



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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**List of issues prepared by the Committee to be
considered during the examination of the fourth
and fifth periodic reports of the Czech Republic
(CAT/C/CZE/4-5)**

Addendum

**Written replies from the Government of the Czech Republic to the list
of issues (CAT/C/CZE/Q/4-5)***

[8 March 2012]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

Articles 1 and 4

Reply to the issues raised in paragraph 1 of the list of issues (CAT/C/CZE/Q/4-5)

1. The definition of “torture” in Czech law is contained in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which entered into force in Czechoslovakia on 6th August 1988 and has been published as Act No. 143/1988 Coll. According to the Article 10 of the Constitution, the Convention is a part of the system of law and has priority over acts. The definition contained in the Convention is thus binding for the Czech authorities and therefore hasn’t been literally transferred into the Criminal Code.

Article 2

Reply to the issues raised in paragraph 2 of the list of issues

2. The right to legal assistance in proceedings held before courts or other public administration bodies from the beginning of such proceedings is granted to everybody according to the Article 37, par. 2 of Charter of Fundamental Rights and Basic Freedoms. A person detained according to the Act No. 141/1961 Coll., on the Criminal Procedure Code (hereinafter only Criminal Procedure Code), i.e. a suspected or person charged has the right to choose an attorney and use his counsel even during the detention (§ 76, par. 6). After the Czech Republic joined the EU this right has extended to the possibility to use legal services of the so called visiting European lawyers and established European lawyers, who can defend citizens of other EU states in Czech courts. This provision is incorporated in the third part of the Act No 85/1996, Coll. on Advocacy as amended.

3. According to the Act No. 273/2008 Coll. on the Police of the Czech Republic (hereinafter the Police Act) a police officer is obliged to instruct a person restricted on personal liberty about legal reasons for this action and about his rights and duties before this action is carried out. If the instruction is hindered by the nature or the circumstances of the action, the police officer will instruct the person as soon as it is possible. The police officer performs the instruction by handing the restricted person the appropriate formulary. Since June 2011 the formulary is available in these languages: English, French, German, Russian, Spanish, Italian, Arabic, Bulgarian, Chinese, Moldavian, Mongolian, Polish, Ukrainian, Vietnamese and Romanian. Eventually the person is instructed about its rights and duties with the help of a translator in the relevant language. The restricted person confirms this instruction by its signature, either on the formulary or on a police record created subsequently.

4. When restricting the freedom of a person the police act according to the Police Act and the Criminal Procedure Code. This issue is further elaborated in the binding order of the Police President No. 159/2009 on escorts, guarding of persons and police cells, which entered into force on 1st January 2010.

5. The right to medical care is granted to a detained person placed in a police cell as well as to a detained person outside a police cell. This is stated in § 24 par. 5 of the Police Act. A detained person has a right to a medical examination or treatment by a doctor of his choice. This doesn’t apply to examinations to ascertain if it is possible to place the person into a cell or if it is necessary to release him and for a compulsory medical examination of all accused persons when entering into custody. The Czech Police (hereinafter only police) is obliged to enable the doctor access to a detained person in order to perform an examination or treatment. The right to access to an independent doctor is newly stipulated

in the Act No 372/2011 Coll. on medical services in § 29 par. 2d) and 2e), which will enter into force on 1st April 2012.

6. The right to inform family members or persons of the detainee's choice about his detention is stipulated in § 24 par. 2 of the Police Act. Based on the detainee's request the police have to immediately inform relatives or persons of the detainee's choice about his detention. If it isn't possible, the police create a written record about this issue. This record is part of the detainee's file. The exceptions from the provision §24 par.2 of the Police Act are cases where such a notification would threaten an important police action (e.g. the apprehension of an organized crime group) or it would present inadequate difficulties (e.g. a request to inform a person abroad, who cannot be found, to inform a large number of relatives etc.) However in such a case the police have to inform the relevant prosecutor, because the prosecution is entrusted with the responsibility for detaining persons. It is necessary to immediately inform a relative and the employer unless the accused proclaims that he doesn't agree with it (§70 of the Criminal Code). It is also necessary to inform the consulate of the foreigner's state about his detention (unless an international treaty specifies otherwise). In case of detention, arrest or custody of a youth person (15-18 years) a legal representative must be informed immediately as well as the Probation and Mediation Service, an authority of social and legal protection of children and the educational facility, where the person was placed.

7. A detained person has a right to obtain legal counsel at his own expense and speak with a legal representative without the presence of a third person (§ 24 par. 1 of the Police Act). A person taken into custody must have an appointed attorney either of his own choice or one appointed by the court (§36 par. 1a) of the Criminal Code). A youth person must have an appointed attorney from the moment legal actions are used against him. This attorney can be appointed by the court (free legal counsel) or chosen by the youth person, his legal representative or direct relative, sibling, partner or concerned person.

8. Detained persons are held separately from convicted criminals. Detained persons are placed into police cells (which fall under the Ministry of Interior); persons sentenced to prison are placed into prison facilities that fall under the Ministry of Justice. Youth persons are placed separately from adult persons and persons serving a prison sentence. Adult persons in custody are placed separately from persons serving a prison sentence. Women in detention, custody or serving a prison sentence are placed separately from men.

Reply to the issues raised in paragraph 3 of the list of issues

9. The Czech Republic has a long term commitment to prevention of human trafficking. In the prepared National Strategy against Human Trafficking in the Czech Republic for the period 2012 – 2015 (hereinafter only National Strategy), which should be submitted to the government by 31st March 2012, 6 of the 15 measures are dedicated to this problem. Since 2008 the Czech Republic has a Framework Concept of Human Trafficking Prevention, which is an attachment to the National Strategy against Human Trafficking in the Czech Republic for the period 2008 – 2011. The priorities of this document include the education of relevant professional groups and prevention of child trafficking. The Ministry of Interior also annually (including 2011) announces a subvention program "Prevention in the field of human trafficking and help to victims of human trafficking". The awarded sum is around 3.8 million CZK. In 2011 this sum has been lowered to ca. 2.5 million CZK. The Ministry of Labor and Social Affairs within its subvention policy provides funding for preventive social services including those for human trafficking victims. The overall policy of the fight against human trafficking is aimed at risk groups: particularly foreigners, persons from socially excluded localities and women and girls. One of the measures included in the draft National Strategy is to map the situation of human trafficking in

socially excluded localities. It expects probing at least five such localities and subsequent evaluation of the situation and proposal of adequate measures.

10. Socially excluded localities and the prevention of their creation is the agenda of the Agency for Social Inclusion, a tool of the Czech government to provide support to municipalities in the process of social integration. A Strategy for combating Social Exclusion for the period 2011-2015 deals in detail with the prevention of the creation of socially excluded localities.

11. The Czech Republic has an effective system of identification of human trafficking victims through NGOs as well as criminal procedure authorities. NGOs aimed at human trafficking perform field work aimed at uncovering probable labour exploitation, especially of foreigners. The field program is financially supported by the Ministry of Interior. Criminal procedure authorities in the in cooperation with other supervisory bodies (customs, labor inspection, hygiene stations etc.) perform preventive and supervisory actions aimed at nightclubs and other facilities, which offer paid sexual services or where there is a suspicion of violation of labor law relations on the employer's part. The Czech Republic has a system of education for identification of probable human trafficking victims. This education is meant primarily for relevant professional groups – consular workers, prosecutors, employees of the Refugee Facilities Administration and selected state employees. For the upcoming period the National Strategy sets measures relating to education of labor inspectors, judicial expectant, police officers and members of the Czech Army participating in foreign missions.

12. The department of crime prevention of the Ministry of Interior executed within the development of the crime prevention system a specific national Program of Support and Protection of Human Trafficking Victims. The execution of this program is based on the Government Resolution No. 1150 of 15th October 2007 on the Crime Prevention Strategy for 2008-2011 and Government Resolution No. 67 of 23rd January 2008 on National Strategy against Human Trafficking in the Czech Republic for the period 2008 – 2011. The program is a sequel to the pilot project of the United Nations Office on Drugs and Crime “Model of support and protection of human trafficking victims for sexual exploitation” from 2003. The creation of the Program is based on the on the Act on Residence of Foreign Nationals in the Territory of the Czech Republic, which explicitly stipulates the obligation to provide protection for foreigners – human trafficking victims, whose cooperation with criminal procedure authorities is important for the prevention, uncovering or investigation of the crime or any other intentional criminal activity. Protected persons will be subjected to a special regime as will be the cooperating victims/witnesses of the crime of human trafficking.

13. The program is aimed at a defined group of human trafficking victims, i.e. foreigners exploited in the Czech territory and Czech citizens exploited abroad or in the Czech territory. The program provides help for people who were victims of human trafficking and at the same time motivates these persons to cooperate with criminal procedure authorities to contribute to the punishment of perpetrators of the human trafficking crime.

14. Participants of the created system are the relevant bodies active in the criminal procedure, NGOs, International Organization for Migration, Refugee Facilities Administration, department of asylum and migration policy of the Ministry of Interior and last but not least the department of crime prevention, which is also the coordinator of activities within the program. In the first phase the program's activities were concentrated at services aimed at detection of probable victims eligible to join the program. The second phase of the program was oriented at direct help for human trafficking victims, who voluntarily joined the program. These victims were provided with sheltered housing, food and social services through 7 NGOs that signed cooperation agreements with the Ministry

of Interior. Furthermore, the victims could use psychological and legal counsel and translator services. Other services were healthcare and in case of need expenses related to care for dependent children were also paid. The aim of the second phase was to reach a smooth criminal procedure and support of witnesses in order to integrate the victims into a normal life.

15. A total of 10 probable victims of human trafficking were included in the program in 2011. 7 of them were victims of sexual exploitation and 3 of them victims of labor or other exploitation. The group consisted of 8 women and 2 men. One victim's nationality won't be revealed because of security concerns. A total number of 119 victims were included in the program since its start in 2003. 17 probable victims of human trafficking remain in the program at the end of 2011, are provided with the program's services and cooperate with criminal procedure authorities. In 2011 there were 2 voluntary returns into the country of origin. There were a total of 50 voluntary returns since 2003, 14 of those into Czech Republic.

Statistics of victims included in the Program of Support and Protection of Human Trafficking Victims

<i>Country of origin/ Year</i>	2003	2004	2005	2006	2007	2008	2009	2010	2011	Total
Czech Republic		2	3	4	5	4	3	3	2	26
Slovakia		3		1	1	1	1			7
Moldova	3								1	4
Ukraine		1	6	3	3	7	8		1	29
Bulgaria		2	4		1				1	8
Vietnam	1		3	3	2			1	1	11
Romania				3		6				9
FYROM					2					2
Russia	1	1			3	1				6
Kyrgyzstan		1			1	1				3
Latvia		1	1							2
Uzbekistan						1				1
Brazil						3				3
Thailand							1			1
Honduras								2		2
Nigeria								1	2	3
Sri Lanka									1	1
Total	5	11	17	14	18	24	13	7	10	119

16. The ratification of the United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children was hindered particularly by the nonexistence of criminal law liability of legal persons for crimes stated in the Convention and Protocol. Since 1.1.2012 a new law is in effect on the criminal liability of legal persons and procedures against them, which enables an efficient sanction of actions of legal persons, which fulfill the conditions of criminal activities according to the Convention and Protocol. The Convention and Protocol thus will be able to be ratified in the Czech Republic together with similar international conventions.

Reply to the issues raised in paragraph 4 of the list of issues

17. The Act No. 341/2011 Coll. on General Inspection of Security Forces entered into force on 1st January 2012 and on this day also this new institution has been established. The aim of this Act was to create a system of independent and effective prosecution of crimes committed by members and employees of the Czech Police, Customs Administration, Prison Service and the General Inspection of Security Forces (hereinafter only as General Inspection) itself, which would lead to a more efficient fight against corruption among the members and employees of the security corps.

18. The General Inspection is constructed as an independent security corps. Its members are in a service relation according to the Act No. 361/2003 Coll., on Service Relationship of the Members of Security Corps, as amended. Because of its tasks the General Inspection has a status of a police body according to the Criminal Procedure Code. The General

Inspection has a status of an organizational unit of the state and an accounting unit with its own budget chapter. The General Inspection has authority and possibilities as any nationwide unit of the criminal police and investigation service. The General Inspection is subject to a system of external control (carried out by a supervisory body appointed by the Chamber of Deputies) and internal control (carried out by an internal body). The director of the General Inspection is appointed and recalled by the Prime Minister after discussion in the relevant committee of the Chamber of Deputies.

