prisoner to prepare for release. The purpose of education in prison is stated as to enable the inmate to continue his studies after release or to find a job that provides him with the income he needs. Education can be obtained in vocational schools located in prisons, which have departments for both general and vocational education. Prisoners who are entitled to leave the territory of the prison may pursue extra-mural studies in a secondary-vocational school or a university.

All prisoners have access to education but there is no financial reward for studying. The schools are bilingual (Estonian and Russian) and in 1999 283 prisoners commenced general studies and 501 commenced vocational studies. During the academic year 2001-2002 the following vocations could be studied, in addition to general education:

Murru and Ämari prisons: electrical and gas welder, electrician, stoker, gardener, work organisation in a small enterprise and sales representative. The last two options were introduced in 2000.

Tallinn prison: welder, electrician, repair locksmith, building maintenance, painter-plasterer and stoker.

Viljandi prison: locksmith, turner, soft furniture repairer and bricklayer.

A computer class for young offenders was furnished and equipped in Maardu prison in 2001, and basic school lessons were introduced.

## Inspection and monitoring

The Ministry of Justice has established a system of inspecting the prisons, in order to monitor the extent to which they are operating in accordance with the laws and regulations and the objectives of the prison administration. There are no independent inspections conducted, for example by a judicial or parliamentary body or by a non-governmental organisation.

Lakes and Gronholm reported in 1997 that the managerial oversight of the individual establishments seemed to have improved since 1993. They also believed that when it became fully operational the Ombudsman department within the prison administration should enable prisoners' complaints to be dealt with more sensitively and effectively. But despite these improvements, they argued that "the introduction of an independent inspectorate would greatly enhance the public accountability of the prison service" (Lakes and Gronholm, 1997 p.40). They consequently recommended:

- that, as soon as resources permit, a prisons inspectorate be established;
- that the inspectorate be headed by an independent person appointed by the Minister of Justice, and that he/she be assisted by persons experienced in the institutional treatment of offenders and by representatives of other public bodies, including non-governmental organisations;
- that every establishment be subjected to a full inspection or least annually;
- that a written report of each inspection be submitted to the responsible Minister;
- that the report of each inspection, minus a confidential annex containing security-sensitive material, be made public, together with a ministerial response;
- that, every two years, the head of the Inspectorate should submit to Parliament a written account of the work and findings of the inspectorate.

As they point out these recommendations are consistent with Rule 4 of the European Prison Rules and paragraph 4 of the Explanatory Memorandum attached to the Rules.

The CPT have visited the Estonian prison system on two occasions, in July 1997 when they inspected the Central Prison in Tallinn and also Tallinn prison and Viljandi prison and in December 1999 when they made an ad hoc (short) visit and again went to Viljandi prison. The 1997 report included some 44 recommendations concerning a variety of topics, including staff training and staff vacancies, cell occupancy, regime activities, medical screening, medical confidentiality, visits to pre-trial detainees, conditions in disciplinary cells, prisoners' complaints, independent inspections and providing employment for prisoners (CPT, 2002/27).

The international standards (the UN Standard Minimum Rules for the Treatment of Prisoners and the European Prison Rules), which provide the benchmark for assessing the quality of the management of prisons and the treatment of prisoners, are reported to be widely available to staff in the Estonian prison

system. The Director General and the directors of the prisons have copies of the standards, as do management staff at the prison administration headquarters and in each prison. Copies are also said to be available to be read by other prison staff. However the administration reports that there are no copies available for prisoners to read.

## Non-governmental organisations

Representatives of non-governmental organisations visit the Estonian prisons on a regular basis. The principal reasons for these visits are in connection with spiritual matters and with helping prisoners in returning to society. The prison administration regards the work of NGOs as positive in assisting them in their work in preparation for release.

## International co-operation

The Estonian prison service is involved in much international co-operation, with the other Baltic republics and with the Nordic countries and Germany. Most of this is arranged under the aegis of the Council of Europe's Nord-Balt project, as has already been noted. All the Estonian prisons, and also the training centre, have been twinned with institutions in Finland, Denmark and Sweden. So well-developed is the twinning process that even the unfinished Tartu prison is already twinned with Helsinki prison, and the Ministry of Education training centre (Copli), which has taken over the responsibility for staff training, is in discussions with the Finnish training centre at Vanda which was twinned with the Estonian prison service's previous training centre.

The nature of the contacts is documented in studies by Seppo Marttinen (2000) of the development of co-operation between the prison services, and particularly the twinned prisons, in Finland and Estonia, and by Bo Johansson (2001) of co-operation between the prison services of Sweden and Estonia. Marttinen reports that since 1993, when contacts were resumed after a few years interruption, there have been football matches, and training and contests in shooting and self-defence. But such social contacts paved the way for more profitable co-operation, with Helsinki Central Prison organising training for Estonian social workers, psychologists and other staff members. Programmes have covered rehabilitation for intoxicant abusers, multi-professional teamwork, the admission of prisoners, the atmosphere of the prison and prisoner training. Courses were also held in handling conflict situations. Estonian prison staff have also worked in Finnish prisons as trainees. The Finnish Prison Staff Training Centre has organised training for psychologists from Estonian prisons since 1996. Estonian students have taken part in training for the basic prison service qualification at the Finnish Training Centre. Several seminars have also been organised. Summarising the experience of twinning, Marttinen says that co-operation over the years has strengthened. Through twinning activities both sides came to know the prison system and the prison service of the other country. Some institutions have started mutual systematic vocational training and professional co-operation. He argues that this co-operation should be extended.

Johansson reports likewise that co-operation began with personal contacts and professional discussions concerning prison management and staff training. In 1995 a formal agreement on legal assistance was signed between the Estonian Ministry of Justice and the Swedish Prison and Probation Administration. Three establishments are twinned with Swedish counterparts and emphasis has been placed on local ownership of the co-operative activities rather than the promotion of Swedish solutions to Estonian problems. He concludes that “the twinning method is very useful for establishing confidence and mutual trust, which helps to focus on important and relevant issues and effects. It gives the possibility to spread new ideas in the organisation and through the ranks in an effective way. The method is very good for long-term process oriented co-operation and involvement” (Johansson, 2001).

## Other matters

Pre-trial detainees retain the right to vote in national elections, but sentenced prisoners do not have the right. There is never any limitation on prisoners’ right to vote after they are released from prison.

The Ministry of Justice produced in the year 2000 a useful 20-page summary of many aspects of the prison system of Estonia, in the English language; in 2002 the Estonian Prison System Yearbook 2001/2002 was published, also in English. This is an attractively presented annual report on the year 2001, expanding on the earlier document.

## Important recent developments

The following are regarded by the prison administration as some of the most important recent developments affecting the Estonian prison system:

- the passage into law of the new Imprisonment Act 2000;
- the restructuring of the prison administration as the Department of Prisons of the Ministry of Justice (2000);
- the creation of the probation system (1998);
- the establishment and construction of the new prison at Tartu.

## Current objectives

The main objectives reported by the prison administration are:

- the successful launch of the new Tartu prison in 2002;
- the full implementation of the Imprisonment Act;
- the complete activation of the new electronic register of prisoners, known as Vangis.

Other objectives included in the development strategy for the period to 2003 include:

- coping with an anticipated increase in the number of prisoners, resulting from a growth in crime and improvements to the efficiency of the police and the courts, and pressure by society for a stricter punishment policy with longer sentences;
- the decentralisation of functions of economic administration (e.g. purchase of foodstuffs, clothing for prisoners and uniforms for security staff) to the individual prisons;
- the accommodation in prisons to be altered from dormitory style to room style;
- increasing the amount of employment available for prisoners;
- improving the transparency of the prison system by organising opportunities for people wishing to visit a prison to do so, by having 'information days' and issuing press releases on a regular basis;
- improving the professionalism of prison staff, by enhanced training and by improving working conditions and thus job satisfaction;
- developing a programme to prevent the illicit use of drugs in prison, including the use of technical aids to simplify the detection of drugs;
- exploring the possibility of involving the private sector in the construction and administration of open prisons.

## Main problems

The following were identified by the prison administration as some of the main problems which are obstacles to the achievement of the objectives and to the advancement of the prison system in Estonia:

- problems in connection with staff (e.g. their low public image and low salaries);
- the shortage of employment for prisoners;
- the lack of treatment programmes;
- overcrowding both in pre-trial institutions and in prisons for sentenced prisoners;
- the continued presence of tuberculosis among the prison population;
- insufficient resources.

## Achievements

The prison administration was asked to identify recent successes of which they were proud, some of which might offer constructive ideas which could be taken up by the prison systems of other countries. They drew particular attention to:

- the establishment and construction of the new prison at Tartu;
- the new Imprisonment Act 2000;
- the establishment of an electronic register of prisoners, an on-line system connecting all the prisons.



Further achievements of the Estonian prison system include:

- the transfer of the responsibility for prison health care to the civil health care system (in 2002);
- the emphasis on improved staff training and the appointment of a training manager in each prison to provide professional development training;
- the emphasis on social work in prison as a means of assisting in prisoners' rehabilitation and reintegration into the community on release;
- the inclusion, in work to prepare prisoners for release, of assistance in arranging their personal and financial matters and in helping them to complete all necessary documentation;
- the close co-operation between prison social workers and probation officers to improve the chances of prisoners receiving effective support during their period of conditional release/probation supervision;
- the emphasis on general and vocational education as an important means of preparation for effective reintegration on release;
- the high level of international co-operation, and in particular the arrangements by which individual prisons are twinned with prisons in Finland, Denmark and Sweden.

## Conclusion

The progress that has been made is evidenced by this account of the prison system, recent developments and achievements and current problems and objectives.

The following are some of the most important outstanding tasks, in addition to the objectives listed above:

- to take steps to increase the minimum space allowance for all prisoners to 4m<sup>2</sup>;
- to introduce an independent prisons inspectorate on the lines recommended by Lakes and Gronholm (1997);
- to ensure that copies of the European Prison Rules in the Estonian language are available to all pre-trial detainees and sentenced prisoners, preferably by having them sited in prominent locations in all prison libraries;
- to improve the public image of prison staff and of the work of the prison service;
- to amend the practice whereby pre-trial detainees are separated from their visitors by a screen. Such a practice is only necessary for exceptional cases;
- to take steps so that neither legislation nor practice continue to block the introduction of a proper programme of regime activities for pre-trial detainees, and to enable them to spend a reasonable part of the day out of their cells/rooms, engaged in purposeful activities of a varied nature.

## Annex 1

### ESTONIA: Numbers in the penal institutions 1990-2001

Year (1 January)	TOTAL in penal institutions	Prison population rate (per 100,000 of national population)	National population (estimate)
1990	4,465	284	1,571,600
1991	4,408	281	1,570,500
1992	4,778	306	1,562,200
1993	4,514	296	1,526,500
1994	4,518	300	1,506,900
1995	4,401	295	1,491,600
1996	4,224	286	1,476,300
1997	4,638	317	1,462,100
1998	4,791	330	1,453,800
1999	4,379	303	1,445,600
2000	4,712	327	1,439,200
2001 (1/1)	4,803	351	1,366,700
2001 (31/12)	4,775	351	1,361,200

	TOTAL	Percentage of prison population	Rate (per 100,000 of national population)
<b>Pre-trial detainees in 2001</b>			
(1/1)	1,541	32.1	113
(31/12)	1,505	31.5	111
<b>Female prisoners in 2001</b>			
(1/1)	203	4.2	15
(31/12)	207	4.3	15
	<b>TOTAL among sentenced population</b>	<b>Percentage of sentenced population</b>	
<b>Juveniles (under 18) in 2001</b>			
(1/1)	65	2.0	
(31/12)	68	2.1	
<b>Foreign prisoners in 2001</b>			
(1/1)	162	5.0	
(31/12)	155	4.7	

## Annex 2

### Estonian penal institutions: functions and capacity, 2001

1	Rummu	Open prison	45
2	Pärnu	Closed prison for male adults	120
3	Viljandi	Prison for convicted juveniles	130
4	Maardu	Prison for pre-trial juveniles	150
5	Harku	Prison for female adults and juveniles	180
6	Ämari	Closed prison for male adults	550
7	Tallinn	Prison for pre-trial male adults, convicted male adults serving their first sentence (semi-closed section), and individuals awaiting deportation	900
8	Central Prison (Tallinn)	Prison for pre-trial male and female adults and for convicted adults serving life sentences (includes the Central Prison Hospital)	980
9	Murru	Closed prison for male adults	1,850
<b>TOTAL</b> (at mid-2001)			<b>4,905</b>

Note: A new prison at Tartu, for 1,000 prisoners, to open before the end of 2002, will serve as a regional remand prison for southern and western Estonia and two thirds of the prisoners will be pre-trial detainees. The Central Prison, including the hospital, is due to be closed by the end of 2002, with the hospital facilities moving to Viljandi.

