

# Criminal Detention in the EU: Conditions and Monitoring

Update of FRA's Criminal Detention Database

(FRANET)

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**Date:** March 2024

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## Part I: National standards

### 1. Cells

#### a. Cell space

The national standards for cell space are set out in compliance with the *Dorobantu* ruling and the requirements set out in para. 34 of the Commission recommendation of 8.12.2022 on the procedural rights of suspects and accused persons subject to pre-trial detention and on material detention conditions. They provide for the following:

#### **Post-trial detention**

In a cell or room that houses more than one detainee, there must be a minimum space of 4 m<sup>2</sup> per person. A cell or bedroom for one detainee must have a minimum space of 6 m<sup>2</sup>. The minimum standard space can be decreased to 3 m<sup>2</sup> per person, but only if the total number of detainees serving a prison sentence of the same basic type (i.e. detainees in prisons with surveillance or in prisons with increased surveillance) and requiring the same level of security (internal differentiation existing only in prisons with surveillance; there are three levels: department with low security, department with medium security, department with high security) exceeds the prison's maximum capacity. The area occupied by sanitary facilities is not included in this spatial calculation.<sup>1</sup>

#### **Pre-trial detention**

The same national standards for cell space (as presented with regard to the post-trial detention regime) apply to pre-trial detention.<sup>2</sup>

#### **Police custody**

The relevant legal norms contain very brief rules on detention.<sup>3</sup> Detailed standards are regulated by the internal documents of the Police (hereinafter referred to as the 'Binding Instruction');<sup>4</sup> however, these documents are made available to the public only upon request.

The Act on the Police of the Czech Republic states only that prison cells must be hygienically sound and must be fit for purpose.<sup>5</sup> According to the Binding Instruction and its Attachments, there are three types of police cells: multi-hour cells, where detainees can be placed for a maximum of 24 hours (or 48,

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<sup>1</sup> Czech Republic, Art. 17 of the [Regulation No. 345/1999 Coll., Rules of Procedure of the Execution of the Punishment of the Deprivation of Liberty](#) (*vyhláška, kterou se vydává řád výkonu trestu odnětí svobody*), 30 December 1999.

<sup>2</sup> Czech Republic, Art. 15 of the [Regulation No. 109/1994 Coll., Rules of Procedure of the Exercise of Detention](#) (*vyhláška, kterou se vydává řád výkonu vazby*), 3 June 1994.

<sup>3</sup> Czech Republic, Art. 28-33 of the [Act No. 273/2008 Coll., on the Police of the Czech Republic](#) (*zákon o Policii ČR*), 11 August 2008.

<sup>4</sup> Police of the Czech Republic, Binding Instruction No. 159/2009 of the Police President on escorts, the guarding of persons, and police cells (*Závazný pokyn policejního prezidenta o eskortách, střežení osob a policejních celách*), 2 December 2009.

<sup>5</sup> Czech Republic, Art. 33 of the [Act No. 273/2008 Coll., on the Police of the Czech Republic](#) (*zákon o Policii ČR*), 11 August 2008.

depending on the reason for detention); and short-term cells and mobile cells where detainees can be placed for a maximum of 6 hours.<sup>6</sup>

In multi-hour cells, there must be a minimum space of 5 m<sup>2</sup> if there is one detainee in the cell<sup>7</sup> and 11 m<sup>2</sup> if there are two.<sup>8</sup> In short-term cells, there must be a minimum space of 2.5 m<sup>2</sup> per person,<sup>9</sup> in mobile cells an area of 2 m<sup>2</sup> per person is required.<sup>10</sup>

b. Access to natural light and fresh air, cell equipment, furniture, and facilities

**Microclimatic conditions**

The regulation of microclimatic conditions (heating, cooling, ventilation, etc.) in detention facilities is fragmented in Czech legislation, as only general, nonspecific legal norms regulate conditions in prisons, and general rules apply to detention facilities. There are a number of laws, regulations, and technical norms that apply.

Requirements governing temperature and air quality are primarily regulated by Act No. 258/2000 Coll., the Public Health Protection Act,<sup>11</sup> and Regulation No. 6/2003 Coll. on the hygienic limits of chemical, physical, and biological indicators for the indoor environment of living spaces in certain buildings.<sup>12</sup> This regulation describes in detail the requirements for the temperature in cells and other spaces (for cells it is between 20 and 24 °C during the cold season and between 22 and 26 °C during the hot season)<sup>13</sup> and for relative air humidity, etc.

It states that cells must have direct or indirect (e.g. through air conditioning) ventilation. Indirect ventilation is used if direct ventilation is insufficient to meet the regulation standards (regarding temperature, air humidity, concentration of pollutants etc.).<sup>14</sup>

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<sup>6</sup> Police of the Czech Republic, Art. 9 of Binding Instruction No. 159/2009 of the Police President on escorts, the guarding of persons, and police cells (*Závazný pokyn policejního prezidenta o eskortách, střežení osob a policejních celách*), 2 December 2009.

<sup>7</sup> Police of the Czech Republic, Art. 2 of the Attachment No. I of Binding Instruction No. 159/2009 of the Police President on escorts, the guarding of persons, and police cells (*Závazný pokyn policejního prezidenta o eskortách, střežení osob a policejních celách*), 2 December 2009.

<sup>8</sup> Police of the Czech Republic, Art. 2 of the Attachment No. II of Binding Instruction No. 159/2009 of the Police President on escorts, the guarding of persons, and police cells (*Závazný pokyn policejního prezidenta o eskortách, střežení osob a policejních celách*), 2 December 2009.

<sup>9</sup> Police of the Czech Republic, Art. 2 of the Attachment No. II of Binding Instruction No. 159/2009 of the Police President on escorts, the guarding of persons, and police cells (*Závazný pokyn policejního prezidenta o eskortách, střežení osob a policejních celách*), 2 December 2009.