Reply to the issues raised in paragraph 5 of the list of issues

19. In March 2006 the Czech Republic has adopted a new legislation on protection against domestic violence. The Act No. 135/2006, which amends certain acts in relation to protection against domestic violence (hereinafter only Domestic Violence Act), entered into force on 1st January 2007. Further the conditions have been amended for provision of immediate psychological, social and legal help to persons threatened by domestic violence in intervention centres and interdisciplinary cooperation between state, communal and non-government organizations, which participate on the prevention of domestic violence and help for threatened persons and their underage children. On 1st January 2009 the Police Act entered into force, which implemented the institution of expelling and prohibition of contact between the violator and threatened persons. On 20th July 2009 the amended Act No. 99/1963 Coll. on the Civil Procedure Code entered into force, which extends the demonstrative list of obligations, which can be imposed on violent persons through a preliminary measure.

20. On 13th April 2011 the Czech government approved through its Resolution No. 262 the National Action plan of Domestic Violence Prevention for the period 2011 – 2014, which is divided into several areas, e.g. children as witnesses of domestic violence, education of experts, help for endangered persons etc. Since 2005 there is an interdepartmental monitoring group at the Ministry of Interior comprising of expert from the government and non-government sector, which deals with various topics in the field of domestic violence (children as witnesses, work with the violent person, legislative changes etc.) The Ministry of Interior also annually prepares a document which describes the situation in the field of domestic violence, summarizes statistical and other data relevant to these issues and also contains information on education and NGO activities. The Interior Ministry also supports NGOs that deal with this issue. In recent years particularly projects aimed at the development of therapeutic and re-socialization programs for violent persons.

21. In cases of domestic violence the police acts according to the Police Act, Act on Offences and the Criminal Code. From the criminal law point of view the issue of domestic violence in the Czech Republic is regulated by the §199 of the Criminal Code (harassment of a person living in the common residence) and §198 (harassment of an entrusted person). Further the Criminal Code newly implemented §354 (stalking), which is often a continuation of domestic violence after the endangered person leaves the violent partner. Also implemented was a special external element of the crime of homicide (§144), which enables to take into account special circumstances in case of murder of the violent person by the harassed person after a long term of domestic violence. The crime of harassing a person living in a common residence (§199) doesn't fall in the category of crimes, where the prosecution can start only with the approval of the injured party, therefore the prosecution of the violent person can start also in the case when the injured party doesn't approve or doesn't wish so.

22. Already for more than a year the police consider children who witness domestic violence to be endangered persons, i.e. victims of domestic violence. As part of the expulsion the violent person is required to avoid any contact with the endangered person – child. It is the children who are often used as hostages by the violent person in order to

scare the victim and dissuade them from turning to the police or court, testify against the violent person etc. The listed measure gives the victim space to solve the situation without any form of pressure from the violent person.

23. On 13th August 2010 an Agreement between the Czech Police and the NGO White Circle of Safety on Providing Help to Crime Victims has been signed. Relating to the legislative changes in the field of domestic violence 15 intervention centres have been created in the Czech Republic. Based on the Domestic Violence Act and provision § 60a of the Act No. 108/2006 Coll. on Social Services, the intervention centres offer help to persons threatened with domestic violence. In cases where the police decide on expulsion of the violent person from the common residence a report on the expulsion is delivered within 24 hours to the territorially appropriate intervention centre, which based on this decision contacts the endangered person within 48 hours and offers help. Help is also provided to persons endangered by domestic violence who contact the intervention centre themselves in case when the violent person hasn't been expelled, but the endangered persons need help with solving the violence within the family. The intervention centre's help can also be provided on a request of another person, e.g. a witness of domestic violence. Social services in the intervention centre are provided as ambulatory, field or residential. The endangered person can consult their situation in the intervention centre at any time with the coordinator for domestic violence, psychologists, lawyers and social workers. The endangered person doesn't need any recommendation in these cases; it can also act anonymously during their contact with the intervention centre. The intervention centre services are free. Victims of rape or domestic violence can call the crisis and safety lines at any time free of charge and can turn to the police as well.

24. Since 2011 police officers can attend a qualification course for chiefs and deputies of executive organizational units of the operative police service and a qualification course for police officers of regional units of the operative police force. Both courses include the issue of domestic violence; the course for chiefs and deputies also contains the issues of stalking and short-term protection. The course graduates transfer the gained information to police officers in executive organizational units through specialized trainings. In 2010 a two-day training took place for police officers – domestic violence lecturers. The content of the training was the issue of identification of domestic violence, its characteristics and forms, the institution of expulsion, action tactics and the SARA DN method. A total of 21 police officers were trained and gained a certificate to educate on domestic violence. The training of policemen performing expulsion is performed by police officers – lecturers, immediate superiors and within the methodological activity and instruction-methodological occupations. In 2010 3109 police officers were educated on the issue of domestic violence.

Information about the number of complaints, criminal procedures, convictions and judgments connected with sexual and domestic violence

Crime statistics

<i>Year</i>		<i>Abuse of a person</i>		<i>Rape</i>	<i>Sexual abuse</i>
		<i>Abuse of a person in charge</i>	<i>living in a common residence</i>		
2001	Prosecuted	181	N/A	422	656
	Accused	137	N/A	290	486
	Convicted	-	N/A	140	311
2002	Prosecuted	182	N/A	429	689
	Accused	164	N/A	339	601
	Convicted	102	N/A	147	364
2003	Prosecuted	171	N/A	416	670
	Accused	155	N/A	342	591
	Convicted	95	N/A	158	394
2004	Prosecuted	162	N/A	435	573
	Accused	152	N/A	355	512
	Convicted	104	N/A	183	409
2005	Prosecuted	177	396	398	604
	Accused	170	368	341	547
	Convicted	80	134	157	331
2006	Prosecuted	178	476	348	517
	Accused	163	437	295	473
	Convicted	93	225	137	324
2007	Prosecuted	126	497	384	539
	Accused	120	446	323	472
	Convicted	92	255	151	303
2008	Prosecuted	148	416	345	508
	Accused	134	381	299	465
	Convicted	74	254	141	332
2009	Prosecuted	-	435	340	556
	Accused	-	407	284	556
	Convicted	-	216	142	329

Number of crimes concerning domestic and sexual violence

<i>Crime</i>	<i>2010</i>			<i>2011</i>		
	<i>Detected</i>	<i>Cleared up</i>	<i>Prosecuted</i>	<i>Detected</i>	<i>Cleared up</i>	<i>Prosecuted</i>
Abuse of a person in charge	159	103	117	168	100	107
Abuse of a person living in a common residence	568	477	436	661	534	485
Rape	586	437	377	675	468	405

Numbers of official records about incidents with signs of domestic violence and number of person banished from common residence because of domestic violence

<i>Domestic violence</i>	2010	2011
Numbers of official records about incidents with signs of domestic violence	5 768	6 792
Number of person banished from common residence because of domestic violence	1 054	1 307

Number of other crimes with sexual overtones

<i>Crime</i>	<i>Registered acts</i>	
	2010	2011
Rape	586	675
Sexual duress	22	27
Sexual abuse	734	757
Sex between relatives	10	6
Procurement	33	44
Prostitution threatening moral development of children	1	
Distribution of pornography	88	77
Production and other use of child pornography	130	193
Abuse of children for the production of pornography	29	65

25. In years 2007 – 2010 prosecution has begun in 3077 cases of domestic violence. In this period 898 persons were convicted (21 women/877 men). A total of 3342 persons have been expelled during this period (62 women/3335 men).

26. The health department has a number of strategic and methodological documents on the issue of domestic violence, e.g. National Action plan on the Prevention of Domestic Violence for the period 2011 – 2014, Methodological order for procedure of doctors when administering treatment to persons endangered by domestic violence issued in the Bulletin of the Ministry of Health No. 6/2008 or Methodological measure on procedure of primary care doctors when CAN syndrome is suspected issued in the Bulletin of the Ministry of Health No. 10/2008.

27. Within the Ministry of Labour and Social Affairs this issue is regulated by §6 par. 1g) of the Act No. 359/1999 Coll. on social and legal protection of children, as amended, which states that the social and legal protection of children is also aimed at children, who are endangered by violence between parents or other persons responsible for the child's education, eventually by violence between other persons. These endangered (even potentially) children are provided with social and legal help by bodies of social and legal protection, providers of social services and NGOs.

Reply to the issues raised in paragraph 6 of the list of issues

28. The Act No. 372/2011 Coll. on medical services and the terms and conditions of the provision thereof, which enters into force on 1st April 2012, deals in detail with the issue of consent with all medical services. The consent with medical services is considered free, if it is given without any form of pressure and informed, if the patient is provided with information according to the law prior to the medical procedure.

29. The medical intervention referred to as sterilisation is comprehensively regulated by Sections 12 to 16 of Act No. 373/ 2011 Coll., on specific healthcare services. The law covers all the requirements regarding information to be provided in relation to the nature of the intervention, its permanent outcomes, any potential risks, its reversal and the conditions governing informed consent to the intervention. The required period of time between providing this information and consent to sterilisation for other than medical reasons is a minimum of 14 days, including the requirement that the actual sterilisation procedure may only be carried out after the patient or his/her legal representative has given their consent immediately prior to its performance.

30. Sterilization due to health reasons can be performed on a patient older than 18 years, if he gives his written consent, sterilization due to other than health reasons can be performed on a patient older than 21 years, based on his written request, if there are no serious health reasons preventing it. Sterilization of underage patients or patients without full legal capacity can be performed only due to health reasons upon a written request of their legal representative, a positive stance of the expert commission and the court's approval. The law stipulates the composition of the expert commission so that its independence shall be ensured, the commission must have at least five members and its members must include a clinical psychologist and a lawyer. Prior to the execution of the procedure itself the patient or his legal representative must give their consent with the procedure. In order to protect the patient's interests the commission must always invite the patient to its discussions, eventually also his legal representative. The commission is obliged to take into account the patient's intellectual maturity when providing information to him. Sterilization cannot be performed in the medical facilities of the Prison Service.

Reply to the issues raised in paragraph 7 of the list of issues

31. In the Czech Republic the role of the institution for protection of human rights is fulfilled particularly by the Public Defender of Rights (ombudsman), who acts as an informal supervisor of the state administration, not all public power. His main task is to ensure that the state administration's conduct is in accordance with the principles of good administration. He also monitors places where people are restricted in their freedom and seeks to ensure that their rights are respected. The Defender also contributes to promotion of the right to equal treatment and protection against discrimination according to the EU law. In accordance with the EU law the Defender also monitors the detention of foreigners and the exercise of their expulsion, handover of detained foreigners or their transit through the Czech Republic and monitoring the enforcement of the expulsion of foreigners who were taken into detention with a view to expulsion or are incarcerated.

32. According to the Constitution, the protection of fundamental human rights and freedoms is also ensured by the rulings of independent courts where everybody can claim their rights, whether it has been infringed by a public authority or a private person.

33. Human rights are also on the agenda of government advisory bodies, such as the Government Council for Human Rights, Government Council for National Minorities, Government Council for Roma Community Affairs, Government Council for Equal Opportunities for Women and Men, Government Council for Non-Governmental Non-Profit Organizations, Government Council for Older Persons and Population Ageing and the Government Board for People with Disabilities, which coordinate the activities of the state administration and NGOs in this area.

34. In terms of executive power, the central role in human rights protection falls to the Government Commissioner for Human Rights, who is a member of the advisory bodies referred to above, monitors the Government's compliance with human rights law and international human rights instruments, proposes measures to improve the nature of such

compliance and coordinates the Government's collaboration with civil society in the area of human rights.

Article 3

Reply to the issues raised in paragraph 8 of the list of issues

35. Regarding the sphere of operation of the Ministry of Interior the information stated in the fourth and fifth periodic report is current. The refoulement risk within the administrative expulsion proceedings is assessed through a binding stance towards the foreigner's possibility to travel (§120a of the Act on the Residence of Foreigners), which the police must request from the Ministry of Interior. We would like to point out that the amendment No. 427/2010 Coll., which transposed the Directive 2008/115/ES, stated that the appeal against the decision on administrative expulsion always has a deferring effect and a period of 60 days has been set for the court's decision on the action for administrative expulsion, which also has a deferring effect. In relation to the Directive 2008/115/ES the reasons have been expanded due to which a foreigner can request the removal of strictness of administrative expulsion and milder conditions for the abolishment of decision on administrative expulsion have been set.

Appendix 1 contains statistical data on administrative expulsion and apprehension of foreigners.

Reply to the issues raised in paragraph 9 of the list of issues

36. The Directive 2008/115/ES (so called Return Directive) was transposed into the Czech legislative on 1st January 2011 through the amendment No. 427/2010 Coll. The transposition aimed mostly into the Act No. 326/199 Coll. on Residence of Foreigners. To strengthen the procedural status of foreigners and asylum seekers relevant changes have been made in the Asylum Act in the field of judicial review of detention. In accordance with the requirements of the Return Directive a new provision has been incorporated in the Act on Residence of Foreigners which provided an exception from the obligation to travel back abroad for persons, who were denied entry but cannot travel because of urgent medical treatment need. Another novelty is the implementation of a brand new decision type, which is the decision on the obligation to leave territory, which is a reaction to the requirement of the Return Directive not to give the decision on return to foreigners, who have right of residence in another EU member country. This decision therefore doesn't include the prohibition of entry into the Czech Republic nor the EU and within the period of 7-60 days the foreigner is obliged to leave the territory of the Czech Republic.