## **Annex 3**

### **Estonia: principal sources of information**

Response by the Director General of the Estonian Department of Prisons, Mr Peeter Näks, to survey questionnaires for this project.

Other information and documentation supplied by the Estonian prison administration.

Arpo L. and Bolli K., 1997. *The Health of Prisoners in Estonia*. Council of Europe, Strasbourg

CPT, 2002/26. Report to the Estonian Government on the visit to Estonia [by the CPT in July 1997]. Council of Europe, Strasbourg

CPT, 2002/27. Response of the Estonian Government to the CPT report on their visit in 1997. Council of Europe, Strasbourg

CPT, 2002/28. Report to the Estonian Government on the visit to Estonia [by the CPT in December 1999]. Council of Europe, Strasbourg

CPT, 2002/29. Response of the Estonian Government to the CPT report on their visit in 1999. Council of Europe, Strasbourg

Council of Europe, 1996-2001. Reports of the steering meetings of the Nord-Balt Prison Project. Council of Europe, Strasbourg

Johansson B., 2001. Follow-up report on development co-operation between the Swedish and Estonian prison services. Swedish Prison Service, Norrköping

Lakes G. and Grönholm A-K., 1997. Report of an expert visit to reassess the prison system in Estonia, May 1997, Council of Europe, Strasbourg

Marttinen S., 2000. The development of co-operation between the prison services and particularly twin prisons in Finland and Estonia, Helsinki

Ministry of Justice, 2000. *The prison system of Estonia*. Tallinn

Ministry of Justice, 2002. *Estonian Prison System Yearbook 2001/2002*. Tallinn

Sootak J., Antsmäe R. and Israel O., 2001. 'Estonia' in 'Imprisonment today and tomorrow' (second edition), eds. van Zyl Smit D. and Dünkel F. Kluwer Law International, The Hague, London and Boston.

Walmsley R., 1996. *Prison systems in central and eastern Europe: progress, problems and the international standards*. HEUNI Publication Series No. 29, HEUNI, Helsinki

Wool R., 1998. 'Where do we go from here?' Proposals for following up the recommendations of reports on the health of prisoners in Estonia, Latvia and Lithuania. In report of fifth Steering meeting of the Nord-Balt project. Council of Europe, Strasbourg

## 31. Georgia

### Legislative framework

The prison system operates within a legislative framework in which the most important instruments are the Criminal (or Penal) Code, the Code of Criminal Procedure and the Law on Imprisonment (Penal Executive Code). A new Penal Code was adopted in January 2000 and a new Law on Imprisonment in July 1999; the latter came into force on 1 January 2000. A new Code of Criminal Procedure was also adopted in 1999, coming into force in May of that year. A new law on pre-trial detention was to be drafted, with work probably starting in 2002.

The new Law on Imprisonment had positive results in a number of areas. Prison staff no longer wear police uniforms, perimeter security is now carried out by contingents reporting to the Ministry of Justice, and efforts were made to improve prison conditions. For example the rules were liberalised in respect of receiving parcels, making phone calls, prison leaves, and creating a prison social (welfare) service for prisoners. Furthermore a permanent commission was established for each institution to render assistance to the administration in admissions, the work and training of prisoners, the provision of food and medical services and the protection of human rights. This commission is made up of representatives of local government, governmental bodies, non-governmental organisations, religious bodies and other public figures.

### Organisational structure

Responsibility for the prison system was transferred from the Ministry of Internal Affairs to the Ministry of Justice in January 2000. The Director General of the prison system (head of the Department for Punishment Execution) at the end of 2001, reporting to a Deputy Minister of Justice, was Mr. Paata Mkheidze. There had been several changes in the leadership in recent years, and Mr. Mkheidze's predecessors included Mr. Givi Kvarelashvili who held the post for several years, Mr. Shota Kopadze and Mr. Demur Mikadze. Two regions of Georgia, Abkhazia and South Ossetia, have declared internationally unrecognised independence and are not currently included within the Georgian prison system (see section 45).

There were 17 penal institutions operating in 2001. These were five pre-trial institutions (known as penitentiaries), ten colony-type institutions (known as prisons) including one for women and one for juveniles, one institution for prisoners with tuberculosis and one national prison hospital.

The total capacity of the system at the end of 2001 was 11,860, giving an average capacity per institution of 698. Six of the colonies had capacities between 900 and 1,010 and the largest institution in the system, the main pre-trial penitentiary in Tbilisi, a capacity of 2,020.

## Pre-trial detention

The law provides that when a suspect is arrested by the police the investigator or prosecutor must bring him/her before a court within 48 hours and the court must decide within the next 24 hours whether further detention, which would be in a pre-trial penal institution, shall be allowed.

There were 2,422 persons in pre-trial detention at the end of 2001 (64 per 100,000 of the national population). Pre-trial detainees spend one hour a day out of their cells in normal circumstances.

## The numbers held in penal institutions

The prison population rose from about 8,000 (under 180 per 100,000 of the national population) in 1995 to over 10,000 (almost 250 per 100,000) in 1996-98, since when it has fallen below 7,700 (7,688 at the end of 2001). There have been several amnesties that have contributed to this decrease in population, including those in February 1999 (affecting 1,213 prisoners, including 67 women and 32 juveniles) and September 1999, under which some 1,000 prisoners were released. The President announced in February 1999 that around 35% of sentenced prisoners had been amnestied in the preceding three years (PRI/ICPS Newsletter No. 5, from *Nezavisimaia gazeta* 5.2.99).

The prison population rate in 2001 (213 per 100,000 at the beginning of the year and 202 at the end) was similar to that in Georgia's southern neighbours Armenia and Azerbaijan, although an amnesty in Armenia reduced the figure dramatically during the year. It was however very much lower than in the Russian Federation to the north. Of the total at the end of the year 31.5% were pre-trial detainees, 3.0% were female prisoners, 0.8% were juveniles (under 18) and 1.2% were foreign prisoners.

## Accommodation, overcrowding and living conditions

The number in the penal institutions at the end of 2001 was 64.8% of the official capacity of the system. Nonetheless the prison administration reports that there is overcrowding both in pre-trial institutions and in institutions for sentenced prisoners. Only two institutions were over capacity in mid-2001 but the space per prisoner on which the official capacities of institutions are based is insufficient to preclude overcrowded conditions.

The minimum space per prisoner in Georgia, as specified in Article 33 of the Law on Imprisonment, is 2m<sup>2</sup> for adult male convicted prisoners, 2.5m<sup>2</sup> for pre-trial detainees, 3m<sup>2</sup> for female prisoners, 3.5m<sup>2</sup> in institutions for juveniles and 3m<sup>2</sup> in medical institutions. The CPT has recommended that a standard of 4m<sup>2</sup> per prisoner should be the aim (CPT, 2002/14 para 87).

It is reported that different categories of prisoner are separated from each other in accordance with Rule 11 of the European Prison Rules. Untried prisoners are always detained separately from convicted prisoners, women prisoners from men, and young people under 18 from adults.

As elsewhere in central and eastern Europe, prisoners are not usually located

in single cells. The prison administration reports that the largest number of prisoners accommodated in one room is 40, in a room of 30m<sup>2</sup> that was intended to house a maximum of ten prisoners. This would imply that each prisoner has less than one square metre of space. The CPT reported that in May 2001 some prisoners had to share beds (CPT, 2002/14 para 76); the prison administration confirms this situation and reports that it wishes to open a new facility in order to ease the problem of overcrowding.

The material conditions in at least some of the penal institutions are very poor. The Chairman of the Parliamentary Committee on Human Rights has stated that “all the buildings are so dilapidated they cannot be repaired” (Tevdoradze, 2000). Indeed the CPT reported that the premises in the main pre-trial institution in Tbilisi, which holds about a quarter of all prisoners in Georgia, “were in a very advanced state of decay (crumbling plaster, peeling paint, windows without panes, floors with broken surfaces, hazardous wiring/installations and worn out water systems) which resulted in an entirely inappropriate environment for both prisoners and staff” (CPT, 2002/14 para 74).

Sanitary installations are reported to be adequate to enable most prisoners to comply with the needs of nature when necessary and in clean and decent conditions. The prison provides prisoners with some toilet paper but prisoners are required to supplement this.

The prison administration reports that every prisoner is able to have a bath or shower at least once a week. There has thus been progress since the CPT’s visit in May 2001 when it was found that female prisoners in a pre-trial institution were allowed a shower only once a fortnight (CPT, 2002/14 para 78). Pre-trial detainees are allowed to wear their own clothing, if it is clean and suitable.

## Food and medical services

The quantity and quality of food are said to be close to average standards in communal catering outside. The prison administration reports that it is able to provide a balanced diet, including meat, fruit and vegetables, but the CPT reported that at the national prison hospital meat, milk and fresh fruit and vegetables were a rarity (CPT, 2002/14 para 117). Special diets are not provided for those who need them for health or religious reasons. Prisoners are able to receive food parcels from their families in unlimited quantities and the CPT states that these play an important part in ensuring that their diet is varied and adequate.

A medical officer or a doctor is required by the Law on Imprisonment regularly to advise the director on the quality and quantity of the food and the hygiene and cleanliness of the institution and prisoners; however, it is reported that in practice these duties are not carried out. A medically qualified person is also required to examine regularly the sanitation, heating, lighting and ventilation of the institution and to inform the director of the prison immediately in writing of any violation of the appropriate conditions. The prison administration reports that these duties are indeed carried out. If the director of the institution considers that he does not have the resources to overcome the reported violation he is



obliged by law to contact the prison administration in writing, attached to the report from the medical officer. The prison administration reports that a medical officer/doctor does not advise the director on the suitability of prisoners' clothing and bedding. The CPT commented that in the main pre-trial institutions in Tbilisi "beds and bedding were often in a pitiful state: filthy and fraying mattresses, dirty threadbare blankets" (CPT, 2002/14 para 77).

The provision of health care in the Georgian prison system is the responsibility of the Ministry of Justice's Medical Department, set up at the end of 2000 in order to give medical staff independence from the prison administration. It is directly subordinated to the Minister of Justice. There is little interaction between the national Ministry responsible for health-care in Georgia and the Ministry of Justice's Medical Department. It is also said to be difficult to transfer prisoners for examination or treatment to public hospitals (CPT, 2002/14 para 96). The CPT called upon the Georgian authorities "to devise a comprehensive policy on health-care in penal institutions, based on the fundamental principle of equivalence of care and other generally recognised principles, such as patient's consent, confidentiality of information and the professional independence of health-care staff. They also commented that the role of the national Ministry responsible for health-care "could be strengthened in such matters as hygiene control, measures to counter transmissible diseases, the assessment of health-care and the organisation of health-care in prisons" (CPT, 2002/14 para 97).