37. In the field of administrative expulsion there has been a clear separation of the regulation of this institution in relation to foreigners – citizens of third countries and EU citizens and their family members, on which the Directive 2008/115/ES doesn't apply. In the case of third country citizens a decision of administrative expulsion is issued, its principle has been preserved, therefore it always contains the prohibition of entry but newly it is issued with validity for the whole EU. The period for leaving the territory has also been clearly set. The Czech Republic chose more favorable norms than the Directive requires and the period for leaving the territory is 7-60 days and can be prolonged according to Act No. 500/2004 Coll. Administrative Code. Reasons for issuing a decision on administrative expulsion have been restructured as well as the restriction of entry again with regard to the requirements stemming from the Directive. To ensure the protection of rights of the underage without escort it has been explicitly stipulated that they will be provided with a caretaker during the administrative expulsion proceedings. Further in relation to the Directive 2008/115/ES the reasons have been expanded due to which a foreigner can

request the removal of strictness of administrative expulsion and milder conditions for the abolishment of decision on administrative expulsion have been set.

38. In the field of foreigners' detention the Czech Republic newly implemented so called alternatives to detention, designated in the law as special measures aimed at the foreigner's departure from the country. The Return Directive contains only a short regulation of this institution, therefore experience from other member states and various studies have been used. As alternative measures the Czech Republic chose the reporting duty in combination with the obligation to report the address of residence and financial deposit (bail). Before the police are authorized to detain the foreigner they must consider these alternative methods. If the alternative measures are not imposed, the police can detain the foreigner. The conditions and reasons for the detention were modified so that they comply with the Directive. The manner of setting the length of detention has been altered in a significant way. The police set the length of detention in the decision on detention after taking into consideration the expected difficulty of preparation of the administrative expulsion. When setting the length of the detention the police are obliged to consider cases of underage foreigners without escort and families or other persons with children. If it is necessary for the continuing preparation of execution of administrative expulsion, the police are authorized to prolong the period of detention even repeatedly. It is possible to file an action in the court against every decision on prolongation of detention. With regard to the Directive the length of detention has been changed. Families with children can now (as was until now the case of unaccompanied underage persons) be detained only for 90 days. Further prolongation isn't possible. However in the case of other foreigners the detention period can be prolonged to a maximum of 18 months (545 days), nevertheless only one reason according to the Directive has been used to prolong this period beyond 180 days.

39. Fundamental changes occurred in the field of judicial review as well. The foreigner still has the possibility to file two kinds of legal remedies against detention – administrative action to the regional court and proposal for release from detention to the district court. Newly the court must decide on the action against detention within seven working days from the delivery of the file to the court, for which a period of 5 days is set. This change will contribute to a significant acceleration of the judicial review.

40. The Czech Republic considers the amendment of the administrative expulsion as compliant with the EU law as well as with international obligations. As for the non-refoulement principle, the institution of a binding stance towards the possibility of departure of a foreigner, which is required when deciding on the administrative expulsion, has been discussed above and is also described in the previous answer to the CAT recommendations. In the previous reply of the Czech Republic it is also stated that during the proceedings for international protection (asylum) the decision on administrative expulsion cannot be executed and this applies as to the court proceedings as well - a foreigner with the status of asylum seeker therefore cannot be expelled. A foreigner detained due to administrative expulsion is also informed about the option to ask for international protection. The Act on Residence of Foreigners also regulates the principle ensuing from the Geneva Convention relating to the Status of Refugees. The decision on administrative expulsion according to § 119 par. 1 b) items 6 and 7 shall not be issued, if the foreigner requesting international protection enters the territory directly from a state, where there is a danger of persecution or significant harm and enters the territory or stays there without permission and immediately reports himself to the police or a ministry and provides a serious reason for his unlawful entry or stay. The decision on administrative expulsion according to the § 119 also cannot be issued if it would result in an appropriate impact on the private or family life of the foreigner.

Reply to the issues raised in paragraph 10 of the list of issues

41. Detention of asylum seekers under 18 years of age isn't possible according to the Act No. 325/1999 Coll. Detention of families with underage children is also not possible. Unaccompanied underage persons are placed into special education facilities, families with children into residential centres for asylum seekers.

42. As for the Act No. 326/1999 Coll., it is possible to detain a foreigner older than 15 years, however only under very restricted conditions. Discussions about the possibility to detain unaccompanied underage persons were lead even during the discussions of the amendment No. 427/2010 Coll. In the end an agreement has been reached over the variant to keep the option to detain the unaccompanied underage persons while the provision itself is being significantly more restricted and specified. The most important change which the amendment No. 427/2010 brought was the restriction of the possibility to detain the unaccompanied underage person only in those situations, where there is a reasonable threat that this person could endanger the state security or disrupt the public order in a significant manner. In case there is a reasonable doubt that the person is an unaccompanied underage foreigner the police is authorized to detain the foreigner even due to reasons generally applicable on adult foreigners until the real age is ascertained. The police must begin actions to discover the age of the foreigner immediately after his detention. The police will set a length of detention in the decision on detention while taking into account the expected difficulty of preparation of the administrative expulsion. When setting the length of the detention the police are obliged to consider cases of underage foreigners without escort and families or other persons with children. If it is necessary for the continuing preparation of execution of administrative expulsion, the police are authorized to prolong the period of detention even repeatedly. The maximum length of detention of 90 days still applies and this period cannot be prolonged. An underage foreigner has an appointed guardian. The foreigner can be expelled only if the police found out that reception adequate to his age is ensured in the country of origin. Both unaccompanied underage foreigners and families with children stay in facilities for detention of foreigners separately. In practice the expulsion of unaccompanied underage citizens doesn't occur, as it is hindered particularly by the ordered institutional education.

43. On 28th December 2011 a project of the new legislation on the entry and residence of foreigners in the Czech Republic was presented to the government. With regard to the above mentioned substantial changes, which were made with effect from 1st January 2011 it is proposed to keep the current legislation. The abolishment of the possibility to detain families with underage children and unaccompanied underage foreigners isn't appropriate, but will always remain an extreme solution. New legislation envisages the following measures:

(a) The unity of the family is the primary aspect – if the family is detained, it will be ensured that they stay together.

(b) Regarding placement of children into facilities it is proposed that in cases where there is a suitable alternative (e.g. another close relative living in the Czech Republic) the children should not be placed into facilities with parents. During detention the family situation will be thoroughly considered as well as the possibility of this measure, of course with the parents' consent. If detention with children occurs, effort shall be made to improve the conditions in the facility so that the children would feel as little as possible that their freedom is restricted. The facility would have to be equipped for the children's stay as much as possible and their stay should be made as pleasant as possible. The bad conditions in the facilities were among the complaints in the decisions of the European Court of Human Rights.

(c) It is important as well to carefully assess the health and psychic condition of the children. Their bad condition will be a reason for their release.

(d) Execution of expulsion of detained families with children is a priority. The police solve these cases first, so that the expulsion could take place in shortest possible time and underage children won't have to be kept in facilities for a prolonged period.

44. Apart from the above mentioned improvements, a different procedure will be implemented for families, which will request international protection. Should a family request international protection, its detention will continue in the mode of the Asylum Act and the family will be transferred into a reception centre, where the conditions are better than in facilities for detention of foreigners. The family will be "re-detained" according to the Asylum Act and its members will still have their freedom restricted. In this case it would be necessary to review the circle of apprehensible persons according to the Asylum Act and unify the length of detention (currently 90 days according to the Act on Residence of Foreigners and 120 days according to the Asylum Act).

Reply to the issues raised in paragraph 11 of the list of issues

45. The Czech Republic states that all acts of requests of a person from abroad, extradition of a person abroad or transit of a person through the state territory follow very strict legal provision in accordance with the international obligations of the Czech Republic in the field of human rights and the law of the EU. They are also conditioned by the approval of a court or the Minister of Justice, whereas the possibility of torture or ill-treatment of such person is a lawful reason for not granting an approval. Therefore if the Czech Republic were to be asked to extradite a person into a country with a risk that this person were to be tortured or ill-treated or to permit transit of a plane carrying persons into such a country, neither the extradition nor the transit would be permitted.

46. In the area of civilian aviation the Czech Republic is bound by the Convention on International Civil Aviation (the Chicago Convention). According to this Convention, civilian aircrafts, i.e. aircrafts not used for military, customs or police purposes, can in accordance with the Convention and the law of the state party use its air space for transit and landings without prior permission. Prior permission is required only for state aircrafts used for the purposes mentioned above or civil aircrafts conducting regular international transport services. The state party is authorized to request any aircraft to land and consequently it is authorized to search it, however this procedure must be adequately substantiated by concrete circumstances, otherwise this would constitute a violation of the Convention.

47. The Czech Republic conducted an investigation in 2005 which showed that none of the bodies or officials actively or passively participated in restricting personal freedom of persons or their transport into foreign countries, where there was a risk of torture or ill-treatment of these persons. The Czech Republic also didn't learn that persons are transited through its territory or extradited from its territory in order to be tortured or ill-treated and that in order to protect them it should interfere with the rights granted to civilian aircrafts by international law.

48. As for the question whether the state requested or provided diplomatic assurances in cases involving receiving, expelling or extraditing individuals from its territory we state that the state requested such assurances.

Articles 5, 6, 7 and 8

Reply to the issues raised in paragraph 12 of the list of issues

49. No request by any other state for extradition a person suspected of having committed an offence of torture has been recorded.

Article 10

Reply to the issues raised in paragraph 13 of the list of issues

50. All employees of the Czech Prison Service immediately after their acceptance into a service relationship or employment receive basic professional courses. Integral part of these courses is training in the field of current legislation and professional ethics. The staff that comes into daily contact with the prisoners receives special courses aimed at improving skills in practical execution of professional competences and increasing legal awareness necessary for the conduct of these competences.

51. Each employee of the Czech Prison Service is aware of the absolute prohibition of torture and discrimination of ethnic groups, knows international conventions, the Constitution, Bill of Rights and Freedoms, laws and departmental regulations, which include ethical principles of the protection of human rights, prevention of all manifestations of abuse of official competences, prejudice against minorities, xenophobia, corruption etc. They also know how to explain the reasons and goals of the creation of relevant international conventions, laws and regulations.

52. Education of police officers is based on basic principles of the pluralistic democracy, rule of law and protection of human rights. Police officers are educated so that their behaviour would be in accordance with law and professional ethics and uncompromising respect of human rights. The police work is regarded as a service to the citizen, based on professional and qualified conduct of a motivated police officer with an ethical standard. The concept of lifelong education of police officers and employees of the interior department includes education on human rights since 2001. The goal of the complex police education is to equip the officers with professional, civic and personal competences in a scope required by practice and content which respects the trends of police work in international context. Within this system the police officer gains knowledge of human rights and fundamental freedoms and develops rules of conduct and manner of dealing with other persons. In practical training he learns how the use of these is limited by the principles of human rights.

53. A key document in the field of working with minorities is the Strategy on Policing Minorities 2008-2012. Police education emphasizes identification of racially motivated crimes and removal of xenophobic and racist prejudices in the ranks of the security corps and employees of the department. Because of the need to more and more often solve cases of racial hatred and to improve the preventive activity of the police two pilot projects runs of the "Course of Liaison Officers for Minorities and Members of Working Groups I" were conducted in cooperation with the Department of Security Policy or the Ministry of the Interior and the Office of Criminal Police Service of the Police Presidium. In 2012 the second part of the course is planned in a pilot project and after the evaluation of both pilot projects these courses are expected to be included in the offer of educational programs of the Police College in Prague and Police College and Secondary Police School in Holešov. The liaison officers for minorities and their working groups operate within the Czech police based on the binding order of the police president No. 32/2010 on the operation of the department of minorities.

Reply to the issues raised in paragraph 14 of the list of issues

54. Signs of physical and psychical injuries caused by torture are usually so specific that an experienced medical worker doesn't require training. In connection to custody or prison sentence or security detention the Czech Prison Service performs entrance examinations, which are performed within 4 days after the relevant prison/custody sentence starts. Usual practice is to perform the entrance examination on the first day, capacity and personnel conditions permitting. If the entrance is an unplanned one or the convict or inmate is handed over to the police, the first examination is usually conducted by that body. In the case of persons who are previously suspected as subjects of possible violence there are apart from personal examinations also subsequent regular examinations with the aim to find possible signs of violence. Otherwise any accused or convict or inmate "free" access to medical care, if he deems it appropriate.