Many prisoners have an alcohol problem, but the prison administration does not know if the number is increasing; there is no treatment programme available for such prisoners. The current strict regime colony in Sagarejo (prison No. 3) was until 1989 a penal institution for the treatment of alcoholics.

Many prisoners have a drugs problem, but again the prison administration does not know if the number is increasing and again no treatment programme is available. HIV/AIDS is a problem in the Georgian prison system and the numbers are increasing. In 2001, in accordance with WHO guidelines, it was not the policy to test all prisoners for HIV/AIDS; however it is reported that such a practice has since been introduced.

The main health care problem in the prisons is the prevalence of tuberculosis. In May 1998, an agreement for a TB control programme in prisons was signed by the International Committee of the Red Cross and the health and internal affairs Ministries. Treatment was to be based on the DOTS method and staff were trained in applying it. Between 1998 and 2001, 1,634 TB patients began treatment and the cure rate of those who completed the course was 78%. The treatment was focussed in the TB institution at Ksani (Qsani). Subsequently it has been introduced in the colony for women and screening takes place in the main pre-trial institution where cells are being renovated to enable DOTS to be implemented there also. The programme is conducted in close collaboration with the national TB programme. Work is also being done to give prisoners accurate information about TB and its treatment (ICPS, 2002). The CPT expressed concern at the absence in May 2001 of systematic screening for TB in

the pre-trial institutions, and of adequate supplies of anti-tuberculosis drugs. They also recommended that material conditions for tuberculosis patients, including lighting and ventilation, and also the diet, be rendered appropriate for the improvement of their health (CPT, 2002/14 para 112). The death rate from tuberculosis has fallen in the institution for TB patients from 1 in 250 to 1 in 700. Deaths in Georgian penal institutions in 2001, from all causes including tuberculosis, totalled 22; in 1997 the figure had been 102, in 1998 81 and in 1999 54 (Tevdoradze, 2000). However, prisoners are often released when they become terminally ill.

## Discipline and punishment

The Law on Imprisonment provides for a range of sanctions for infractions of prison discipline, including warnings, restrictions on visits and parcels, and placement in an isolation cell ('kartzet') for up to 10 days for pre-trial detainees and up to 20 days for sentenced prisoners. Despite the recommendations of the Council of Europe experts in December 1998 (Morrison and Colliander, 1998), the CPT found in May 2001 that a prisoner against whom disciplinary charges are brought is not heard in person by the director and the disciplinary sanctions cannot be the subject of an appeal. The CPT made recommendations accordingly (CPT, 2002/14 para 136).

Neither the Council of Europe experts nor the CPT found evidence of any excessive use of disciplinary punishments. Indeed, prisoners sentenced to isolation were frequently allowed to return to normal accommodation before the end of the period that had been stated. However the material conditions of isolation punishment in the two pre-trial institutions in Tbilisi were so unsatisfactory that the CPT found it necessary to request that the kartzet cells be taken out of service. The Georgian authorities informed the CPT in September 2001 that this had been done (CPT, 2001/14 para 138). Despite the recommendation of the Council of Europe experts in 1998, the CPT found in 2001 that prisoners undergoing disciplinary confinement were not allowed exercise in the open air (CPT, 2002/14, para 139). The Council of Europe experts also recommended that prisoners undergoing punishment should be provided with adequate reading material (Morrison and Colliander, 1998).

## Contact with the outside world

Pre-trial detainees may be visited by family members or close relatives but only if this is permitted by the investigating authority. They are allowed to touch visitors and are not separated by a screen. Sentenced prisoners in a general regime colony may have five short-term visits a month and five long visits (up to three days in specially separated accommodation within the penal institution but without the presence of prison staff) a year. In a strict regime colony the allowance is four short-term visits a month and three long visits a year. Juveniles are allowed unlimited short-term visits and monthly long visits with close relatives (Nikolaishvili, 2001). The lay-out of the accommodation for long visits is re-

ported to be such as to enable privacy and intimacy between prisoners and their spouses.

The prison administration reports that prisoners' letters are never read by the prison authorities. Sentenced prisoners may speak to their family and friends by telephone, but in 2001 this was not permitted to pre-trial detainees, although telephones were being installed in the pre-trial institutions.

There is no routine system of home leaves, but prisoners may be allowed to leave the institution if their work requires this, and also if there is an emergency in the family concerning the death or serious illness of a close relative or a natural disaster which has caused material damage to the property of the prisoner or the prisoner's family.

## Prison staff

The prison service of Georgia employed 2,554 staff in the penal institutions at the beginning of 2001 (United Nations 7<sup>th</sup> Survey of Crime Trends), of whom 328 (13%) were women. In addition about 125 were employed at the national prison administration headquarters. Thus the overall ratio of staff to prisoners at the beginning of 2001 was 1 : 3.1. The number of staff working in the prisons increased by 43.4% from the beginning of 1996. Nevertheless there were many staff vacancies, including 40% of doctors' and nurses' posts in the national prison hospital (CPT, 2002/14 para 119).

The Ministry of Justice has said that widespread corruption was one of the most serious challenges facing the Georgian prison system in 2001; there was "large-scale extortion" of prisoners by staff. The CPT was told that certain staff members accepted or requested payments in exchange for allowing access to visits, medical care or accommodation under more favourable conditions. Specific action was being taken by the Ministry in order to encourage officials and members of the public to disclose cases of corruption at all levels; to this effect a corruption hotline and a system of rewards for reporting such cases had been established (CPT, 2002/14 para 125). Sixty staff were dismissed in 2001 for corruption and other violations of law and discipline (Council of Europe, 2002). The Minister of Justice had earlier (November 2000) indicated that he was determined to reinforce the fight against corruption, which he attributed mainly to low wages (about 30 US dollars a month). Wages were paid on time but there was "a high level of de-motivation and turnover of prison staff" (Council of Europe, 2000). It was difficult to recruit and retain qualified staff. For this reason security was inadequate and there were many escapes (Council of Europe, 2002).

The prison administration recognises that staff training is a high priority, in order to achieve a change in attitudes and a higher degree of professionalism. The Deputy Minister of Justice said that training was a "matter of deep concern" (Council of Europe, 2002). There was no training centre but it was planned to open an Academy of Justice for the training of prison staff. Meanwhile three-month courses were organised in the Ministry of Justice Training Centre. Courses were led by teachers, senior staff and human rights activists. The curricula in-

cluded courses on the European Prison Rules and other Council of Europe Recommendations. Initial training for a new member of the security staff lasted for 1½ months.

The Deputy Minister announced (Council of Europe, 2002) that a new staff policy was being elaborated. A public competition would be organised to recruit personnel to management posts in the prison service. The Ministry would like to replace the current staff, and in particular security staff who were former police or military personnel, with new professional staff. The new policy would include improved staff discipline and conduct.

In the institutions for male prisoners some 15% of staff are women, mostly working on administrative matters apart from one or two security staff in some of the pre-trial institutions. In the institution for female prisoners about 10% of staff are men, mostly working on administrative matters.

Council of Europe experts reported in 1998 that in all the colonies (except for the open settlement), in the prison hospital and in one of the pre-trial institutions Ministry of Internal Affairs troops guarded the perimeter, manned the gate and carried out prisoner escorts. Their presence on the gate was unwelcoming and intimidating to visitors and the experts recommended that they be withdrawn from such duties and replaced by prison staff. They also noted that the troops appeared to have no specific training in meeting the needs of prisoners and treating them humanely whilst maintaining security in transit (Morrison and Colliander, 1998). When the Ministry of Justice took over responsibility for the prisons in January 2000 these troops were replaced in perimeter security duties by Ministry of Justice guards but the Ministry of Justice was initially concerned at the poor professional quality of these guards (Council of Europe, 2000).

## Treatment and regime activities

Treatment staff include 128 social workers and 7 psychologists. Prisoners are organised into groups led by a social worker. The number of prisoners in a group is approximately 50.

Sentenced prisoners in the colony-type institutions have their rooms unlocked for the whole day and are allowed at least an hour of walking or suitable exercise in the open air – two hours if they are juveniles or serving their sentence in a general regime colony. Pre-trial detainees are also allowed one hour a day of walking or suitable exercise but this is the only time they may leave their cells/rooms. However the CPT found that exercise was not guaranteed, particularly at weekends and on public holidays (CPT, 2002/14 para 90).

The only treatment programmes available are those provided by NGOs, including psycho-social rehabilitation for women. A regular school programme is reported to be provided for young prisoners. The individualisation of treatment is hampered by the fact that the type of prison and the regime in which the prisoner serves a sentence are decided by the court. Classification is virtually automatic – the longer the sentence the stricter the regime. Long-term prisoners are generally put in the strict regime institutions. There is no progressive sentence planning and the prison service does not have the right to apply an active,

individualised incentive policy – any reallocation decision must be taken by the court (Council of Europe, 2002).

Apart from prison work (see below) there were no organised activities for sentenced prisoners in the institutions visited by the CPT. However, they did have access to the prison chapel and library, although books were old and rarely borrowed (CPT, 2002/14 para 92).

The prison administration reports that it is not able to make pre-release arrangements to assist prisoners in returning to society, family life and employment after release. Nevertheless social workers do attempt to solve questions concerning their personal life and the provision of relevant documents. They also notify local government agencies if the released prisoner will be in need of social assistance (Nikolaishvili, 2001).

### Conditional release

There is a system of conditional release, under which about 1.5 - 2% of prisoners are discharged per month. The legislation provides that for less grave crimes a prisoner becomes eligible after serving one half of the sentence; for grave crimes at least two-thirds must be served; and for especially grave crimes the requirement is at least three quarters. For crimes committed after 18 November 1998 the new Criminal Code provides that all prisoners are eligible for conditional release; previously those convicted of certain crimes or with a history of recidivism were not eligible. However, some prisoners who previously were eligible for release after two-thirds of the sentence must now wait until three-quarters have passed (Nikolaishvili, 2001).

### Prison work

The prison administration reports that sentenced prisoners are not required to work. However, many of them would like to do so. Unfortunately “flagging demand and problems with the supply of raw materials had significantly curtailed the possibilities for employing higher numbers” (CPT, 2002/14 para 90). Some 7% of sentenced prisoners, and no pre-trial detainees at all, were said to have work in 2001. The decision as to which prisoners are given work depends on personal interviews and work experience as recorded in prisoners’ files. The work that is done involves the production of construction materials “and other items of wide use”. Pay is determined by Article 55 of the Law on Imprisonment: 15% of the wage is transferred to the state budget, 10% is deducted for payment of maintenance costs of the penal institutions, 25% is “withheld by writ of execution or by administrative case” (Nikolaishvili, 2001) and the remaining 50% is given to the prisoner for personal use. No money is provided to prisoners who are unable to work or for whom no work is available.

### Education and vocational training

The law requires the prison authorities to give primary education to all prisoners who were under 18 when convicted and who have not completed a programme

of primary education in school. A basic education is also supposed to be provided to all who submit an appropriate application to the prison administration. Prisoners are also entitled to undertake individual study and even to follow university courses; however, it is said that this theoretical right is not available in practice. The prison administration reports that vocational training is available for sentenced prisoners. There are no programmes of remedial education arranged for prisoners with special problems such as illiteracy or innumeracy.

## Inspection and monitoring

Inspections, in order to monitor the extent to which the penal institutions are operating in accordance with the laws and regulations and with the objectives of the prison administration, are conducted by a variety of bodies. The CPT was informed in May 2001 that “these included supervisory prosecutors, a recently established inspectorate of the Ministry of Justice, the National Security Council set up under the auspices of the President of Georgia, the Parliamentary Committee of Human Rights, the Public Defender (Ombudsman), and a monitoring board composed of representatives from various non-governmental organisations” (CPT, 2002/14 para 143).

As the CPT pointed out, “the emergence of a diversified system of internal and external control of penitentiary establishments in Georgia is in itself a positive development. The system has the potential of making a useful contribution to improving conditions of detention and the treatment of prisoners, and will no doubt stimulate public debate on the prison service” (CPT, 2002/14 *ibidem*). They suggested co-ordination and information-sharing between the bodies undertaking such monitoring.

The CPT understood in May 2001 that the monitoring board would cease its activities during 2001, after having carried out a first round of visits to penal institutions. In fact, the Acting Minister of Justice reported in November 2001 that the activities of the board were on hold, since it had emerged that there had been many instances of corruption by the board. His idea was to establish a system where each prison colony would have its own monitoring council made up of people close to the institution. There should at the same time be a central co-ordinating monitoring council (board), probably including most of the current members and being linked to the Ministry of Justice (Tskrialashvili, 2001).

The prison administration reports that the Director General and the directors of the penal institutions have their own copies of the international standards and that a copy is available for prisoners to read, for example in the prison library. However, copies are not available for other management staff at the national prison administration or for staff in the penal institutions (apart from the director).

The CPT undertook its first inspection of the Georgian prison system in May 2001. As noted above a number of recommendations were made, some 47 in fact, dealing with conditions of detention, health-care services, prison staff, contact with the outside world, discipline, and complaints and inspection procedures.

## Non-governmental organisations

Non-governmental organisations visit the penal institutions for the purpose of monitoring and the implementation of treatment programmes. The prison administration considers this work to be positive. In addition to undertaking monitoring activities and conducting constructive treatment programmes for women, NGOs also provide free legal advice. The development of activities in co-operation with NGOs was stimulated by the appointment of Mr. Paata Zakareishvili, who formerly worked for an NGO on human rights issues, as Deputy Head of the prison administration with responsibility for human rights matters. He was able to increase co-operation in accordance with a recommendation by the Council of Europe experts in December 1998 to the effect that there was scope for much assistance from NGOs in the work of the prison service. Until that time the International Committee of the Red Cross was the only NGO providing direct assistance, although some NGOs had highlighted the poor conditions in the institutions (Morrison and Colliander, 1998).

The international NGO Penal Reform International has played a significant role in the recent development of the Georgian prison system and has now established an office in Tbilisi. Having assisted the Ministry of Justice in preparing to take over the prison system in 2000, it developed projects to strengthen the radical reform process which the Ministry was introducing. The projects, implemented by local NGOs, included training for members of the national council responsible for the monitoring of penal institutions, providing medical, psychological and legal assistance to prisoners, and providing rehabilitative services to women prisoners and staff of the women's prison colony.

## International co-operation

The prison administration is involved in international co-operation that is intended to improve prison standards. Multi-lateral organisations concerned in this work include Penal Reform International (see above), the OSCE, the Council of Europe and the International Corrections and Prisons Association. The prison administration also has good bi-lateral co-operation with the Czech Prison Service. Following the production of its assessment report in December 1998 (Morrison and Colliander, 1998) the Council of Europe established a steering group for the reform of the prison system in Georgia, which developed an action plan focusing on new legislation, the use of dynamic security, the transfer of the prison system to the Ministry of Justice, the procedure and conditions of pre-trial detention, the treatment of long-term prisoners, staff training, prison inspection, the transfer from a dormitory to a cellular system, and probation and community sanctions.

## Other matters

Pre-trial detainees have the right to vote in national elections but sentenced prisoners do not have that right.



## Important recent developments

The following are some of the most important recent developments affecting the Georgian prison system:

- the transfer of the responsibility for the prison system from the Ministry of Internal Affairs to the Ministry of Justice (January 2000);
- the transfer of the prison medical department from the responsibility of the prison administration to give it greater independence as a separate department within the Ministry of Justice (December 2000);
- the development of an independent public monitoring board (2000-2001);
- the installation of phone hotlines for prisoners, principally as a means of combating corruption (2001);
- the installation of telephones in the pre-trial institutions.

## Current objectives

The main objectives of the prison administration include:

- to combat staff corruption and improve staff training;
- to provide more room for prisoners by opening more institutions;
- to move from dormitory to cellular accommodation;
- to increase the amount of work available for prisoners;
- to create a rehabilitation (treatment) programme for prisoners;
- to establish a working probation system;
- to bring the prison medical staff under the control of the Ministry of Health;
- to draft a new law on pre-trial detention.

## Main problems

Some of the main problems facing the Georgian prison administration are:

- staff corruption, the attitudes of staff and their need for additional training;
- the shortage of resources (in the year 2000 only 40% of the official budget was made available);
- relations with the police (the Police Act contains unimplemented provisions for the nomination of a police officer in every prison, and there are repeated allegations of ill-treatment inflicted on pre-trial detainees by police officers);
- an infrastructure insufficient adequately to tackle tuberculosis in the penal institutions;
- overcrowding in pre-trial institutions and also in institutions for sentenced prisoners;
- the poor state of many of the prison buildings.

## Achievements

Notable achievements in the Georgian prison system in recent years include:

- the development of the independent monitoring board comprising 17 non-governmental organisations and public figures and the fact that inspections are conducted by a variety of bodies;
- the tuberculosis programme, operating since 1997 in co-operation with the International Committee of the Red Cross and the National Tuberculosis Programme;
- the inclusion of various liberalising measures in the Law on Imprisonment;
- the energetic action being taken to combat staff corruption, including the installation of hotlines for prisoners to report any abuses;
- the determination to create a professional staff;
- the fact that pre-trial detainees who are allowed visits are not separated from their visitors by a screen;
- the removal of military conscripts from responsibility for perimeter security and manning prison gates;
- managing to keep the number of prisoners in a social worker's group to about 50;
- the good level of co-operation with non-governmental organisations in the interests of the positive development of the prison system;
- participating in international co-operation activities intended to improve prison standards;
- the appointment of a deputy director of the prison service who was mainly responsible for ensuring the human rights of prisoners.

## Conclusion

Much progress has been made in recent years. The following are some of the most important outstanding tasks, in addition to the objectives listed above:

- to take steps to enable all pre-trial detainees and sentenced prisoners to have at least 4m<sup>2</sup> of space in their living accommodation;
- to enable all prisoners to have a balanced diet, including meat, fruit and vegetables, and to make special diets available for those prisoners who require them for reasons of health or religion;
- to ensure that every pre-trial detainee and sentenced prisoner has a separate bed;
- to ensure that sanitary installations and arrangements for access are adequate to enable all prisoners to comply with the needs of nature when necessary and in clean and decent conditions;
- to ensure that medical staff carry out their responsibilities to advise prison directors concerning the quality and quantity of food, the hygiene and cleanliness of the institution and the suitability of prisoners' clothing and bedding;

- to improve the level of co-operation with the Ministry of Health and public health-care facilities and to ensure that prison health-care is based on the principles of equivalence of care, patient's consent, confidentiality of information and the professional independence of medical staff;
- to extend the DOTS programme of treatment to all institutions where tuberculosis patients are held, and to create conditions of lighting, ventilation and the provision of good food that are necessary for the treatment of such patients;
- to ensure that prisoners undergoing disciplinary punishment are offered a minimum of one hour's exercise in the open every day;
- to enable all pre-trial detainees to have the opportunity of regular visits from their family, unless there are exceptional reasons for prohibiting this;
- to develop programmes of purposeful activities for pre-trial detainees and sentenced prisoners, with the aim of providing a constructive use of their time for at least eight hours a day;
- to develop pre-release programmes for prisoners who are approaching the end of their sentence, in order to maximise the chances of their successful re-integration into the community.

## Annex 1

### GEORGIA: Numbers in the penal institutions 1995-2001

Year (31 December)	TOTAL in penal institutions (excluding Abkhazia and South Ossetia*)	Prison population rate (per 100,000 of national population)	National population (estimate, excluding Abkhazia and South Ossetia*)
1995	8,048	179	4.5 million
1996	10,105	230	4.4 million
1997	10,051	234	4.3 million
1998	10,406	248	4.2 million
1999	8,529	210	4.07 million
2000	8,349	213	3.92 million
2001	7,688	202	3.8 million

	TOTAL	Percentage of prison population	Rate (per 100,000 of national population)
<b>Pre-trial detainees in 2001</b>			
(31/12)	2,422	31.5	64
<b>Female prisoners in 2001</b>			
(31/12)	227	3.0	6
<b>Juveniles (under 18) in 2001</b>			
(31/12)	64	0.8	2
<b>Foreign prisoners in 2001</b>			
(31/12)	90	1.2	

\* For information on Abkhazia and South Ossetia see section 45.

Note: There were several amnesties in the period 1996-99; the President announced in February 1999 that around 35% of the prison population had been amnestied in the preceding three years. An amnesty in February 1999 affected 1,213 prisoners, some being released and others having their sentence reduced. An amnesty in September 1999 led to the release of some 1,000 prisoners.

## Annex 2

### Georgian penal institutions: functions and capacity, 2001

#### Penal institutions for sentenced prisoners

1	Prison No.1	Rustavi town	General regime colony for male adults serving their first sentence	950
2	Prison No.2	Rustavi town	Strict regime colony for male adult recidivists, and first-timers with grave offences	1,000
3	Prison No.3	Sagarejo town	Strict regime colony for male adult recidivists, and first-timers with grave offences	1,005
4	Prison settlement No.4	Sagarejo	Settlement for male adults serving their first sentence	100
5	Prison No.5	Tbilisi town	General regime colony for sentenced females (all types of crime)	350
6	Prison No.6	Tbilisi town	Strict regime colony for male adult recidivists, and first-timers with grave offences	1,010
7	Prison No.7	Mtskheta district	Strict regime colony for male adult recidivists, and first-timers with grave offences	1,010
8	Prison No.8	Geguti	General regime colony for male adults serving their first sentence	320
9	Prison No.9	Khoni town	General and strict regime colony for former officers of law enforcement agencies (males, all types of crime)	300
10	Institution No.10	Khoni	For male juveniles aged 14-18	300
11	Institution for TB treatment	Qsani	For males with open form of tuberculosis (all types of crime)	760
12	National Prison Hospital	Tbilisi	For males and females, adults and juveniles, untried and sentenced	350

#### Penal institutions for pre-trial detainees

13	Penitentiary No.1	Tbilisi	Pre-trial detention centre for males and females (incl. some sentenced)	600
14	Penitentiary No.2	Kutaisi	Pre-trial detention centre for males (incl. juveniles) and females	650
15	Penitentiary No.3	Batumi	Pre-trial detention centre for males (incl. juveniles) and females	250
16	Penitentiary No.4	Zugdid	Pre-trial detention centre for males (incl. juveniles) and females	305
17	Penitentiary No.5	Tbilisi	Pre-trial detention centre for males (incl. juveniles) and females	2,020

**TOTAL** (at end of 2001)

**11,860**

## **Annex 3**

### **Georgia: principal sources of information**

Response by Mr. Kakha Kakhishvili, deputy head of the Department for Punishment Execution, to survey questionnaires for this project.

Responses by the Georgian Government to the United Nations 6<sup>th</sup> Survey of Crime Trends and Operations of Criminal Justice Systems (1995-97) and 7<sup>th</sup> Survey (1998-2000).

CPT, 2002/14. Report to the Georgian Government on the visit to Georgia [by the CPT in May 2001]. Council of Europe, Strasbourg

Council of Europe, 2000. First Steering Group meeting on the reform of the prison system in Georgia, Strasbourg, 6-7 November 2000. Council of Europe, Strasbourg

Council of Europe, 2002. Second Steering Group meeting on the reform of the prison system in Georgia, Tbilisi, 29 April 2002. Council of Europe, Strasbourg

ICPS, 2002. Prison Healthcare News, Issue 1, Spring 2002. ICPS, King's College, London

Ministry of Justice, 2002. Department for Punishment Execution: past, present and future. Tbilisi.