Reply to the issues raised in paragraph 15 of the list of issues

55. The issue of combating human trafficking for the education needs of the police officers is included in educational programs of all 5 police schools and 1 educational facility at all levels and in all types. The aim is to give the officers basic information about human trafficking and teach them to identify a human trafficking victim, help them develop necessary habits and positively influence their attitudes. In the academic year 2010/2011 the Police Academy in Prague offered a training course within the lifelong education program "Fight against organized crime in the Czech Republic", part of which was the issue of human trafficking.

56. Education in the field of combating human trafficking is supported also through international educational projects such as CEPOL and MEPA. CEPOL (European Police College) is an EU agency associating 30 countries with the goal to harmonize police education through the creation of common curriculum, realization of courses and seminars especially on the topic of organized crime. CEPOL also organizes exchange programs, creates e-Net and e-learning modules etc. In 2011 CEPOL organized 2 courses Child abuse in Cyberspace and Trafficking in Human Beings. MEPA (Mitteleuropäische Polizeiakademie) associates 8 member countries (Austria, Germany, Switzerland, Hungary, Slovenia, Poland, Slovakia and the Czech Republic). MEPA organizes ca. 15 educational professional activities a year on the topic of organized crime. In 2011 the topic of "Human trafficking" was included in the three month Annual Course MEPA 2011, in which 2 representatives of the Czech police took part. For the year 2012 this topic is included as an independent workshop: "Menschenhandel sexuelle Ausbeutung – Prostitution," which will take place in March in Budapest.

57. Police College of the Interior Ministry in Prague in cooperation with the Centre for Human Rights created multimedia educational programs including manuals for teachers of police schools of the Ministry of Interior and educational centres of the Czech police on topics such as: rape and sexual assault, domestic violence, sexual abuse of children or dealing with crime victims. The programs and manuals are further spread into individual police schools.

Reply to the issues raised in paragraph 16 of the list of issues

58. Judicial academy regularly organizes seminars for judges and prosecutors, which are aimed generally at interrogation methods according to the Criminal Code and also at victims of domestic violence and sexual crimes. Currently there is a series of seminars for judges and prosecutors "Domestic Violence", which is aimed at expert activity when detecting offences of harassment of entrusted person and harassment of persons living in common residence or at posttraumatic stress disorder of domestic violence victims. Other seminars are aimed at the activities of criminal procedure authorities, work with an

endangered person or prevention of repeated victimization of sexual crime and domestic violence victims.

59. In 2012 the Government prepared a draft law on crime victims. The draft regulates especially the right to expert help, which will be in cases of some victim groups provided free of charge (by the non-profit sector, Probation and Mediation Service and attorneys listed in the register of service providers); right to information, where the emphasis is on the clarity of provided information; right to protection of privacy; right to protection against secondary victimization by the police and criminal procedure authorities (restriction of contact with the perpetrator, special rules for interrogation of victims and presentation of victim's account) or the right to financial help.

60. The draft also expects that the Ministry of Justice will grant accreditations to NGOs, which will provide information to the crime victims and realize restorative programs. These accredited subjects will also be supported by the Ministry in the form of subventions. The Ministry will also maintain a public registry of service providers according to this law, which will contain subjects accredited by the Ministry of Justice and subject, which will obtain the registration for work with victims according to the Act on Social Services. Among the providers should be the Probation and Mediation Service and also attorneys after fulfilling legal conditions.

Reply to the issues raised in paragraph 17 of the list of issues

61. The Czech Republic joined the Council of Europe initiative and former UN initiative to prevent corporal punishment of children by preparing the National strategy of preventing violence against children in the Czech Republic for the period 2008-2018 and the subsequent National Action Plan for 2009-2010. The fulfilment of the overall goal to prevent all forms of violence against children is undoubtedly helped by the support of development of parental competences. It is possible to state that the Czech Republic made a step forward in this field. The Ministry of Labour and Social Affairs published a number of publications, organized seminars and supported preventive programs to strengthen parental competences. Part of the goals set in the mentioned national action plan is also the understanding of child's right to protection against violence in the whole society with the aim to change the society's attitudes.

62. As a part of the effort to fulfil this objective government campaign "STOP violence against children" took place in 2009 under the auspices of the Minister for Human Rights. A number of seminars have been organized within the campaign across the whole Czech Republic with the participation of expert public, state administration bodies and NGOs. A number of publications were also created on the topic of violence against children and its specific forms (e.g. safe use of the internet by children). An educational material about positive parenthood has been filmed ("The road to positive parenthood"). At the end of 2009 this campaign ran in the media as well (video and radio spots, billboards). The campaign included a sociological survey aimed among others at the public awareness of the existence of violence against children.

63. In 2010 the Ministry of Health supported the project "Positive parenthood – educational program aimed at medical workers who treat children and families". The aim of this project was to create an educational program "positive parenthood", which should acquaint experts with aspects of positive parenthood and which is aimed at prevention and improvement of child's health in the family in the context of social relationships. It is recommended to solve conflict situations in the family through empathy during mutual emotional confrontation, whereas the concept of positive parenthood excludes the use of corporal or psychic punishment against children. The educational course, which has been proven within the seminar for doctors and other medical workers, will be used at the national level in the future. These experiences were presented among others within the

international seminar “Prevention of children’s injuries, prevention of violence against children, mental health support” (Prague 5th June 2009) and the national seminar “Safe environment for children – without injuries and violence”(Třeboň, 19th November 2010), which took place under the auspices of the Minister of Health and WHO.

64. The topic of positive parenting is also part of the Government-approved National Strategy for the protection of children’s rights. One of its goals is to “face the widespread tolerance of corporal punishment, through information and educational programmes for the general public, to encourage the use of alternative disciplinary measures in accordance with the child’s own dignity and in this regard to ensure the prohibition of corporal punishment”. Measures should include support for the development and application of services to help develop parenting skills and measures to promote positive parenting and education without corporal punishment in cooperation with the Ministry of Labour and Social Affairs and the Government Commissioner for Human Rights. In relation to the society-wide effort to change the perception of this issue and provide active government help to the families the Ministry of Labour and Social Affairs announces a grant procedure in the field of family support for the year 2011, which will be used to support grant areas “Support of establishment of services for prevention of social exclusion of parents taking care of children”, “Support of improvement of partner and marital relationships and strengthening of parental competences”, “Support of foster family care” and “Support of accompanying of children and young people in foster family care and educational care”.

Article 11

Reply to the issues raised in paragraph 18 of the list of issues

65. New laws that enter into force on 1st April 2012 don’t expect such eventuality.

Reply to the issues raised in paragraph 19 of the list of issues

66. As for measures related to the administering of medical treatment, these are included in medical files and cannot be included in any other file without the patient’s consent. A change can be expected in the legislation, which enters into force on 1st April 2012. In § 39 and § 40 of the Act No. 372/2011 Coll. on medical services and the terms and conditions of the provision thereof a reporting duty to the court is stipulated in case of use of a restricting device in relation to provision of medical care.

67. The use of restricting devices in relation to provision of medical care is regulated in § 39 of the Act No. 372/2011 Coll. on medical services and the terms and conditions of the provision thereof. According to this law a restricting device can be used in medical care only if its aim is to avert a threat to life, health or security of the patient or other persons. It is always necessary to use such restricting device, which would lead to the fulfilment of the purpose of its use with the least possible risks for the patient. A restricting device can be used only for the duration of the reasons for its use. Regarding the provision of medical care it is necessary that the use of a restricting device is always indicated by the doctor, in extreme cases, which demand immediate solutions, the use of restricting devices can be indicated by another medical worker, who is present; but the doctor must be immediately informed about the such a use of the restricting device and must verify the necessity of its use. Each use of a restricting device during medical care must be recorded in the patient’s medical file. The medical documentation of a prison hospital therefore should contain records about the use of restriction devices during provision of medical care.

68. On subsequent visits, the members of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment were allowed access to medical records. In the new Act No. 372/2011 Coll., on healthcare services and the

conditions of their provision, it states in Section 65 para. 2 (n) that members of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment or of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, may have access to medical records kept on patients without their consent, to the extent necessary to perform the tasks arising from international treaties which are binding on the Czech Republic.

Reply to the issues raised in paragraph 20 of the list of issues

69. The house arrest sentence is used by the Czech justice since the new Criminal Code entered into force on 1st January 2010. This punishment was incorporated into the criminal law as a direct alternative of prison sentence, i.e. should be used in the case of convicts, where all other alternative means were exhausted or cannot be considered because of the nature of the committed crime.

70. Since the implementation of the house arrest sentence in the Czech Republic there were 366 such sentences by 31st December 2011, while the execution of the punishment has been ordered in 318 cases. The home prison sentence currently works without the use of the electronic monitoring system. The monitoring of the sentence is maintained by the Probation and Mediation Service through their probation officers, who perform random visits of the convict's residence. In this regard the Probation and Mediation Service has been strengthened both with personnel and service cars. From January 2010 to December 2011 the workers of the Probation and Mediation Service performed a total of 12 694 random inspections of convicts. The intensity of inspections is chosen with regard to the potential breach of rules of the sentence by the convict. While performing inspections the officers are equipped with tests to find out the presence of an addictive substance in the convict's body. During the inspection the Service cooperates with the police.

71. The implementation of the house arrest shows a high rate of enforceability. From the above mentioned number of imposed sentences in 106 cases it has already been successfully executed. In 44 cases so far it has been necessary to impose the alternative punishment of prison sentence. The explanation of this fact could be that the current model of cooperation of the Probation and Mediation Service and the neighbours has been successful in practice and most (ca. 65%) of the court decisions are preceded by an opinion of the Probation and Mediation Service on the possibility of imposing a house arrest sentence. The opinion includes more detailed information about the family, social and employment situation of the convict, his attitude towards the crime and reparation of its consequences for the victim, about the motivation of the convict to submit to the house arrest sentence. All information is verified from multiple sources.

72. The new Criminal Code brought also the possibility of conditional release before the half of the sentence has been served (§88 par. 2). At the same time this decision is connected with the imposition of one of the duties listed in § 89 par. 2. These include the obligation of the conditionally released person to stay in his residence during the time set by the court. The nature of this release is in some ways similar to the house prison. Thanks to an intensive cooperation of the Probation and Mediation Service, Prison Service and the courts this institution has been successfully implemented into judicial practice in 2011. In connection to the imposition of these obligations on the conditionally released there are 14 recorded cases when these persons were inspected by the Probation and Mediation Service in the same way as described above.

Further statistical data see Appendix 2

Reply to the issues raised in paragraph 21 of the list of issues

73. The State has freed prisoners in the category referred to in paragraph 161 of the fourth and fifth periodic reports from the obligation to pay the costs of their imprisonment. This particularly concerns prisoners who, through no fault of their own, cannot work during their imprisonment, provided they do not have other income or cash assets, or prisoners under the age of 18 years, prisoners enrolled in educational or therapeutic programmes with at least 21 hours of teaching a week and prisoners who are participating in court proceedings as a witness or a victim. The State has not considered freeing any other categories of prisoner from the obligation to pay the costs of their imprisonment. From 1 February 2010 the 40% rate referred to in paragraph no. 164 of the fourth and fifth periodic report was changed to a rate of 32%.

Reply to issues raised in (a)

74. The referenced CPT report implies that this is particularly the case of sexual delinquents, who were ordered protective care. The patient's consent with the procedure must be informed and free. A relatively brief regulation of the requirement of informed consent in the Act No. 20/1996 Public Health Care Act has been superseded by a more complex provision of the Act No. 373/2012 Coll. on Special Medical Services effective from 1st April 2012, among others in accordance with Article 5 of the Convention on Human Rights and Biomedicine (No. 96/2001 Coll.). The requirements of the informed consent as well as the requirements of the statement of rejection of the medical procedure are currently regulated by an order on medical documentation, which further specifies all information that must be stated in the written informed consent.

75. § 83-89 of the Act No. 373/2012 Coll. on Special Medical Services regulates the protective treatment, which is imposed in accordance with the Criminal Code. These provisions stipulate the conditions of the institutional protective care in the form of bed care or ambulatory care in common medical facilities or in medical facilities of the Prison Service during the prison sentence, including the informed consent and possibility of free choice of alternatives to the imposed treatment.

Reply to issues raised in (b)

76. Laws of the Czech Republic allow using tear gas as one of the compulsory measures by the members of the Police of the Czech Republic, Prison Service or Judicial Guard, members of the General Inspection of Security Forces, Military Police, officers of the municipal police, customs officers and members of the Army and Castle Guard. The provision in the above listed laws doesn't allow the use of tear gas against a pregnant woman, elderly person, person with physical disability and person obviously younger than 15 years of age. The provision doesn't stipulate a prohibition of the use of tear gas in enclosed spaces.

77. The laws state that the officer decides on what measure he uses according to the current situation so that he fulfils the purpose of the action. He must take care that the use of the measure is adequate to the nature of the action and that it won't cause inadequate harm. The provision stipulates the obligation to ensure medical treatment after the use of compulsory measures. The result of medical examination is an integral part of the record of the use of the measure. The officer who used the measure must make written record about its use without delay. The circumstances and reasons of each use of such measures are investigated by the 1st deputy of prison directors. The procedure is regulated by the Order of the Director of the Prison Service No. 40/2002 on making records and reports about the use of compulsory measures. The Prison Service uses the tear gas in accordance with the current legislation. In the monitored period there was no change of this legislation and no change is being considered.

Reply to issues raised in (c)

78. Inspections, which would find out whether the individual provisions of the Order of the Director of Prison Service No. 82/2006 on prevention and timely detection of violence between prisoners in the Valdice Prison are adhered to, will be carried out by the Directorate of the Prison Service regularly at least once a year.

Reply to issues raised in (d)

79. The draft amendment of the Act No. 169/1999 Coll. on Imprisonment, which is part of legislative works for the year 2012, includes a new part dealing with the sentences of very dangerous convicts. The set date for its submission to the government is July 2012. This draft includes measures proposed by the CPT in article 58 of the report on its visit to the Czech Republic from 25 March 2 April 2008.

80. The Order of the Director of Prison Service No. 55/2007 on conditions of treatment of convicts placed into blocks with increased security has been amended on 1st February 2010. According to this amendment (No. 6/2010) the Director of Security will decide on the placement of convicts into the blocks with increased security, increase in the duration of the placement or the end of the placement by his order on a required formulary. The grounds of the decision will include all facts that have been taken into consideration and had a major influence on the decision, particularly the reasons of so far imposed punishments and rewards and a detailed assessment of the last stay in a block with increased security (behaviour towards the staff and inmates, attitude towards the program activities etc.). The issued order of the Director of Security is binding. The prison director is obliged to announce this order to the convict. According to § 18 of the mentioned amendment the convict has a right to file a complaint against this order. The amendment enables to place the convicts into the block for a shorter time than two consequent assessment periods.

Reply to issues raised in (e)

81. Since 1st April 2012 the provider of medical services has among others an obligation to ensure that the medical services for persons in custody, prison or security detention are provided in the presence of an officer of the Prison Service, however only within his sight, not in hearing, with the exception of the threat to life, health or security of the medical worker or any other worker or property, when the officer is entitled to be within hearing as well. Regarding the examination by a psychiatrist in a room equipped with a safety grate, according to the psychiatrist the grate has no effect whatsoever on his work with the convicts and no complaint has been received about the grate from the convicts.

Articles 12 and 13

Reply to the issues raised in paragraph 22 of the list of issues

82. In the years 2010 and 2011 there have been no records of cases of torture or ill-treatment committed by police officers. The numbers of complaints about such actions are listed in the table below. Another table includes the numbers of crimes of domestic or sexual violence committed by police officers. The crime of human trafficking hasn't so far been committed by any police officer.

Number of complaints against police officers for ill-treatment

<i>Year</i>	<i>Number of complaints</i>	<i>Well-grounded</i>	<i>Well-grounded in %</i>	<i>Partly well-grounded</i>	<i>Partly well-grounded in %</i>
2009	2324	124	5,3	187	8
2010	2980	157	5,3	254	8,5
2011	2709	149	5,5	241	8,9

Number of complaints against police officers concerning domestic and sexual violence

<i>Crime</i>	<i>2010</i>	<i>2011</i>
Rape	2	1
Sexual abuse		2
Procurement	1	
Distribution of pornography	2	
Production and other use of child pornography	3	
Abuse of a person in charge		1
Abuse of a person living in a common residence	7	3

Number of resolved crimes of police officers concerning domestic and sexual violence according to the age of the perpetrator

<i>Crime</i>	<i>under 25 y</i>		<i>25 - 30 y</i>		<i>30 - 35 y</i>		<i>35 - 40 y</i>		<i>40 - 45 y</i>		<i>45 - 50 y</i>		<i>over 50 y</i>	
	2010	2011	2010	2011	2010	2011	2010	2011	2010	2011	2010	2011	2010	2011
Rape	2													1
Sexual abuse								1				1		
Procurement					1									
Distribution of pornography					1									
Production and other use of child pornography					1		1							
Abuse of a person in charge				1										
Abuse of a person living in a common residence	2		1				1		2	2				

83. In the period of January 2010 – December 2011 the Ministry of Health received a total of 80 (47 and 33) complaints regarding the medical care in psychiatric sanatoriums or psychiatry. 44 of those complaints were related to a concrete medical treatment (prescribed

treatment, medical procedures during hospitalization etc.), 10 were related either to administrative matters or were completely chaotic and 20 were related to the ethic of medical workers or disagreement with restriction. Within the investigation of these complaints the Ministry has given no impulse to the criminal procedure authorities.

Reply to the issues raised in paragraph 23 of the list of issues

84. The Czech Republic has no information that in the period in question a crime of torture or ill-treatment has been committed that hasn't been properly reported or investigated. The Czech Republic also has no information based on which it could presume that the public isn't sufficiently aware that torture and ill-treatment are crimes according to the Criminal Code and that its perpetrators face lawful punishment and that this crime is prosecuted by standard means according to the Criminal Code, including the possibility for the victims to request compensation of damage and non-property damage.

Reply to the issues raised in paragraph 24 of the list of issues

85. The issue of complaint investigation is regulated by the Act No. 372/2011 Coll. on Medical Services. The claimant has an option to lodge a complaint to the relevant regional authority, Czech Medical Chamber or a health insurance company. He can also turn to the ombudsman or criminal procedure authorities. All these bodies are independent on the service provider.

Reply to the issues raised in paragraph 25 of the list of issues

86. The answer is included in the answer to question 4.

Reply to the issues raised in paragraph 26 of the list of issues

87. In connection with the demonstrations during the meeting of the IMF and World Bank in September 2002 29 complaints were received, 3 of those have been closed as substantiated. Based on the discovered mistakes, organizational measures have been adopted to prevent their recurrence and the police officer, against whom the complaint has been filed, has been reprimanded. At this occasion 14 inspections have also been performed, 2 of those discovered shortcomings. These have been discussed with the relevant superiors, who adopted organizational measures to prevent their recurrence. Following measure have been applied to the officers who were connected to these shortcomings: reprimand and discussion of the shortcomings at the staff meeting.

Reply to the issues raised in paragraph 27 of the list of issues

88. The answer is included in answers to issues raised in paragraphs 5 and 22.

89. In the field of social services there is support of the target group of domestic violence victims. Within this support there is a long-term financial support for such social services, which come into contact with this target group either directly or indirectly. In 2010 The Czech Republic had a total of 18 registered intervention centres, which provided their services to 3121 anonymous petitioners. Within its grant procedure the Ministry of Labour and Social Affairs supported apart from the intervention centres also other social services, which have victims of domestic violence as their target group, e.g. asylum houses. In 2011 the Ministry provided within the 1st round of grants a total amount of 50 283 000 CZK from the state budget to the providers of social services listed in the register of social service providers to ensure the provision of the asylum house social services and 1 965 000 to the intervention centres. The grants were provided to finance common expenses in accordance with the mid-term plan for development of regional social services.

90. The complex of state measures aimed at prevention of domestic violence includes the National Action plan of Domestic Violence Prevention for the period 2011 – 2014. Measures aimed at prevention of sexual violence and domestic violence are also part of the Updated Measures for 2011. It is especially these:

(a) No. 5.1. To accept concrete measures leading to abolishment and prevention of violence based on gender, domestic violence and human trafficking; these measures are to be elaborated into departmental priorities;

(b) No. 5.2. To emphasize the unacceptability of violence based on gender and human trafficking and publicize this issue in relation to the sphere of action of each member of the government (interviews, articles, publications etc.);

(c) No. 5.3. Take into consideration the issue of gender-based violence and human trafficking when making migration policies;

(d) No. 5.4. Based on concrete measures to discover, monitor and solve cases of sexual harassment at the workplace at individual ministries.

Article 14

Reply to the issues raised in paragraph 28 of the list of issues

91. The report contained the only case of torture from 2002. However, the result of the investigation was that there was no crime of torture committed according to § 259a and the injuries were not caused by the public authority body during interrogation. Compensation therefore wasn't granted.

92. The general provision enables the torture victims to claim compensation for damages and non-propriety damages in civil law proceedings and also in criminal proceedings against concrete perpetrators, if they are found responsible for the damage.

Reply to the issues raised in paragraph 29 of the list of issues

93. The new draft law on victims includes a new provision on granting financial help to the victim. The right to financial help is granted to the victim, who as a result of a crime incurred damage to health, survivor of the victim, who died as a result of a crime and was a parent, spouse, registered partner, child or sibling of the deceased and also lived in the same household at the time of death, or a person to whom the deceased provided or was obliged to provide sustenance and a victim of a crime against human dignity in sexual area, who incurred non-propriety damage. The financial help consists of a one-time payment to cope with the deteriorated social situation caused by the crime. The financial help for the victim of the crime against human dignity in sexual area consists of payments of costs related to expert psychotherapy and physiotherapy or another expert service aimed at the compensation of incurred non-propriety damage. Financial help will be provided if the non-propriety damage, damage to health or damage incurred as a result of death caused by the crime hasn't been fully compensated.

94. A victim has a right to financial help even in the case that the case has been adjourned, because the perpetrator hasn't been found or cannot be prosecuted due to insanity, insufficient age or insufficient approval of the relevant authority with the prosecution or due to a pardon or because the perpetrator is excluded from the power of criminal procedure authorities or because the perpetrator died. If the case has been adjourned due to the inefficiency of the prosecution, it would be unjust that the victim doesn't receive financial help only because of this. In the same way the right to non-financial help is granted, if the prosecution has been stopped for similar reasons. The Ministry can reject to provide financial help in all the listed cases if there are substantial

doubts that the crime happened. The right to financial help isn't bound to the fact whether the victim claimed its right to damage compensation in court. The financial help, which serves as a means to cope with the deteriorated social situation, must be quick. Therefore it isn't possible in some cases to wait for the start of the criminal proceedings against a concrete person, against whom the victim would claim compensation. The financial help would be also dependent on the fact whether the perpetrator would be discovered, which is against the purpose of this institution.

95. A significant change is the substitution of the principle, according to which the victim, who has been granted the financial help, has an obligation to transfer funds in the amount of the provided help to the account of the Ministry of Justice within five years from the day the help has been provided. The provision was unusable in practice. Newly after the help is provided the claim for damages is transferred to the state in the amount of provided help. The state can subsequently claim this amount from the perpetrator.

96. The data from the Ministry of Justice show that ca. 10 – 15% of applicants file their applications for financial help after the statutory limitation period. Therefore the draft law prolongs the subjective period to claim compensation to 2 years. Also a 5 year objective period for filing the application has been added. The goal of the financial help is to help to cope with the deteriorated social situation caused by the crime, therefore it cannot be expected that the victim could get into a deteriorated social situation as a result of the crime 5 years after the crime has been committed.

Reply to the issues raised in paragraph 30 of the list of issues

97. In October 2011, the Government passed Resolution No. 770 of 19 October 2011 on the summary report on the implementation of the Government's priorities and procedures to promote equal opportunities for women and men in 2010, which required the Ministry of Justice to prepare an analysis examining the possibility of compensation, including a review of the three-year term of statutory limitation on bringing a claim, and to submit it to the Government by 31 December 2012. The Government Council for Human Rights continues to address the issue of compensation for sterilised women and discussed this problem at its meetings in May 2011 and February 2012. On 17 February 2012, the Council approved a resolution in which it recommended that the Government of the Czech Republic prepare a mechanism for compensating sterilised women.

98. Women, who have undergone sterilisation in contravention of the law, may claim compensation for injury caused and non-pecuniary damage to their personal rights. This claim will then be assessed according to current legal provisions, including any period of limitation. In certain cases, the Constitutional Court of the Czech Republic has already found the application of limitation periods to claims to be contrary to good morals. This occurred in particular in cases where the participant was not at fault with regard to the limitation of his/her claim and where this would constitute too harsh a sanction in terms of the circumstances of his/her case.

Reply to the issues raised in paragraph 31 of the list of issues

99. Shredding of medical records is currently, and has been in the past, carried out in accordance with the Act on Archives and with the internal regulations of healthcare institutions, as well as with Decree No. 385/2006 Coll., on medical documentation, as amended, which relates to all issues regarding the handling of medical documentation, shredding schedules and retention periods, which, in the case of institutional care – hospitalisation - is 40 years.