Morrison M. and Colliander P. 1998. Report of an expert visit to Georgia, November-December 1998, to describe and assess the Georgian prison system. Council of Europe, Strasbourg

Nikolaishvili G., 2001. Penitentiary System of Georgia. Tbilisi.

Penal Reform International, 2002. Annual Report 2001.

Tevdoradze E., 2000. Prison conditions: getting them right. Keynote speech at the United Nations Congress, May 2000, by the Chairman of the Parliamentary Committee on Human Rights and Petitions and the Development of Civil Society.

Tskrialashvili G., 2001. Notes of a meeting with representatives of Penal Reform International, November 2001.

Information from Maura Harrington and Leonora Lowe, Penal Reform International.

## 32. Hungary

### Legislative framework

The Criminal Code (Penal Code) of 1978 has been substantially amended on many occasions, notably by a new Act which came into force in 1993. The Criminal Procedural Code dates back to 1973, but has been amended to accord with democratic developments and a new code was approved by Parliament in 1998; originally expected to come into force in the year 2000, this date has been put back until 1 July 2003.

The Penal Executive Code (or Punishment Enforcement Code) carries the official title of 'Statutory Rule Regarding the Execution of Punishments and Measures'. Dating from 1979 it was substantially revised by a new Act which came into force in 1993. The main changes were set out in the previous report (Walmsley, 1996, pp. 256-7). A new Penal Executive Code was in draft at the beginning of 2001 and expected to come into force, like the Criminal Procedural Code, in 2003.

### Organisational structure

The prison system has been the responsibility of the Ministry of Justice since 1963. The Director General (head of the National Prison Administration) is Dr. István Bökönyi, who succeeded Dr. Ferenc Tari (Director General since 1990) in mid-1999. Dr. Bökönyi previously held a senior post in the Police Department of the Ministry of Internal Affairs.

The senior management team includes the first Deputy Director General Mr András Csóti, and the Deputy Director General responsible for financial matters, Mr. Valéria Varga. It is reported that following the changeover from Dr. Tari to Dr. Bökönyi there were a large number of other senior staff changes. There were a total of 165 staff employed at prison service headquarters at the end of 2001, plus four engaged in part-time work.

There were 33 penal institutions operating in 2001 with a total capacity at the end of the year of 10,799. Of these the seventeen county remand houses (Bv. Intézet) mainly hold pre-trial detainees but also contain a smaller number of prisoners who have been sentenced to short-term detention for petty offences and who are involved in the maintenance of the institution. The fourteen national prisons include one for women and one for juveniles; they are divided into eight which provide maximum and medium security conditions (Fegyház és Börtön), and six which provide medium and minimum security (Börtön és Fogház). In four of the latter the prisoners are employed in agriculture; in the others the work is industrial. The other two institutions are the central prison hospital and the I.M.E.I., which serves as a psychiatric hospital and forensic observation centre.

Of the county remand houses (for pre-trial detention) the average capacity is 160 and all but two have capacities of no more than 170. The exceptions are at



Miskolc (327) and Budapest where a new building is under construction and the current capacity of 831 will rise to 1,310. The average capacity of the fourteen national prisons is 560; six have capacities under 500, six between 500 and 750 and two, Budapest Central Prison and Pálhalma prison, have capacities of 1,168 and 1,186 respectively.

Most of the prisons were built in the second half of the 19<sup>th</sup> century. Though improvements have taken place on several occasions since then, in respect of accommodation and security, nevertheless the prison administration considers them to be “obsolete” (Hungarian Prison Administration, 2000(2)).

## Pre-trial detention

The level of pre-trial detention in Hungary has risen by some 20% since 1994. At the beginning of 2001 there were 41 pre-trial detainees in the prison system per 100,000 of the national population, compared with 34 in June 1994 (26.4% of the prison population compared with 26.8% in 1994). This is slightly above average for European countries. Some 1,300 additional pre-trial detainees were reported to be held in police cells, and if these are included, the rate at the beginning of 2001 was approximately 54 per 100,000.

The pre-trial process is under the jurisdiction of the prosecutor. It was described in detail in the previous report (Walmsley, 1996 p. 258). Pre-trial detainees can be held in police cells until the end of the police investigation, and may be so held for several months. The new law of Criminal Procedure will provide that pre-trial detention must be carried out in remand houses, and only exceptionally will the police be able to hold remand prisoners for a maximum of 30 days.

The length of pre-trial detention is considerable, especially in cases where several defendants or victims are involved, or in cases which are complicated for other reasons. At a time when society is still in a period of change, the legal process is quite slow. 45% of remand prisoners are in prison for less than six months, 32% for between six months and a year, 20% for between one and two years and 4% for at least two years. The regime for pre-trial detainees in Budapest remand house was criticised in 1994 by the CPT as ‘extremely impoverished’. The Ministry of Justice responded that the arrangement and design of a number of institutions provided insufficient moving space for spending time out of cells and participating in communal activities. In 1999 the CPT noted that small fitness rooms were now available but they were still not impressed with the regime. Few detainees had work and no professional training of vocational value was available to male prisoners. Nor were there any premises for sports or educational activities. The Ministry of Justice pointed out that the opening of a new unit at that prison would help expand opportunities. Seven different courses were launched for detainees in October 1999 and it was planned to hold these on a regular basis. In January 2001 the Deputy Director General explained that education programmes, usually short vocational or basic education programmes, were available in some pre-trial institutions.

## The numbers held in penal institutions

The prison population at the end of 1990, following the amnesty of that year, was 12,319. Despite growth in 1991 and 1992 the numbers subsequently fell back and remained close to the end-1990 figure until 1997, since when they have grown steadily. The prison population rate at year-ends has risen from 119 per 100,000 of the national population at the end of 1990 to 155 at the end of 2000 and 173 at the end of 2001. This is lower than the rate in neighbours Czech Republic and Poland but higher than that in Slovakia and higher than the highest rate in western European countries.

At the end of the year 2001 17,275 people were held in Hungarian penal institutions, of whom 24.7% were pre-trial detainees, 6.2% were females and 5.1% were not Hungarians. Juveniles (under 18) made up only 0.3% of the prison population. During 2001 the prison population had risen by over 11% from 15,539 at the start of the year, at which time Budapest remand house had held prisoners of 38 different nationalities.

There is concern at the potential rise of about 1,300 in the prison population when, following the expected implementation of the new law on criminal procedure in 2003, the pre-trial detainees held in police facilities are transferred to the prison system.

## Accommodation and overcrowding

The number in the penal institutions at the beginning of 2001 was 52% above the planned capacity. All the county remand houses and the national prisons were over capacity, including two which held more than twice that level. The main reason for this was the revision of capacity figures that took place in 1995. In 1994, only 6 of the 32 institutions were over capacity (Walmsley, 1996 p. 278), which at that time was based on 3m<sup>2</sup> or 6m<sup>3</sup> per prisoner. The 1995 revision, which was based on the assumption that all prisoners would have at least 3.5m<sup>2</sup> of space, reduced the national capacity figure from 16,831 at 2.6.94 to 11,352 at 1.9.95. This increase in planned space per prisoner brought the Hungarian prison system closer to the 4m<sup>2</sup> which is regarded as the minimum acceptable by the CPT but, having been accompanied by an increase in the prison population, has drawn attention to the degree of overcrowding in the system. At the beginning of 2001 there were 10,249 places in the system. An extra 480 places were due to be available at Budapest remand house and an extra 200 places in a new prison at Veszprém, likely to be opened in 2003. But unless there is a significant decrease in the prison population, it seems that the total will remain at least 50% above the planned capacity for the foreseeable future. The capacity rose by 550 during 2001 but the rise in the prison population meant that the system was overcrowded at the end of the year by 60%.

The capacities of the prisons are now reported to be based on all prisoners having at least 3.5m<sup>2</sup> of space. If all institutions had allocated 4m<sup>2</sup> per prisoner, as the minimum acceptable to the CPT for cells accommodating three or more prisoners, there would have been room for about 8,375 prisoners at the end of

2001 and the system would have been more than 100% overcrowded. The average space per prisoner, at the end of 2001, in Budapest remand house, the institution with the largest number of pre-trial detainees, was 1.9m<sup>2</sup>, assuming that its official capacity is based on 3.5m<sup>2</sup>. The national prison at Vác also provided an average of 1.9m<sup>2</sup> per prisoner, while at the national prison at Sopronkőhida the average was 1.6m<sup>2</sup>, and at Veszprém remand house the average was 1.4m<sup>2</sup>. The largest number of prisoners accommodated in one room in the Hungarian prison system is 40 in a room of 94m<sup>2</sup>.

As in other countries of central and eastern Europe very few prisoners are housed alone in single cells. New institutions, such as the third section of Budapest remand house, follow a policy of locating two prisoners in a cell, in contrast to the rest of the system in which rooms are generally for considerably more than this (see Walmsley, 1996 pp. 260-1). Lighting, heating and ventilation in Hungarian prisons is said to be adequate throughout.

The prison administration reports that untried prisoners are always detained separately from convicted prisoners, and women prisoners separately from men. Juveniles (under 18) are not always detained separately from adults.

Sanitary arrangements and arrangements for access are said to be adequate to enable all prisoners to comply with the needs of nature when necessary and in clean and decent conditions. The prison service provides the toilet paper. Every prisoner is able to have a bath or shower at least once a week; those in work can shower every day. Women and juveniles are also able to shower every day. Pre-trial detainees are given the opportunity of wearing their own clothing if it is clean and suitable; sentenced prisoners must wear a prison uniform but may use their own underwear and take responsibility for washing it.

## Food and medical services

The quality and quantity of food is regarded by the head of the health care department as at least equal to average standards in communal catering outside, with the variety and quantity often being superior. The Ministry of Health sets norms for the calorific levels required for work and the prison service applies these standards. The budget per prisoner per day was 232 forints (90 euros) in January 2001 with an additional 35-120 forints allowed for special needs. Although the diet is said to be balanced and includes fruit and vegetables, the head of health care felt that it included insufficient vitamins. Special diets were provided for those who needed them on health or religious grounds and for vegetarians. The number of special diets available has increased in the last few years.

Health care in prison is said to be better than in the community. It is more accessible and prisoners do not have to pay for medicines, whereas free citizens do have to pay. There are also more treatment possibilities. Prison health care is funded from two sources: from the central prisons budget and from public health insurance. Free citizens pay public health insurance through their employment pay, while prisoners, like students, are treated as if they have paid but do not do so. Foreign prisoners receive treatment free of charge while they are in prison but must pay for any continuing treatment that is needed after their release.

Almost all the treatment needed by prisoners can be provided by the prison health care service. Prisons with more than 500 inmates have a full-time doctor and the largest prison has four. The remand houses with populations of 200 or less have a part-time doctor on contract, supported by 2-5 nurses. There are full-time dentists in the larger prisons and part-time elsewhere. The central prison hospital near Budapest has 297 beds for in-patients and also outpatient facilities. Expert medical treatment is available from pulmonary specialists, gynaecologists, dermatologists, 'internists', dentists and ear, nose and throat specialists. An outside hospital is used if the prison hospital does not have the specialist required. There is also a forensic psychiatric unit (IMEI) within the grounds of Budapest Central Prison which is used for neurological and psychiatric treatment and for the observation of those suspected of being mentally ill. Court orders for mandatory psychiatric treatment are also carried out at the IMEI, which has 311 beds. There are another 80 beds in an after-care unit for those with degenerative diseases and others who will need permanent medical supervision.

The prison service employs 95 full-time doctors and there are another 10 vacancies. There are 387 nurses out of a complement of 410. Health care staff are better paid if they are classified as uniformed staff and the prison service tries to have as many doctors as possible classified as uniformed personnel in order to retain them within the service.

The prison health care department reports that many prisoners have an alcohol problem but the numbers are not increasing. Some programmes are available for such prisoners. There is not considered to be a drug problem in the prisons; usage is rare and the situation is felt to be under control so far. However, the amount of drug addiction in the country is increasing and there is concern that this may soon be reflected in the prisons; the new criminal code allows for more severe sentencing for drug-related crime. Parliament is currently designing a national drug strategy and the prison administration's practice will be developed from this. The current response involves staff education, attempting to minimise the amount of drugs that get into the prisons, and the planned introduction of drug-free units. Some prisoners receive individual drug therapy and others are permitted to go outside the prison for treatment, but the prison administration wants to develop programmes for drug addicts which can be conducted within the prisons (see also MacDonald, 2001).

HIV/AIDS is not a problem within the prisons. There were only eight prisoners in 2001 who were HIV positive. HIV testing is compulsory in Hungarian prisons and is part of Ministry of Health regulations. It forms part of the process of medical examination on admission. In the opinion of the head of the health care department the system of testing and management of HIV works well and the prison administration wants it to continue. However, the World Health Organisation has been pressing the Ministry of Health to change their policy of mandatory HIV testing (of prostitutes, homosexuals and prisoners) and the CPT has recommended "that the Hungarian authorities bring their HIV policy into line with the relevant international standards, in particular those established by the World Health Organisation and the Council of Europe" (CPT, 2001/2 para

122). But the Hungarian prison service is resistant to such persuasion, arguing that the policy is effective in preventing the disease, that prisoners are content to take the test and that there is such concern about HIV/AIDS among the Hungarian population that the segregation of the small number of prisoners with the disease is in their own interests. The CPT also recommended that staff working in prison establishments should be provided with ongoing training in the preventive measures to be taken and the attitudes to be adopted to HIV-positivity and given appropriate instructions concerning non-discrimination and confidentiality. The prison service reports that staff education has resulted in a marked change in attitudes (CPT, 2001/3 para 58).

Tuberculosis is a problem in the Hungarian prison system and the numbers are growing. The incidence in prisons is at least four times higher than in the community outside. In 1999 the rate in the community was 39 per 100,000 while in the prisons it was 145 and rose to 212 in the year 2000. Specialist treatment is provided in the central prison hospital.

There were 41 deaths in prison in 1999 and 54 in 2000. No one died from tuberculosis. Nine prisoners committed suicide in 1999 and eight in the year 2000, and suicide prevention is a topic to which special attention was being devoted in 2001.

Staff from the health care department have the responsibility of advising the director of the prison on the quantity, quality, preparation and serving of the food, the hygiene and cleanliness of the institution and the prisoners, the sanitation, heating, lighting and ventilation of the institution, and the suitability and cleanliness of the prisoners' clothing and bedding. They also examine prisoners sentenced to solitary confinement before they begin the punishment and visit them every day during the period of isolation.

Health promotion activities include group sessions with prisoners about personal hygiene, drugs and HIV, tuberculosis and mental health. The health care department organises these on the basis of a six-month work plan.

## Discipline and punishment

The least serious disciplinary sanction is a caution and the most serious is solitary confinement. In addition the amount of money a prisoner may spend on goods may be reduced. In maximum security regimes, solitary confinement may be for up to 30 days, in medium security up to 20 days and in minimum security up to 10 days. "During this time they cannot receive or send parcels, cannot have visitors, cannot buy any items for themselves, and cannot use the prison's cultural or sport facilities either. However the Hungarian Prison Act [sc. the Punishment Enforcement Code of 1979] stipulates that prisoners should be compensated for the missed visits, parcels and shopping by being given these opportunities once the period of solitary confinement has ended. The prisoners are entitled to appeal to the penal judge against the decision to impose solitary confinement. The appeal suspends the enforcement process" (Nagy, 2001).

The CPT noted that prisoners have the right to be heard on the subject of any disciplinary offence that is alleged against them and are usually shown a form

detailing the charge. They recommended that prisoners be informed in writing of the charges against them and be provided with sufficient time to prepare their defence and the opportunity to call witnesses on their behalf and cross-examine witnesses giving evidence against them, (CPT, 2001/2 para 128). In response the Hungarian authorities agreed with this recommendation and reported that a revised instruction would enable prisoners to receive documented information about the reason for which disciplinary action was being taken against them. They also notified the CPT that a prisoner may cross-examine witnesses and “fully express his position and present his defence” (CPT, 2001/3 para 63).

One prison has a maximum security unit for those who have committed a particular serious offence or tried to escape. It housed five people in January 2001. At any one time about 50 or 60 prisoners are in solitary confinement in the system as a whole. Efforts are made to avoid the use of solitary confinement whenever possible.

### Contact with the outside world

Although the legislation only states that visits, both to pre-trial detainees and sentenced prisoners, shall be at least once a month, for half an hour, the prison administration reports that in practice visits are once a month for one or two hours. On request they can be longer than this, provided that sufficient staff are available. The prosecutor will decide who may visit pre-trial detainees but he cannot stop visits from a prisoner’s close family. How the visit takes place is dependent, in the case of sentenced prisoners, on their security classification. Low security prisoners may be permitted to receive a visitor outside the prison; medium security visits are across a table which has a shelf dividing the prisoner from the visitors, and high security visits are closed in that they are conducted by telephone through a screen. There are no current arrangements for unsupervised (intimate) visits from spouses or for long visits from a whole family involving an overnight stay, but these are regarded as desirable initiatives especially since short-term leave is no longer allowed. A prisoner’s family may meet him/her round a table, as long as he/she is not in maximum security conditions. Rooms for intimate and long visits may be introduced once new legislation comes forward from the Ministry of Justice; however, the main problem would be finding the necessary space in the prison to implement such changes.

The Hungarian Prison Service keeps pre-trial detainees in a prison in the county in which they live and 26% of sentenced prisoners are also held in their own county. Hungary’s comparatively small size (500 km wide) means that no prisoners are particularly far from home. They can also ask to be transferred to a prison nearer home. Nonetheless many families do have difficulties in travelling to the prison and in some cases a prisoner is transferred to another institution for the purpose of a visit. There are only three prisons for women and so the problem is more acute for them; as a result they may be allowed more use of the telephone and longer visits.

Correspondence is not limited but is subject to random monitoring which is more regular in the case of the most dangerous prisoners. In 2001 16,000 pris-



oners were in contact with 80,000 correspondents. Official letters, such as those sent to the Ombudsman, cannot be read by prison staff but their transmission is recorded. Parcels or packets of no more than 5 kilos may be received once a month. In practice prisoners can receive parcels more often in some prisons. There is a list of what parcels may and may not contain. The regulations have not changed since 1993.

Telephone contact with family members was first authorised in 1993. The CPT commented that on the occasion of their visit in December 1999 access to telephones was under close surveillance in the three prisons visited and all calls, with the exception of those to a lawyer, had to be made by a member of staff, who remained at the prisoner's side throughout the call. "Consequently, availability of staff to supervise the calls severely limited the prisoners' access to the telephone; in the establishments visited, prisoners were able to make phone-calls during week-ends for a maximum of three minutes". The CPT regarded this procedure as onerous in terms of staff resources and inefficient in terms of security, given that prisoners have free access to their family and friends during visits. They recommended that steps be taken to review the procedure, with the objective of significantly increasing access to the telephone for prisoners; they said that close surveillance should be the exception rather than the rule (CPT, 2001/2 para 126). In response the Hungarian authorities said that access to telephone is governed by prison regulations and pointed out that verbal and written contact by a pre-trial detainee, apart from with the legal representative, had to be subject to surveillance (CPT, 2001/3 para 62). The prison administration comments that calls are limited because there is only one telephone for each wing. There does not seem to have been a review aimed at significantly increasing access to the telephone.

Home leave is available to all sentenced prisoners except those serving life imprisonment. Leaves are for 24 hours (244 cases during 2000) or for 14 days (1,155 during 2000). Both types are used as a reward and 14-day leaves replace a visit. A prisoner in minimum security conditions can also leave the prison four times a month for 24 or 48 hours (2,542 cases during 2000). Interruptions of sentence for up to 30 days may be approved if there is a serious reason for it; the governor can authorise an interruption of up to 10 days, after which the Director General's authority is necessary. There were 147 interruptions of sentence in the year 2000.

As a result of a few cases in which prisoners on home leave were involved in serious incidents stricter requirements have been introduced and directors have been instructed to minimise the risks of escapes. Consequently there were one-third fewer 14-day leaves in 2000 compared to 1999 and in some prisons home leaves had almost stopped.

Sentenced prisoners have access to as many newspapers as they wish. They can also watch television but teletext is not allowed and the television must be no bigger than 37 cms. The prison service could only afford to purchase 60 sets in 2000 and so prisoners have to buy their own if they want one in the cell.



## Prison staff

The Hungarian prison service employed 6,776 staff at the beginning of 2001, out of a complement of 7,243. There was thus a vacancy level of 6.4%. Most vacancies are in respect of lower grade staff – basic grade security staff, work supervisors in the economic organisations and escort staff. There were 73 vacancies for security staff at the end of 2001. Staff in post had increased by 8% since mid-1994. The number working at headquarters at the end of 2001 was 165 plus four people engaged in part-time jobs - about the same number as in 1994.

Statistics based on 6,721 of the prison staff at the beginning of 2001 reveal that 402 (6%) were management staff, 2,068 (31%) were security staff, 1,262 (19%) were treatment staff and the remaining 2,989 (44%) were administrative staff and people employed in the economic organisations. The overall ratio of prison staff to prisoners, based on the total of 6,776 at the beginning of 2001 was 1 : 2.3 or, if the ratio is based only on management, security and treatment (including medical) staff in the prisons, 1 : 4.2. In terms of military-civilian status 83% were uniformed staff (15% commanding officers and 68% non-commanding officers) and 17% were civilian staff.

There is a problem in recruiting and retaining staff and about 900 (more than 1 in 8) leave each year. Staff salaries are a factor in this. Basic police pay is 50% higher than that of basic grade prison security staff, and this is seen as a risk in terms of corruption (e.g. regarding the bringing of drugs into the prisons). In general, prison personnel, in particular security staff, are perceived by the community as having very low status, as indeed are the police. Security staff often live in large estates with similar staff. The reason for this low status is said to be historical, in that prior to the change of regime prisons were closed institutions and staff tended to be poorly educated. Efforts are made to boost staff morale, including by regular contact with the media in order to explain that prison staff are better educated than previously and have an important role.

Initial training for new recruits to the prison service as basic level security staff lasts three weeks at the Prison Service Training Centre. After that time they work in a prison and practical experience and schooling are combined; the full training lasts ten months. Different training is provided for those who attended secondary education and higher education. There are no specific courses for prison directors but consideration has been given to the possibility of special training for those who become leaders. A key part of staff training is about changing attitudes towards prisoners but the prison administration reports that due to staff vacancies and lack of resources such training is not occurring in practice.

The Hungarian prison service employs a number of female staff in the prisons for men. At the end of 2001 26.7% of staff in such prisons were female. They are involved in all aspects of work, although there is no female governor in a male prison. Most educators are women. In the prisons for women, 58% of staff at Kalocsa prison are male and 10.3% of the staff in the women's unit (in Mélykút) at Pálhalma prison. The male staff are security guards, economic and educational experts and the doctor.

Security staff are selected either to guard the perimeter or to work in the prison in contact with the prisoners. The latter are those with the best interpersonal skills and they work closely with treatment staff. Training for security staff gives special attention to the best way to interact with prisoners, and includes a psychology course. The average age of security staff is decreasing and most are between 31 and 40.

Security work is said to have changed significantly in the seven years since 1994, with emphasis on the use of new technical equipment and creating a positive atmosphere in the institutions which itself improves security. "Previously security was just about preventing escapes", said a security expert in the prison administration.