Article 15

Reply to the issues raised in paragraph 32 of the list of issues

100. According to §83 par. 3 of the Criminal Procedure Code “evidence obtained through illegal coercion or through threat of such coercion cannot be used in the proceedings with the exception when it is used against the person who used such coercion or threats thereof.” This prohibition adopts the obligation ensuing from the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Evidence gained through illegal coercion or through a threat of such coercion is absolutely ineffective, i.e. this fault cannot be removed and thus it cannot be used in the criminal proceedings, with the exception when it is used against the person who used such coercion or threats thereof. The question whether the evidence has been gained through illegal coercion or through threats thereof is solved independently by each body active in the criminal proceedings; final decision on this matter belongs to the court.

Article 16

Reply to the issues raised in paragraph 33 of the list of issues

101. Regarding the police it is only possible to show the numbers of complaints about ill-treatment of the minorities by police officers. These complaints have been investigated by the department of inner inspection of the Police Presidium. See table below.

Number of complaints against police officers for ill-treatment against minorities

	2009		2010		2011	
	In total	Well-grounded and partly well-grounded	In total	Well-grounded and partly well-grounded	In total	Well-grounded and partly well-grounded
<i>Subject of the complaint</i>						
Treatment with racial overtones	3	0	12	1	13	0
Use of physical force	52	3	76	7	92	5
Placement in a police cell	11	2	13	2	9	0

102. The Interior Ministry operates a facility for detention of foreigners and reception facilities for asylum seekers. The facility for detention of foreigners has been inspected in 2011 by the ombudsman. In general it is possible to say that the manner of dealing with detainees in those facilities is in order regarding both the Refugee Facilities Administration and the Czech police. Eventual problems are not of a serious nature and are continually solved and removed. Similar situation is in the facilities for seekers of international protection.

Reply to the issues raised in paragraph 34 of the list of issues

103. The current provision § 31 para. 2 of the Act No. 94/1963 Coll. Family Act as amended states that parents have the right to use adequate educational measures so that the

dignity of the child remains unharmed as well as its health and its physical, emotional, intellectual and ethical development. This issue will be similarly addressed by the new Civil Code, which states in § 884 par. 2: “Educational measures can be used only in manner and scale that is adequate to the circumstances; doesn’t threaten the health of the child or its development and doesn’t interfere with the dignity of the child.”

104. Act No. 359/1999 Coll. on Social and Legal Protection of Children, as amended also implicitly forbids any person to use inadequate measures against a child with the intent to degrade its dignity and such action is considered an offence. The prepared amendment of this Act which is expected to enter into force on 1st January 2013 stipulates obligation for bodies of social and legal protection of children to maintain work quality standards in their actions, which also applies to persons entitled to perform social and legal protection of children, particularly in the areas of preparation of applicants for alternative foster care, accompanying and support of the fosterers and the operation and work in facilities for children who need immediate help. The mentioned amendment extends the protection of children against corporal punishments by incorporating new external elements of the offence of abusing children to perform physical labour inadequate to their age and state of the physical and intellectual development (with the possibility to impose a fine up to 50 000 CZK). This external element will enable the sanctioning of less serious cases of child abuse by inadequately heavy labour, which don’t reach the intensity of the crime of harassment of an entrusted child, as one of the undesirable forms of punishment by parents or other responsible persons is also the abuse of children for various difficult labours in the household or in family companies etc.

105. The School Act doesn’t permit corporal punishment in the relation of pedagogic workers and pupils and only allows explicitly stated disciplinary measures, which don’t include corporal punishment. The violation of the child’s physical integrity is sanctioned in the criminal law, whereas in a number of offences where the child is the victim the new Criminal Code implemented harsher punishments.

106. The Czech Republic therefore doesn’t have an explicit prohibition of corporal punishment in its legislation; however the current legislation punishes everyone who uses such punishment as stated above. The Ministry of Justice as a guarantor of the new Civil Code doesn’t take any new steps in the area of prohibition of corporal punishment. However the new Civil Code (§ 696 in connection to § 2963) defines for example domestic violence, which could be applied to other violence than violence between spouses.

Reply to the issues raised in paragraph 35 of the list of issues

107. In October 2009 the Minister for Human Rights prepared a real intent of the law on public defender of children as a variant proposal, which included both the version of an independent office and the version which proposed an extension of the competences of the current public defender. The aim of the current Commissioner for Human Rights’ effort to create a position of the public defender of children’s rights is to establish an office, which would promote the fulfilment of the Convention on the Rights of Child by defending the interests of children and will influence the creation of state policies so that it would more consider the rights of children. Negotiations are currently underway between the Government Commissioner for Human Rights and the Ombudsman about the performance of this role by the current Ombudsman.

108. However the current government supports the general awareness about the competences of the ombudsman in the field of protection of the rights of children. As well as in the other cases, the ombudsman can perform independent investigations in this field to find out whether the conduct of the state administration is in accordance with the law and general principles of good administration. In his final reports the ombudsman gives recommendations for correction of mistakes and shortcomings and requests that the

authorities fulfil them. The authorities are obliged to cooperate with the ombudsman and inform him about their corrective measures. If that's not the case the ombudsman informs the superior authorities, government or the public. In the field of protection of children's rights this usually means the supervision of the conduct of the social and legal protection of children. Other competences of the ombudsman for supervision of places where people are restricted in their freedom apply also to facilities occupied by children. The ombudsman investigates the handling of the children in the facilities regarding the protection of their fundamental rights and freedoms, gives recommendations and proposals for improvement and the facilities have an obligation to cooperate with him. Even today the ombudsman can investigate the signals he receives from the children themselves. Both within the investigation of individual complaints and during systematic preventive visits the authorized employees of the Office of the Public Defender of Rights talk with underage children (without the presence of other persons) in order to find out what their opinion is whether it concerns the issue of the individual case or the operation of the facility.

109. In 2009 a position of School Commissioner for Children was established within the Ministry of Education, Youth and Sports, whose task was to promote and protect the rights of children placed into facilities of institutional and protective care. However due to personal changes and the reduction of personnel within the Ministry this position has been cancelled in December 2010. The issue of children's rights, their enforcement and protection is the task of the employees of the section of institutional education and counselling of the Department of Special Education and Equal Opportunities in Education. The Ministry of Labour and Social Affairs will initiate cooperation for protection of children placed in institutional facilities with the Ministry of Education, Youth and Sports within the Interdepartmental Coordination Group for Transformation and Unification of the System of Care for Endangered Children. There is also a large number of persons authorized to supervise the care provided by these facilities and the observance of relevant legislation, e.g. the Czech School Inspection, prosecutors, bodies of social and legal protection of children, Ministry of Education, Youth and Sports or the ombudsman.

110. Orphanages, which are established as educational facilities for the conduct of institutional care are included in the registry of schools and educational facilities and thus fulfil their registration requirement. This obligation ensues from the Act No. 561/2004 Coll., on Pre-school, Basic, Secondary, Tertiary, Professional and Other Education (the Education Act) and therefore it isn't necessary to regulate it through an order. Work quality standards in educational facilities for the conduct of institutional and protective care are being prepared and will be published in the form of an order.

Reply to the issues raised in paragraph 36 of the list of issues

111. Based on a recommendation by the Czech sexology society the government decided to maintain the practice of voluntary surgical castration. The government also acknowledged that the formal legal rules on castration which did not include any criteria on its performance and was limited only to the condition of voluntariness, informed consent and the approval of the request by a commission of specialists were insufficient. The new approved and passed legislation (Act No. 373/ 2011 Coll., on specific healthcare services, in force since 1st April 2012) stipulates new stricter conditions for authorisation of castration and strengthens the guarantees of free and informed consent.

112. The basic attitude to person with paraphyletic disorder in Czech Republic is a systematic psychotherapy and socio-therapy. In indicated cases, psychopharmaca and/or hormonal inhibitive treatment with anti-androgens as other therapeutic remedies. In exceptional cases when the hormonal treatment is in-effective or cannot be used due to the state of health of the patient, he can ask for surgical castration. This possibility is from 1st April 2012 open only to paraphiliacs/sexual offenders.

113. Surgical castrations are performed according to the new Act No. 373/ 2011 Coll., on specific healthcare services, in force since 1st April 2012. According to the Act, therapeutic surgical castration or testicular pulpectomy can be performed only by a patient who gives his consent to the treatment, is over 25 years old and committed in the past a violent sexually motivated crime.

114. The specific conditions for surgical castration according to the Act are:

- (a) the patient committed in the past a violent sexually motivated crime,
- (b) an examination by a specialist proved the existence of a specific sexual deviation and a high level of probability that in the future he would commit again a violent sexually motivated crime and
- (c) other therapeutic methods were not successful

115. The requests for surgical castration are decided by a central commission of specialists, whereas the persons connected with the health facility of the patient are excluded from membership in it. Until now, the commissions have been formed regionally with the possible membership of doctors in treatment of the patient. The new legislation aims at an unity of criteria for the performance of surgical castration and strengthening the independence and impartiality of the scientific review. The commission has to enquire if the patient has understood the information about the kind, the permanent health effects and possible risks of the treatment and if his request was given completely freely. The decision of the commission has to be unanimous. In case of a patient in protective therapy or security detention the request has to be approved also by a court. Such a patient has to be instructed also that the castration does not constitute a title for his release. Persons in prison or in detention cannot be castrated.

Reply to the issues raised in paragraph 37 of the list of issues

Reply to the issues raised in (a)

116. All medical procedures and treatment must be provided in accordance with the Act on Medical Services with the consent of the patient or his legal representative. The law states an exception only in case of the court's decision on performance of a procedure, necessary isolation or quarantine or threat to life or health.

Reply to the issues raised in (b)

117. Cage beds, or beds with bars, are not used in healthcare facilities. Only net beds may be used in healthcare facilities, which is one of the so-called "physical restraints", which is a comprehensive term used to refer to methods used to restrict the free movement of patients, which also include the use of net beds as set out in the provisions of Section 39 of the new Act on medical services, employed for the purpose of averting imminent danger to the life and health of the patient or other persons. The use of physical restraints must always be approved by a doctor, or be restricted to the immediate reaction to emergency situations. The patient must always be informed of the reasons for the restraints, as well as his/her legal representative. Any case of restraint must be entered in the patient's medical records. Physical restraints may only be applied to a patient for the period absolutely necessary and their use over a period exceeding 24 hours must be reported to a court which will decide whether this is acceptable, unless the patient has given his/her consent to their use. The patient must also remain under constant medical supervision.

118. The use of cage or net beds in facilities that provide social services is illegal according to the Czech legislation. Any discovery of their use would be qualified as unlawful action of the provider. § 89 of the Act No. 108/2066 Coll. on Social Services as

amended clearly regulates the rules for the use of restrictive measures including the specification of which measures can be used when providing social services. The use of measures that restrict movement is possible only in case of direct threat to health or life of persons, to whom the social service is provided or other persons involved in the process of providing social services. The law also states that the use of measures is possible only for the necessary period, which is sufficient to the removal of the threat to health or life of the above mentioned persons. There is a condition that it is necessary to first use other measures that prevent such actions of the person, which lead to the threat to health or life. The provider must act in such way that the methods of the service would prevent situations when it is necessary to use measures that restrict movement. The provider is obliged to always use the mildest measures. At first the provider is authorized to use verbal calming (diverting attention, diversion, active listening). Then he is authorized to act using physical grapples and then to place the person into a room designed for safe stay, eventually call a doctor and with his help administer a medicine. The person to whom the social service is administered must be informed that a movement-restricting measure can be applied to them. The provider is obliged to inform without delay the legal representative of the person about the restrictive measures. The provider is obliged to keep records of the cases when movement-restricting measures have been used in a scope defined by law. These records can be viewed by a person designated by the client, legal representative or kin and other persons listed by law including the members of the inspection of social services, who supervise the observance of the § 89. The provider is obliged to report the use of movement-restricting measures to the registry authority every six months.

Reply to the issues raised in paragraph 38 of the list of issues

119. The bodies of the Prison Service didn't investigate any complaint from a prisoner or CPT which would regard to inhuman treatment of an imprisoned person by the police. The Prison Service has no information about a letter delivered to the CPT secretariat prior to its visit from 21st to 23rd October 2009.

Reply to the issues raised in paragraph 39 of the list of issues

120. The improvement of the care for children is addressed by the newly approved National Strategy for Protection of the Rights of Children, approved by Government Resolution No. 4 of 4th January 2012. This Strategy will be followed by two Action Plans to Fulfil the National Strategy for Protection of the Rights of Children for period 2012-2015 and 2016 – 2018. The National Strategy for Protection of the Rights of Children addresses in its objective No. 10 changes in the field of institutional care which consist of measures in the system of care for endangered children leading to legislative stipulation of an age limit, under which it isn't possible to place children into institutional care (3 years and 7 years).

121. Currently the Parliament of the Czech Republic discusses an amendment of the Act no. 109/2002 Coll. on Institutional or Protective Care in Educational Facilities and on Preventive educational Care in Educational Facilities. This act significantly shifts the care for children in the direction of preventive services so that it would prevent as much as possible the placement of children into institutional care. Preventive care always has priority over the institutional care. At the same time the Ministry of Education, Sports and Youth in accordance with the National Action Plan for Transformation and Unification of the System of Care for Endangered Children and the Framework Concept of the Ministry of Education, Sports and Youth in the field of transformation of the system of foster care and care for endangered children in educational facilities performs a process of optimization of the system of educational facilities for institutional and protective care with the aim to reduce the amount of these facilities and reduce their capacities, bring changes to the field of provided special services and above all extend the network of counselling services in the field of prevention.

Other issues

Reply to the issues raised in paragraph 40 of the list of issues

122. The basic document for combating terrorism is the National Action Plan for Combating Terrorism (hereinafter only NAP), which is approved by the Czech government. It includes all measures relating to the terrorism threat and it also implies the level of readiness for an eventual terrorist threat. The NAP is a basis for the Strategy for Combating Terrorism, currently valid for the period 2010-2012, declaring measures aimed at minimizing the risks and impact of potential terrorist threats in the territory of the Czech Republic and against the Czech interests abroad. When defining and executing all anti-terrorist measures, the Czech Republic respects all fundamental human rights and freedoms. Even the non-government sector has been included in the wider discussion on anti-terrorist measures. The Czech Republic cannot be considered a country which would like to exploit the current wave of anti-terrorist measures to excessively restrict the freedom of its citizens, which is granted by the independent justice complemented by supervision by a number of international institutions and open monitoring performed by the public and media.

123. The Czech Republic doesn't have any special anti-terrorist legislation. The base of Czech criminal law provisions on terrorism lies in the Criminal Code, more specifically in §312 (terror). The definition of the terms comes from the Framework Decision of the Council for Combating Terrorism (2002/475/SVV). Regarding terrorism it is possible to use other provisions of the Criminal Code as well, e.g. offences according to §140 (murder), §149 (torture and other inhuman and cruel treatment), §174 (hostage taking) and §175 (extortion), crimes generally dangerous but also some crimes against property or economic crimes. Some competences of the police for combating terrorism are marginally regulated by the Police Act.

124. No one has been yet convicted according to the above listed provisions, i.e. §311 and §312 in the Czech Republic. There is no special procedure against persons prosecuted or judged for these crimes. The same principles of criminal procedure apply to these cases as well and the persons can use the same legal remedies as persons prosecuted for other crimes. The basic principles of the criminal procedure are regulated by the Constitution of the Czech Republic, Bill of Rights, Convention for the Protection of Human Rights and Fundamental Freedoms and the Criminal Procedure Code.

125. The police officers are provided with a number of specialized courses in the field of extremism or terrorism, e.g. training of commanders of security measures, training of members of the anti-conflict teams or specialized course in the line of extremism.

Reply to the issues raised in paragraph 41 of the list of issues regarding the letter of 6 May 2011 from the follow-up rapporteur

Please clarify whether the Government intends to seek amendment of the Penal Code to remove conditions on the prohibition of torture committed on discriminatory grounds and to clarify the definitions of torture and other acts of cruel, inhuman or degrading treatment or punishment in conformity with the Constitution (p. 2, 1st para.).

126. The definition of torture is included directly in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which is according to the Article 10 of the Constitution a part of the legislation and has priority over acts of Parliament. The Criminal Code serves as a basic codex of the criminal law and defines individual actions, which are crimes according to the law. Torture and other inhuman and cruel treatment have always been considered a crime in the Czech Republic. The Criminal Code therefore regulates the crime of torture and other inhuman and cruel treatment where

it reflects the criminality of such actions. If such action is motivated by discrimination, this constitutes an aggravating circumstance, which is a reason for harsher punishment. As well as in Article 1 of the Convention such action is therefore torture with a discriminatory reason, i.e. reason which is socially and legally unacceptable (race, religion, nationality, political beliefs etc.). The Czech Republic sanctions torture motivated by a discriminatory reason according to the Criminal Code and Convention.

127. On the contrary the Anti-discrimination Act regulates the prohibition and sanction of discriminatory actions, i.e. actions, where one person is treated less favourably than another due to the listed unacceptable reasons. Special types of this action are harassment (including sexual), which is an action aiming at degradation of a person's dignity and creation of coercive, unfriendly, degrading or offensive environment; persecution, which is any disadvantage as a result of application of one's rights; instruction and incitement to discrimination. These actions are considered to be so called torts and the Anti-discrimination Act regulates also the legal protection measures in the form of claims for compensation and removal of effects. All these actions however don't reach the intensity of torture and other inhuman and cruel treatment or punishment according to the Czech law and the Convention, because then it would constitute a crime according to the Czech Criminal Code. The Anti-discrimination Act therefore doesn't regulate torture in the Czech law, because this crime is regulated by the Convention and the Criminal Code and is prosecuted according to these provisions.

128. Qualifying external elements of the crime of torture and other inhuman and cruel treatment are among others the following:

- (a) torture and other inhuman and cruel treatment of a person due to its presumed or real race, ethnicity, nationality, political beliefs, religion or because the person is presumably or really without a religion, or
- (b) torture and other inhuman and cruel treatment committed by at least two persons

These are not cumulative but alternative conditions. Every torture and other inhuman and cruel treatment of a person due to its presumed or real race, ethnicity, nationality, political beliefs, religion or because the person is presumably or really without a religion is therefore a crime regardless of the number of persons that participate in it and is at the same time a qualified external element of the crime which can lead to harsher punishment.

The Committee would appreciate information on the number of complaints of torture or ill-treatment intentionally inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity based on discrimination of any kind, which have been registered according to section 196 of the Penal Code since 2004, including alleged grounds for discrimination, whether an investigation into the complaint took place, and if so, its outcome, the punishment meted out to the perpetrator and compensation or other redress provided to the victim, if any (p. 2, 2nd para.).

129. According to the official statistics of the Czech police during the period of 2004 - 2010 there were two crimes of violence committed against a group of citizens of individuals according to the §196 of the old Criminal Code and §352 of the new Criminal Code.

Please clarify how individuals in custody may confidentially lodge a complaint against torture or ill-treatment by the members of the Czech Police (p. 2, 3rd para.).

130. On 30th March 2007 a new Binding Order of the Police President No. 42/2007 on police cells has been issued and effective since 1st August 2007. This Order reacts to the suggestions of the ombudsman, the Committee against Torture of the Government Council for Human Rights, conclusions in the CPT report on its visit to the Czech Republic and other international recommendations. Attached to the Order is the text of Instructions for the Person Placed into a Cell. This text in point I. e) provides information about the right to lodge complaints about the actions of the police and describes in detail how to lodge this complaint. The Instructions will be available from the day the Order enters into force at the police offices also in other language versions (e.g. Vietnamese, Ukrainian, European languages etc.).

131. Regarding the additional data the inspection can state that in the year 2010 it registered 67 complaints about ill-treatment of detainees by the police. 25 of these were suspended because they were unjustified, 22 complaints were forwarded to the Office of Internal Supervision, false accusations have been found in 9 cases and 10 complaints have been forwarded to disciplinary proceedings. Only in one case prosecution of a police officer has been proposed.

Please clarify the current legal state of the bill to create the General Inspection of the Security Corps and the process it envisages for individuals to submit claims of torture and ill-treatment to this new institution (p. 2, 3rd para.).

132. Regarding this Act see answer to issues raised in paragraph 4 above.

Please clarify whether there have been any complaints filed against police officers that fall under this exception which could constitute a violation of the Convention and give details about the outcome of the reviews and investigations. Are there any such complaints which carry a maximum penalty of three or more years, and if so, please provide documentation as to their outcomes (p. 2, 4th para.).

133. The information in the previous letter of the Czech Republic from 2008 wasn't accurate. According to §161 of the Criminal Code the investigation of crimes committed by members of the police is performed by the prosecutor. Seeking, uncovering and verifying facts proving that a crime has been committed by a member of the police and the investigation of the perpetrator is newly the task of the General Inspection of the Security Forces. Supervisory bodies of the police are primarily responsible for the activities regarding supervision of professional conduct, inquiries into complaints about the actions of police officers of police units and in a restricted scope it fulfils the tasks of a police body, but not investigation.

The Committee would appreciate additional information on measures taken to ensure the independence and impartiality of investigations into complaints of torture and ill-treatment by prison officials. Additionally, the Committee requests additional information on the circumstances under which members of the Prison Service as permitted to employ “coercive measures,” as noted in paragraph 31 of your letter of 14 January 2008, as well as on the definition of the conduct included in this term. Please also clarify the number of cases, annually, in which an investigating warden has found the use of coercive measures to be unjustified, as well as the nature of these measures, whether the official identified as being responsible for such measures was prosecuted, and the outcomes of the prosecution, including the punishment for the perpetrator and redress or compensation for the victim (p. 2, 5th para.).

134. The investigation of crimes of the members of the Prison Service is newly conducted also by the General Inspection of the Security Forces. When working with the complaints about the behaviour of the members of the Prison Service, the provision of the Administration Code on complaints is thoroughly observed. This provision is further elaborated in an internal regulation – Order of the Director of the Prison Service No. 70/2009 on settling complaints and reports in the Prison Service. The complainants have a number of possibilities how to lodge a complaint and are informed about them and use them fully. Complaints of imprisoned persons are always handled properly in the set period and in all points of the complaint. The Prison Service is able within its internal supervisory function to investigate all investigable, i.e. concrete claims, including information, which ensued from anonymous complaints.

135. In connection to the lodging of complaints there are no measures adopted against the imprisoned persons, which is also forbidden by the above mentioned Order of the Director of the Prison Service in article 4 par. 4: “Lodging a complaint must not have detrimental consequences for the complainant. This provision doesn’t apply to the responsibility of the complainant according to special provision (e.g. committing a crime, administrative offense or another disciplinary offense).” The convicts have right to protection of their rights and right to lodge complaints or requests with other public bodies of the Czech Republic and international authorities and organizations, which are authorized at the international and European level to investigate information about violation of human rights.

136. Proper functioning of the system of handling complaints is in the interest of all participating parties; it can serve as a valuable source of information for the management of the prison about potential problems in the relevant facility as well as a tool to reduce the tension among prisoners as it ensures that their problems will be taken seriously and suitable corrective measures will be implemented if appropriate. Therefore the Prison Service attempts to apply it in their daily operation in the long-term. In case any shortcoming or mistake is discovered, which leads to a reasonable complaint, adequate measures are always implemented, the issue is discussed with the concerned employee or group of employees.

137. The member of the Prison Service is authorized to use compulsory measures according to the §§ 17 – 21 of the Act No. 555/1992 Coll. on Prison and Judicial Guard as amended, if it is absolutely necessary to maintain order and safety against persons, who threaten life or health, intentionally damage property or try to violently thwart the purpose of security detention, prison sentence or custody or disrupt order or security on the premises of the Prison Service, in prison, court buildings and other places of court activity, buildings belonging to the prosecution or ministries and in immediate vicinity of guarded objects. Individual types of compulsory measures, which the member of the Prison Service is authorized to use are listed in the § 17 par. 2 of the cited law. The annual assessments of the use of compulsory measures by the Prison Service provided by the Department of Prison and Judicial Guard show that in 2007 the compulsory measures have been used in 155

cases, in 2008 in 189 cases, in 2009 in 164 cases and in 2010 in 151 cases. In all cases the use of these measures has been found justified.

138. During the monitored period 12 complaints about the “inappropriate and offensive statements by the officers” have been found justified. Specifically these were violations of principles of good behaviour and rules of courtesy, e.g. addressing the prisoners with their first name, inappropriate statements or remarks, grins and scorns. Officers who behaved in such a manner have always been disciplined according to the Act No. 361/2003 Coll. on Service Relationship of the Members of Security Corps. These were isolated failures of individuals. Inappropriate behaviour is always discussed in meetings of the relevant department with the reminder of the professional ethic rules.

Please provide statistical information on the number of complaints specifically claiming torture or ill-treatment that have been lodged against police and prison officials since 2005, including information regarding the nature of the alleged misconduct, the number of these complaints that have been investigated, how many have led to prosecutions, and with what outcomes for perpetrators (punishment) and victims (redress, compensation, etc.). If possible, please disaggregate this data by gender of the complainant and by place (p. 2, 6th para.).