Staff still carry batons, or else have them available in an armoury. But although prisoners know that staff may be carrying batons they also know that the policy is to maintain good relations between staff and prisoners. There were 13 cases in the year 2000 of the use of batons. Guard dogs are used as a deterrent – the service has about 130 – and there are also three dogs to detect drugs. If it is decided to search a prison for drugs, sniffer dogs may be borrowed from the police. Towers are rarely to be found in Hungarian remand houses, which are usually in the centre of a town. Others have four or six towers depending on the institution. But the towers are usually unmanned or only manned in specific circumstances. No shot was fired by a member of the Hungarian prison service in the year 2000.

### Treatment and regime activities

The prison administration points out that following the political changes in 1990 the prison system ceased to attempt to change the prisoners but wanted rather to give them the opportunity to change. This is seen as a long process that will develop gradually.

Each sentenced prisoner becomes part of an educator's group, the educator being responsible for the prisoner's welfare, progress and activities. It is recognised that there are insufficient educators to have regular personal contact with each member of their group and deal with their problems. The job has become more administrative. Educators' groups in the case of young offenders are about 20 or 22 in size but for adults the number is 100. In Budapest Central Prison where the ratio is 1 to 120, the absence of one educator would mean that it was impossible for the remaining educators to cope with all the demands that such a role entails. There are 227 social workers in the Hungarian prison system and 25 psychologists.

Sentenced prisoners spend 8 or 9 hours out of their cell or room if they have work; otherwise it is 4 or 5 hours on average. Pre-trial prisoners are reported to have one hour exercise but no additional time out of their cells. The CPT, on the occasion of their visit in December 1999, were critical of the limited regime offered to prisoners at Budapest remand house and the absence of a regime of activities at Veszprém. They also noted that at both institutions there were numerous complaints that prisoners were not always receiving as much as an hour

of outdoor exercise (CPT, 2001/2 paras 104 and 114). The Hungarian authorities stated that regulations provide that in all institutions prisoners must be offered the opportunity of one hour's outdoor exercise daily. They also said that opportunities for activities would be expanded with the progressive opening of the new unit of Budapest remand house and that a wide range of church-related programmes was introduced at Veszprém in September 2000 (CPT, 2001/3 paras 45 and 53).

The welfare needs of pre-trial detainees are not the responsibility of educators and there is no formal provision for meeting them. This is recognised by the prison administration as a problem. Medical needs are dealt with by health care staff and for social and psychological problems it is sometimes possible to make use of social workers, psychologists or priests.

There are few treatment programmes for sentenced prisoners, apart from those concerning medical services, to which reference has already been made. However, efforts are made to prepare prisoners for release in a variety of ways. Six months before release the educator discusses accommodation and employment prospects, and there is a special programme for providing assistance in finding work. Long-term prisoners are prepared for release during the last two years of their sentence. They are placed in groups giving them more independence and the possibility of leaving the prison to find employment. However several recent cases, in one of which a prisoner on a release group killed members of his family, have led to a reduction in the number of prisoners considered suitable for such groups. The minimum security pre-release hostel at Szeged prison was temporarily closed in 2001. Non-governmental organisations are also reported to play an important part in pre-release preparation.

## Conditional release and probation

Prisoners may obtain conditional early release after two thirds of their sentence if they are in a minimum security regime, after three quarters in a medium security regime, and after four-fifths in a maximum security regime. The security status is defined by the court at the time of sentence but can be changed on application to a court, for example if a prisoner has satisfied the prison that a different level is appropriate. In the year 2000 265 prisoners had their security levels reduced and 29 had them increased. Conditional release can be granted earlier, after half the sentence, if the sentence is no longer than three years, if there are mitigating circumstances, and provided that the offender is not a multiple recidivist. By contrast life sentence prisoners become eligible for conditional release after a period of between 15 and 30 years depending on a minimum period decided by the sentencing court.

Conditional release is decided by a 'penitentiary judge' on the application of the prison. The prison service asks for about 80% of prisoners to have conditional release and the application is granted in about 95% of these cases. In the year 2000 some 5,725 prisoners were released early by this procedure (compared to about 4,550 in 1995). Three months before eligibility for conditional release the heads of department are consulted and the governor decides whether

the application should be made. The file goes to the court two months before the date of eligibility. In 2001 discussions were taking place as to whether eligibility should depend on security category and what fraction of the sentence should have to be served; whether there will be a legislative change was dependent on the outcome of these discussions.

Until the end of the 1980s prisoners were assisted on release with employment and accommodation through companies and hostels that were available for this purpose. But in the 1990s such opportunities ceased to be available and the probation service can no longer ensure employment or accommodation. It can merely offer advice to prisoners after release. Some religious organisations provide accommodation, for example for mothers. The probation service is said to work well with juveniles but to be in something of a crisis in respect of adults, partly because of professional disagreements. The prison administration considers that there would be advantages in it becoming part of the prison service.

## Prison work

Sentenced prisoners are required to work if they are fit to do so and if work is available for them. The organisational structure of prison work was described in the previous report (Walmsley, 1996 pp. 271-2). There are now twelve economic companies (prison firms) operating within the prisons but under directors who report to the Ministry of Justice through the national prison administration. These are wood industries at Budapest Central Prison and at Szeged, agricultural companies at Állampuszta, Baracska and Pálhalma, textile industries at Sátoraljaújhely, Kalocsa and Sopronköhida, a shoe industry at Balassagyarmat and mixed companies at Vác, Tököl and Márianosztra. Prisoners either work for one of these prison firms or they are employed by the prison on work connected with the efficient running of the institution (e.g. cleaning, catering, laundry).

At the beginning of 2001, some 58% of sentenced prisoners were employed, a total of 6,600 persons. This is a similar percentage to that in January 1994 (60%), but during 1996 81% of sentenced prisoners had work and during 1997 75%. Part of the difference is accounted for by the fact that more prisoners are able to work in the spring, summer and autumn in the agricultural enterprises. As for remuneration for prison work, "the prisoner is entitled to wages that correspond with wage levels of free workers in similar positions. In reality though, prisoners are paid significantly less because the cost of their upkeep, paid from the state budget, is also taken into consideration. Taking this into account, prisoners' wages amount to approximately one-third of the free workers' minimum wage" (Nagy, 2001). The time prisoners spend at work does not count for pension entitlement, but "in other respects, rights attached to work are similar to the general rules of labour law. For instance, a prisoner's working hours are the same as those of other workers, as regulated by labour law, generally 40 hours [sc. a week]. A prisoner is also entitled to 20 days paid holiday each year" (ibidem).

Few pre-trial detainees have employment but some simple work has been created to occupy them and enable them to earn a little money. Prisoners who

are unable to work, either because they are not fit or because no work is available for them, do not receive any money.

## Education and vocational training

General education and vocational training “are regarded as the core of the rehabilitation programmes” (Hungarian Prison Administration, 1997). Some 2,500 prisoners were involved in such activities in the year 2000 (compared with 2,176 in 1996) including some in pre-trial prisons (remand houses). While prisoners in employment receive about one-third of the minimum salary in the country, those who participate in education and vocational training receive one-third as much (i.e. one-ninth of the minimum national salary). Educational and vocational training activities occupy between 6 and 20 hours per week and have developed significantly in recent years, very good contacts having been established between the prison administration and the Ministry of Education.

## Inspection and monitoring

The prison administration organises three kinds of inspection. One-third of the prisons are inspected each year, involving all departments and sections of each establishment. Second, there are thematic reviews, for example on health care in all prisons. In both cases a report is produced with recommendations and the prison is given a copy indicating the changes that must be made. The third type of inspection is known as ‘target control’ where prisons are visited in order to see if they have carried out the recommendations of the inspection or the thematic review.

Ensuring that penal institutions function within the law is the responsibility of the Office of the Public Prosecutor. The prosecutor visits once a month to assess the legality of pre-trial detentions and prison sentences. In order to fulfil this task legal investigations may be held, official documents examined, prisoners interviewed, and consideration given to complaints about decisions on sentence enforcement matters (Nagy, 2001). The role of the prosecutor is said to be getting stronger in Hungary and the prison administration approves of this. Such inspection is regarded as introducing an independent element of control by an important professional expert. The prosecutor also examines the prison menus and takes an interest in other aspects affecting the proper treatment of prisoners. A report is prepared and copies go to the prison director and the national prison administration.

Another source of independent inspection is the Parliamentary Commissioner for Human Rights, the Ombudsman. Cases dealt with by the Commissioner have focused on ensuring that prison sentences have been enforced in a lawful manner. The Commissioner’s recommendations have also been concerned with the further development of relevant statutory regulations. The Helsinki Committee is yet another source of independent inspection.

The Council of Europe’s CPT visited the Hungarian prison system in December 1999, as already noted. This was their second visit, the previous one

having taken place in November 1994. They made 25 recommendations, some of which have already been mentioned, covering overcrowding, the treatment of dangerous prisoners, the prison regime and regime activities, conditions in the living accommodation and in respect of sanitary annexes, opportunities for exercise, staff vacancies in the health care departments of the three prisons visited, policy and practice in respect of HIV testing, prevention, and the handling of HIV positive prisoners, visiting arrangements, the availability of telephone calls and the rights of prisoners facing disciplinary charges. The Hungarian authorities responded positively to these recommendations but, as mentioned, were resistant to the recommendations concerning HIV testing.

The European Prison Rules, which provide the benchmark for assessing the quality of the management of prisons and the treatment of prisoners, are reported to be widely available in the Hungarian prison system. The Director General and his deputies have copies, as do management staff at the national prison administration and in each prison. Copies are also said to be available to be used by other prison staff and by prisoners.

There are a number of methods by which the law enables prisoners to make complaints. "They may contact a body independent of the prison administration in order to report a matter of public interest, lodge a complaint or request or submit an affidavit (Nagy, 2001)". They may complain to the prison governor about a decision, or the lack of it, affecting their custody and if they disagree with the response they have the right to appeal to the penal judge or to file a case with the civil court; they may request a hearing from the public prosecutor; they may take the case to the Ombudsman or the parliamentary commissioner for ethnic minorities' rights if they believe their rights as citizens have been violated; they may contact the commissioner for data protection if they consider their personal data has been mishandled; and they may also submit a complaint to international bodies.

## Non-governmental organisations

The prison administration reports good co-operation with a large number of non-governmental organisations, including religious and charitable bodies and the campaigning organisation the Helsinki Committee for Human Rights. There are religious services in the prisons and also missions; full-time priests are available for sentenced prisoners and part-time priests in the remand houses. Between 5 and 10% of prisoners show interest in religious matters. There is good co-operation with the Catholic charitable organisation CARITAS, with the International Red Cross and with the 'Martyrs'. Non-governmental organisations are becoming more and more involved in prison affairs and their relationships with the prison administration are steadily improving.

They are recognised as playing a valuable role in pre-release activities. The Helsinki Committee was involved in 2001 in a detailed study in eight prisons. In 1996 it conducted a study of pre-trial detention in Hungary together with the Constitutional and Legislative Policy Institute of the Open Society Institute, which was mainly focused on conditions in police cells (Kövé, 1998). The prison

administration is more accepting nowadays of the work of the Helsinki Committee; “relations are not very good but they are tolerated” as one prison director put it. The same director expressed the view that there is a multiplicity of religious bodies who are allowed to visit and this is making it difficult to find time to admit non-religious NGOs.

In 1998 the Hungarian prison administration reported having contact with about 100 non-governmental organisations, 60% of these involving an institutionalised relationship and the other 40% involving occasional contact.