139. Information about the number of complaints against the members of the Prison Service is contained in the tables below:

<i>01.01.2006 - 31.12.2006</i>	<i>In total 1486 complaints</i>				
Evaluation of the complaint	WG	PWG	WGO	NWG	In total
Physical violence	1	0	0	30	31
Unsuitable and offensive statements	3	2	0	43	48

<i>01.01.2007 - 31.12.2007</i>		<i>In total 1396 complaints</i>			
Evaluation of the complaint	WG	PWG	WGO	NWG	In total
Physical violence	0	0	0	28	28
Unsuitable and offensive statements	0	2	0	25	27

<i>01.01.2008 - 31.12.2008</i>		<i>In total 1504 complaints</i>			
Evaluation of the complaint	WG	PWG	WGO	NWG	In total
Physical violence	0	0	0	40	40
Unsuitable and offensive statements	1	3	0	29	33

<i>01.01.2009 - 31.12.2009</i>		<i>In total 1585 complaints</i>			
Evaluation of the complaint	WG	PWG	WGO	NWG	In total
Physical violence	0	0	0	19	19
Unsuitable and offensive statements	0	1	0	43	44

<i>01.01.2010 - 31.12.2010</i>		<i>In total 1576 complaints</i>			
Evaluation of the complaint	WG	PWG	WGO	NWG	In total
Physical violence	0	0	0	19	19
Unsuitable and offensive statements	0	1	0	43	44

WG – well-grounded; PWG – partially well-grounded; WGO – well-grounded for objective reasons not caused by the Prison Service; NWG – not well-grounded

140. The overview presented above shows that in the monitored period there has been only one complaint about “physical violence of officers” that has been found justified. The action in question cannot in any case be considered as torture. Specifically it was a case of inadequate use of the compulsory measure - security chains. The case has been properly investigated by the supervisory bodies and resulted in disciplinary proceedings according to the Act No. 361/2003 Coll. on Service Relationship of the Members of Security Corps.

141. In the period 2005 – 2010 there has been only one case of torture and other inhuman and cruel treatment according to § 259a and §149 of the Criminal Code committed by a member of the Czech police.

142. The three tables below contain statistical data, whereas at the same time it is necessary to state that in the other cases the values are at zero during a number of years. The tables show the number of final judgments in cases of crimes according to §§196 – 198a of the Criminal Code (old version) from 2004 to 2009, the number of final judgments in cases of crimes according to the §352 – 356 of the new Criminal Code in 2010 and the first half of 2011 and the overview of imposed punishments for the crime according to §196 of the old Criminal Code. The statistics show that there has been no sentenced perpetrator of a crime according to §259a par. 1 and 2 of the old Criminal Code (i.e. torture and other cruel or inhuman treatment) from 2004 to 2009. The same (zero) value is shown for the crime according to the §149 of the new Criminal Code for the year 2010 and the first half of 2011. No member of the police and Prison Service has been prosecuted, charged and sentenced for crimes of torture and other inhuman and cruel treatment according to the new and old Criminal code in the period from 2005 to 30th June 2011.

Number of person convicted according to the old Criminal code

Year	Total number of convicted person	Violence against an individual or group	Threat of violence against an individual or group	Defamation of a nation, race or conviction	Instigation to hatred against a group of person or limitation of their rights and liberties
2009	73 787	68	740	23	1
2008	75 761	23	319	16	3
2007	75 728	34	346	22	0
2006	69 445	43	358	20	2
2005	67561	47	364	45	3
2004	68442	47	411	42	2

Number of person convicted according to the new Criminal code

Year	Total number of convicted person	Violence against an individual or group	Threat of violence against an individual or group	Stalking	Defamation of a nation, race or conviction	Instigation to hatred against a group of person or limitation of their rights and liberties
2011*	36 169	23	410	93	8	7
2010	70 651	9	468	83	8	0

* 1st half of 2011 (01/01/2011 – 30/06/2011)

Sentences for the crime of violence or threat of violence against an individual or group

Year	Number of convicts	Type of sentence						
		Prison sentence	Conditional prison sentence	Community work	Expulsion	Monetary fine	Sentence for juveniles	Sentence omitted
2009	68	4	47	11	0	4	0	2

Year	Number of convicts	Type of sentence						
		Prison sentence	Conditional prison sentence	Community work	Expulsion	Monetary fine	Sentence for juveniles	Sentence omitted
2008	23	3	13	5	0	1	1	0
2007	34	2	20	5	1	2	3	1
2006	43	3	22	7	0	3	6	2
2005	47	3	27	12	1	1	1	2
2004	47	4	29	7	0	0	2	5

The Committee would welcome further information about the criteria used to determine whether cases are considered to be motivated by extremism. The Committee would also appreciate any further information on the outcomes of the 191 criminal offences with extremist undertones that were conclusively investigated in 2005. It would also appreciate data on the number and the outcomes of offenses in this category from 2006-2010 (p. 3, 1st and 2nd paras.).

143. Regarding the request for information about the results of the 191 crimes with extremist background, which were solved in 2005 we can only state that the requested information is not available.

144. The overview of all recorded and investigated crimes with extremist background committed in the Czech Republic in the period from 2006 to 2010 is provided in the following table. Reasons for finding extremist background are various. Because of this it is always necessary to primarily investigate the motivation of the perpetrator to commit the crime based on concrete circumstances in each case.

Number of crimes with extremist overtones

2006			<i>In total</i>
Crime	Detected	Cleared up	Offender detected
Intentional bodily harm	15	10	17
Violence and threat of violence against an individual or group	46	38	44
Rowdyism	1	1	1
Defamation of a nation, race or conviction	52	41	50
Instigation to national and racial hatred	27	21	23
Support and propagation of movements aiming at repression of human rights and liberties	103	84	106
Crimes against constitutional order	4	1	1
2006 in total	248	196	242

2007			<i>In total</i>
Crime	Detected	Cleared up	Offender detected
Murder	1	1	1

<i>2007</i>	<i>In total</i>		
Intentional bodily harm	12	10	18
Violence and threat of violence against an individual or group	23	13	22
Damage to property	2	0	0
Rowdyism	1	1	2
Defamation of a nation, race or conviction	28	21	27
Instigation to national and racial hatred	13	2	2
Support and propagation of movements aiming at repression of human rights and liberties	112	71	109
Crimes against constitutional order	4	0	0
2007 in total	196	119	181

<i>2008</i>	<i>In total</i>		
Crime	Detected	Cleared up	Offender detected
Murder	1	0	0
Intentional bodily harm	9	6	9
Violence and threat of violence against an individual or group	32	20	27
Extortion	2	0	0
Damage to property	1	0	0
Rowdyism	5	4	7
Graffiti	3	0	0
Defamation of a nation, race or conviction	41	27	33
Instigation to national and racial hatred	11	6	9
Support and propagation of movements aiming at repression of human rights and liberties	111	63	110
Crimes against constitutional order	1	0	0
2008 in total	217	126	195

<i>2009</i>	<i>In total</i>		
Crime	Detected	Cleared up	Offender detected
Murder	1	1	4
Violence against a public official	2	2	2
Intentional bodily harm	5	4	11
Violence and threat of violence against an individual or group	23	18	32
Dangerous threat	2	1	1
Extortion	1	1	1
Rowdyism	15	13	14

2009	<i>In total</i>		
Graffiti	6	1	1
Defamation of a nation, race or conviction	25	14	20
Instigation to national and racial hatred	16	9	13
Support and propagation of movements aiming at repression of human rights and liberties	168	122	194
Crimes against constitutional order	1	0	0
2009 in total	265	186	293

2010	<i>In total</i>		
Crime	Detected	Cleared up	Offender detected
Murder	1	1	1
Violence against a public official	8	6	6
Intentional bodily harm	11	6	13
Violence and threat of violence against an individual or group	43	29	37
Dangerous threat	2	2	2
Extortion	2	2	4
Limitation and deprivation of personal liberty	1	0	0
Damage to property	2	0	0
Rowdiness	4	3	8
Graffiti	8	1	1
Defamation of a nation, race or conviction	43	34	47
Instigation to national and racial hatred	15	3	7
Support and propagation of movements aiming at repression of human rights and liberties	111	81	105
Crimes against constitutional order	1	0	0
2010 in total	252	168	231

Please provide updated information on the status or outcome of the talks initiated by the ombudsman with the Prison Service to review the compensation system on imprisonment costs, as mentioned in paragraph 48 of your response letter of 14 January 2008. Please also clarify whether a convicted offender is required to pay 40 per cent of his/her remuneration to the Prison Service regardless of his/her income, or whether there is a minimum amount that prisoners must earn before they are required to pay. Please explain the exceptions to this requirement, if any, particularly in cases where family members rely on the income, finances, assets or pension of incarcerated persons to cover their own expenses. In particular, in such cases, is the debt reduced to ensure family members do not face undue financial burdens or hardships (p. 3, 3rd para.).

145. The costs of the sentence and custody of legitimately convicted persons are prescribed based on the provision of the Criminal Code and the Act on Imprisonment. The amount of payments is set by the Ministry of Justice in its Edict No. 10/2000 Coll. on deductions from wages of persons who are employed while imprisoned, execution of the

decision through deduction from wages of these persons and inmates of special educational facilities and payments of other costs (hereinafter only Public Notice). The amount and conditions of rewarding of imprisoned persons are set by the Edict No. 365/1999 Coll. which in its § 2 specifies individual groups of prisoners into three categories according to the level of employment depending on the achieved qualification of the employed convict and further sets the basic part of the reward in the amount of 4 500 CZK with 40 working hours per week. No other regulation of the minimum wage of persons who are employed while imprisoned is available in the current legislation.

146. Current version of the Edict sets the compulsory payments for the costs of imprisonment in the amount of 32% of the net wage, whereas the maximum amount of these costs cannot exceed 1 500 CZK. Costs which wouldn't reach 100 CZK per month are not included. Similarly any money received in the prison (welfare benefits, pensions, finances sent by third persons) are subject to the same deduction for the costs of imprisonment in the amount of 40 %, again with the maximum of 1 500 CZK, costs which wouldn't reach 100 CZK per month are not included. The daily charge for imprisonment costs is 45 CZK for each day based on the legitimate decision of the court which imposed the obligation to pay the costs of the imprisonment. The imprisonment costs are not required from prisoners who haven't been employed not due to their fault and haven't had any other income during the calendar month, youth prisoners, prisoners in institutional care, prisoners placed into educational or therapeutic programs with the education or therapy lasting at least 21 hours a week, during the discontinuation of the sentence, participation in court proceedings as a witness or injured party, during temporary extradition to a foreign country or from escaped prisoners. Custody expenses are not counted during the time the person in custody is in institutional treatment.

147. According to the current legislation the obligation to pay expenses of the imprisonment through wage deduction has priority, the remainder of the prisoner's wages can be used according to §2 of the Edict to pay subsistence for a dependent child in the amount of at least 30 % of the net wages. According to the Act on Imprisonment the director of the prison can, based on a written request of the convict supported by necessary documents, partially or totally exempt the prisoner from the duty to pay the expenses for imprisonment from which this convict has been released, if it is substantiated by the burdensome social situation of the convict.

Please provide detailed, statistical information on the total number of persons currently paying the Prison Service, as well as the number of prisoners who have been entirely exempted from this requirement and the ground for such exemption (p. 3, 4th para.).

Number of debtors, amount of claims and income in 2009 – 2011

<i>to k 30th July</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>
People serving a prison sentence or in custody			
Number of persons	21 997	22 009	23 200
Number of debtors	12 438	11 587	11 914
Claims in millions of CZK	72,2	67,4	65,9
Refund of prison expenses from remuneration in millions of CZK from 1st January	43,7	44,0	43,6
Refund of claims from other sources in millions of CZK from 1st January	12,6	12,5	12,8
People released from prison or custody			

<i>to k 30th July</i>	2009	2010	2011
Number of persons*	12 258	15 214	15 224
Number of debtors released	31 772	35 887	37 210
Claims in millions of CZK	427,2	424,3	428,0
Refund in millions of CZK from 1st January	6,3	5,5	5,2
Claims in total in millions of CZK from 1st January	499,4	491,7	493,9
Refund in total in millions of CZK from 1st January	62,6	62,0	61,6

* number of released persons from 1st July do 30th June of the year

Please explain why the above-mentioned actions of the police officer in question did not qualify as inhuman or cruel treatment according to article 259a of the Criminal Code, and what charges did the officer face, with what outcome, if any, including any disciplinary measures/punishments (p. 3, 5th para.).

148. As the previous letter of the Czech Republic from 14th January 2008 implies, the behaviour of the concerned police officer was qualified by the contemporary Inspection of the Minister of Interior as an offence and the issue has been forwarded to the superior officer for disciplinary measures. A disciplinary punishment has been imposed on the perpetrator and he is no longer in the ranks of the Czech police. This conclusion has also been confirmed by the supervising prosecutor. The legal conclusion that the police officer's action didn't constitute the external elements of the crime of torture and other inhuman and cruel treatment was therefore in accordance with the Czech legislation.