### International co-operation

Until the end of 1998 the Hungarian Prison Service had very broad contacts, which were seen as contributing to the country’s wish to join the European Union. There were two international conferences a year in Hungary and exchange visits. There have been some changes since 1999 with a greater concentration on the development of the prison system at home and a reduction in international contacts; however, these are still regarded as important. The prison administration has continuing good relations with Bavaria (Germany), Sweden, Finland, Switzerland, the Netherlands, the Baltic States, Slovakia, Poland and Romania, and also with Ukraine, Moldova, Austria, Croatia, Slovenia and Novi Sad, the Serbian city with a large Hungarian minority. About a half of the Hungarian prisons are twinned with prisons in other countries, and this is seen as a vehicle for the sharing of good practice. Some of these links have been made without any liaison assistance from the national prison administration.

### Other matters

Convicted prisoners are not allowed to vote in Hungarian elections but pre-trial detainees retain the right to do so. The court can also impose the secondary punishment of ‘prohibition from public affairs’. In this case a prisoner may be banned from voting even after release from prison.

An annual report/yearbook is produced ‘Évkönyve’. It is not formally published but it is not a secret document. Copies are sent to Members of Parliament, the Central Statistical Office, research institutes, universities, heads of media outlets and other organisations with whom the prison service co-operates. It has a wide circulation and there are plans to translate it into English and Russian.

### Important recent developments

The following are regarded by the prison administration as some of the most important recent developments affecting the Hungarian prison system:

- the restrictive aspects of the new Penal Code 1999;
- the programme of developing the prisons – new units, enlargement of existing buildings;
- recent rises in staff salaries;
- the changes in 1999 when Dr. Ferenc Tari (Director General 1990-99)



was succeeded by a new Director General and 70% of prison directors and senior managers are said to have left;

- the fact that home leaves have been much reduced following the scandal associated with serious incidents that occurred during home leaves.

## Current objectives

The following are some of the main objectives reported by the Hungarian prison administration:

- the continuation of the programme of developing the prisons (including building a new prison at Veszprém, creating a new remand house at Szeged and extending Szolnok, Miskolc and Nyíregyháza);
- the development of staff training;
- enlarging the number and scope of treatment programmes for prisoners (including for sex offenders and drug addicts);
- improving security in the prison system;
- implementing the provisions in a new document about improving the prison service (concerning better management, improved staff-prisoner relations, more prisoner programmes, more employment);
- reducing the prison population, and hence overcrowding, in order to have more space for cultural and leisure activities;
- modernising old buildings for new conditions (e.g. Sopronköhida, Budapest Central);
- increasing the number of staff and improving their educational level;
- continuing to ensure a good atmosphere in the institutions;
- dealing with the problem of separating difficult prisoners from others;
- introducing more differentiated treatment for prisoners.

## Main problems

The following were identified by the prison administration as some of the main problems, which are obstacles to the achievement of the objectives and to the advancement of the prison system in Hungary:

- the serious overcrowding in the institutions (160% occupancy in the system as a whole at the end of 2001 and more than two prisoners for every authorised place in two institutions);
- the inadequacy of the prison budget which, for 2001, was about 15% less than was needed;
- the fact that the prison system is insufficiently developed in terms of facilities;
- the fact that there are not enough prison staff and they are inadequately prepared by training for their duties;
- the difficulties of the probation service in reintegrating prisoners into the community;
- the need for improved suicide prevention measures.

## Achievements

The prison administration was asked to identify recent successes of which they were proud, some of which might offer constructive ideas that could be taken up by the prison systems of other countries. They drew attention in particular to:

- the on-going programme of developing the prisons;
- the fact that money has been allocated unprecedentedly for a two-year period in order to ensure the continuity of such work.

Further achievements of the Hungarian prison service include:

- staff attitudes are reported to have changed, with real efforts being made to deal with prisoners in a way that fully respects their human dignity;
- the education system has developed in the last few years, with very good contacts having been established with the Ministry of Education;
- a generally relaxed atmosphere has been achieved, including among pre-trial detainees and in seriously overcrowded conditions;
- some 2,500 prisoners are involved in education and vocational training, and short vocational or basic education programmes are available in some remand houses;
- in accordance with Government policy there has been a large expansion in religious activities in the prisons, with full-time priests for sentenced prisoners and part-time priests in pre-trial institutions;
- the official space allowances for prisoners have been increased, although in the current overcrowded conditions prisoners are not receiving the specified increases;
- a new penal executive code has been drafted, with legislation expected in 2002, which is intended to bring practice in the Hungarian prison system fully into conformity with the European Prison Rules;
- there has been some improvement in staff reaction to HIV-positivity amongst prisoners, with a marked change in attitude since the autumn of 2000;
- daily efforts are made to present to the media a balanced picture of what is going on in the prisons, in order to have a positive effect on public opinion;
- simple work has been created to occupy some pre-trial detainees, and to enable them to earn a little money and to introduce them to the habit of work;
- there are good facilities in the newly opened third unit of Budapest (Capital) remand house, including a convenient and pleasant area for visitors and their children and a punishment cell which is a normal large room with good lighting and ventilation.

## Conclusion

The progress that has been made is evidenced by this account of the prison system, recent developments, objectives and achievements. Relations between staff and prisoners are generally good and there are many examples of good practice.

The following are some of the most important outstanding tasks, in addition to the objectives listed above:

- to amend the practice whereby pre-trial detainees are generally separated from their visitors by a screen. Such a practice is only necessary for exceptional cases;
- to devise a strategy for gradually increasing the minimum space allowance for all prisoners to at least 4m<sup>2</sup>, the minimum which the CPT considers acceptable;
- to increase the number of educators throughout the system in order to reduce prisoner groups to a maximum of 50;
- to develop regime activities for pre-trial detainees and sentenced prisoners so that they all spend a reasonable part of the day out of their cells/rooms, engaged in purposeful activities of a varied nature;
- to pay further attention to the protection of juveniles under 18, and to consider, in particular, whether a means can be found of separating them, in living accommodation and at all other times when they could be vulnerable, from young men in their early 20s;
- to give further consideration to bringing policy in respect of HIV testing into line with the relevant international standards, in particular those established by the World Health Organisation and the Council of Europe.

## Annex 1

### HUNGARY: Numbers in the penal institutions 1990-2001

Year (31 December)	TOTAL in penal institutions	Prison population rate (per 100,000 of national population)	National population (estimate)
1989	15,928	154	10,374,800
1990	12,319	119	10,354,800
1991	14,810	143	10,337,200
1992	15,913	154	10,310,200
1993	13,196	128	10,277,000
1994	13,143	128	10,245,700
1995	12,455	122	10,212,300
1996	12,763	125	10,174,400
1997	13,405	132	10,135,400
1998	14,366	142	10,091,800
1999	15,110	150	10,043,200
2000	15,539	155	10,005,200
2001	17,275	173	10,000,000

	TOTAL	Percentage of prison population	Rate (per 100,000 of national population)
<b>Pre-trial detainees in 2001</b>			
(1/1)	4,105	26.4	41
(31/12)	4,263	24.7	43
<b>Female prisoners in 2001</b>			
(1/1)	976	6.3	10
(31/12)	1,065	6.2	11
<b>Foreign prisoners in 2001</b>			
(1/1)	807	5.2	
(31/12)	874	5.1	
	<b>TOTAL among sentenced population</b>	<b>Percentage of sentenced population</b>	
<b>Juveniles (under 18) in 2001</b>			
(1/1)	36	0.3	
(31/12)	38	0.3	

## Annex 2

### Hungarian penal institutions: functions and capacity, 2001

#### County remand houses (for pre-trial detainees)

1	Budapest (Capital)	Pre-trial prison for Budapest city and Pest county	1,018
2	Debrecen	Pre-trial prison for Hajdú-Bihar county	177
3	Eger	Pre-trial prison for Heves county	114
4	Esztergom	Pre-trial prison for Komárom-Esztergom county	50
5	Győr	Pre-trial prison for Győr-Moson-Sopron county	120
6	Gyula	Pre-trial prison for Békés county	86
7	Kaposvár	Pre-trial prison for Somogy county	129
8	Kecskemét	Pre-trial prison for Bács-Kiskun county	153
9	Miskolc	Pre-trial prison for Borsod-Abaúj-Zemplén county	200
10	Nyíregyháza	Pre-trial prison for Szabolcs-Szatmár-Bereg county	142
11	Pécs	Pre-trial prison for Baranya county	97
12	Szekszárd	Pre-trial prison for Tolna county	97
13	Székesfehérvár	Pre-trial prison for Fejér county	108
14	Szolnok	Pre-trial prison for Jász-Nagykun-Szolnok county	70
15	Szombathely	Pre-trial prison for Vas county	120
16	Veszprém	Pre-trial prison for Veszprém county	58
17	Zalaegerszeg	Pre-trial prison for Zala county	85

#### National prisons

18	Állampuszta	Minimum and medium security	814
19	Balassagyarmat	Medium and maximum security (and Remand House for Nógrád county)	321
20	Baracska	Minimum and medium security	861
21	Budapest (Central)	Medium and maximum security	1,154
22	Kalocsa	Medium and maximum security (women)	240
23	Márianosztra	Medium and maximum security	508
24	Nagyfa	Minimum and medium security	391
25	Pálhalma	Minimum and medium security (includes unit for women)	1,214
26	Sátoraljaújhely	Medium and maximum security	263
27	Sopronköhida	Medium and maximum security	324
28	Szeged	Medium and maximum security (and Remand House for Csongrád county)	508
29	Vác	Medium and maximum security	522
30	Kecskemét	Institution for juveniles	30
31	Tököl	Institution for juveniles	825

#### Hospitals

32	Central hospital (Tököl)	National prison hospital	(297)*
33	I.M.E.I. (Budapest)	Forensic and psychiatric hospital and observation centre	(311)*

\* The capacity of the hospitals is not included in the overall total. Patients are counted in the totals of the institutions from which they were referred to the hospitals.

**TOTAL** (at end of 2001)

**10,799**

## Annex 3

### Hungary: principal sources of information

Dr András Csóti	Deputy Director General, National Prison Administration (NPA)
Mr Csaba Boglyasovszky	Head of security department, NPA
Mr Lajos Garami	Head of inmate programmes and inmate administration, NPA
Mr Miklós Sárdi	Head of strategy, research and international division, NPA
Dr Katalin Heylmann	Head of department of health care, NPA
Dr László Huszár	Director of Budapest Central Prison
Mr László Csere	Director of Budapest (Capital) remand house
Mr István Gyenge Biro	Deputy head of personnel department, NPA
Mr László Biczó	Deputy director of Budapest (Capital) remand house
Mr Ferenc Deák	Senior Officer, strategy, research and international division, NPA

Other information and documentation supplied by the Hungarian prison administration.

CPT, 2001/2. Report to the Hungarian Government on the visit to Hungary [by the CPT in December 1999]. Council of Europe, Strasbourg

CPT, 2001/3. Response of the Hungarian Government to the CPT report on their visit in 1999. Council of Europe, Strasbourg

Hungarian Prison Administration, 1997. Hungarian Prison Service: quick facts. Budapest

Hungarian Prison Administration, 2000. Statistical data of Hungarian inmates, 30 September, 2000

Hungarian Prison Administration, 2001. Évkönyve (Year book) 1999.

Kövér A., 1998. Punished before sentence: detention and police cells in Hungary, 1996. Constitutional and Legislative Policy Institute (COLPI) and Hungarian Helsinki Committee, Budapest.

MacDonald M., 2001. Prison Health Care in the Czech Republic, Hungary and Poland. HEUNI Paper No.16. HEUNI, Helsinki

Nagy F., 2001. 'Hungary' in 'Imprisonment today and tomorrow' (second edition), eds. van Zyl Smit D. and Dünkel F. Kluwer Law International, The Hague, London and Boston.

Walmsley R., 1996. Prison systems in central and eastern Europe: progress, problems and the international standards. HEUNI Publication Series No. 29, HEUNI, Helsinki