<sup>10</sup> Police of the Czech Republic, Art. 9 of Binding Instruction No. 159/2009 of the Police President on escorts, the guarding of persons, and police cells (*Závazný pokyn policejního prezidenta o eskortách, střežení osob a policejních celách*), 2 December 2009.

<sup>11</sup> Czech Republic, [Act No. 258/2000 Coll., Public Health Protection Act \(zákon o ochraně veřejného zdraví\)](#), 11 August 2000.

<sup>12</sup> Czech Republic, [Regulation No. 6/2003 Coll., on the hygienic limits of chemical, physical and biological indicators for the indoor environment of living spaces in certain buildings \(vyhláška, kterou se stanoví hygienické limity chemických, fyzikálních a biologických ukazatelů pro vnitřní prostředí obytných místností některých staveb\)](#), 15 January 2003.

<sup>13</sup> Czech Republic, Annex I of [Regulation No. 6/2003 Coll., on the hygienic limits of chemical, physical and biological indicators for the indoor environment of living spaces in certain buildings \(vyhláška, kterou se stanoví hygienické limity chemických, fyzikálních a biologických ukazatelů pro vnitřní prostředí obytných místností některých staveb\)](#), 15 January 2003.

<sup>14</sup> Czech Republic, Art. 3 of the [Regulation No. 6/2003 Coll., on the hygienic limits of chemical, physical and biological indicators for the indoor environment of living spaces in certain buildings \(vyhláška, kterou se stanoví hygienické limity chemických, fyzikálních a biologických ukazatelů pro vnitřní prostředí obytných místností některých staveb\)](#), 15 January 2003.

These rules apply to pre-trial detention and post-trial detention.

#### *Police custody*

No windows are required in any type of police cell. Multi-hour and short-term cells must have daylight and have heating to at least 20 degrees. The height of multi-hour and short-term cells must be at least 2.5 metres and mobile cells must be at least 2.4 metres. Air ventilation must be ensured.<sup>15</sup>

### **Furniture and facilities**

#### *Post-trial detention*

Detainees each should have their own bed and lockable cabinet in their cell. Bunkbeds in a cell may only be used if a distance of at least 80 cm is maintained between the bottom and top beds and if there is at least 7 m<sup>3</sup> of air per person. The top bed must be equipped with a dust-proof pad. Cells must be equipped with a table and chairs, the number of which must correspond to the number of accommodated detainees. The cells must be equipped with a bathroom, which includes a toilet and a sink with running drinking water. Electric lighting and signalling (calling) equipment must be installed in each cell.<sup>16</sup>

#### *Protective detention*

Each detainee must be provided with a bed, a chair, and a place to store personal belongings.<sup>17</sup>

#### *Pre-trial detention*

The same national standards for furniture and facilities (as presented with regard to the post-trial detention regime) apply to pre-trial detention.<sup>18</sup>

#### *Police custody*

The Act on the Police of the Czech Republic states that there must be no objects in the cell that could be misused to endanger the life or health of a police officer or other persons.<sup>19</sup>

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<sup>15</sup> Police of the Czech Republic, Art. 2 of Attachments Nos. I-III of Binding instruction No. 159/2009 of the Police President on escorts, the guarding of persons, and police cells (*Závazný pokyn policejního prezidenta o eskortách, střežení osob a policejních celách*), 2 December 2009.

<sup>16</sup> Czech Republic, Art. 16 of [the Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (zákon o výkonu trestu odnětí svobody), 3 August 1999; Czech Republic, Art. 17 of the [Regulation No. 345/1999 Coll., Rules of Procedure of the Exercise of the Punishment of the Deprivation of Liberty](#) (*vyhláška, kterou se vydává řád výkonu trestu odnětí svobody*), 30 December 1999.

<sup>17</sup> Czech Republic, Art. 20 of the [Act No. 129/2008 Coll., on the Execution of Protective Detention](#) (zákon o výkonu zabezpečovací detence), 16 April 2008.

<sup>18</sup> Czech Republic, Art. 9 of the [Act No. 293/1993 Coll., on the Performance of Custody](#) (zákon o výkonu vazby), 10 December 1993; Art. 16 of [the Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (zákon o výkonu trestu odnětí svobody), 3 August 1999.

<sup>19</sup> Czech Republic, Art. 33 of the [Act No. 273/2008 Coll., on the Police of the Czech Republic](#) (zákon o Policii ČR), 11 August 2008.



Sanitary facilities (toilet, washbasin) do not have to be part of the cells (in mobile cells they are always outside the cell), but detainees must have access to them.<sup>20</sup> Multi-hour cells must have a bed, a table, a seat, and a camera.<sup>21</sup> Short-term and mobile cells must have benches.<sup>22</sup>

### c. Video-surveillance of cells

#### **Pre-trial detention, protective detention and post-trial detention**

The Prison Service may, if it is necessary for the performance of its tasks, make audio, video, or other recordings of persons and property located in facilities it manages and guards (i.e. both pre-trial detention and post-trial detention).<sup>23</sup> If permanent automatic technical systems are set up to make the recordings, the Prison Service is obliged to publish information on the installation of such systems in an appropriate manner. In addition to the very general provisions in the relevant legal norms, the Director General of the Prison Service has issued an internal regulation that contains detailed rules on video-surveillance: how to handle the footage, when to delete it, who has access to it, etc.<sup>24</sup> In practice, cells are often monitored by cameras, and the Ombudsperson has repeatedly emphasised that the making of such recordings should be in accordance with the Charter of Fundamental Rights and Freedoms (which is often not the case; recordings are made automatically, without proper justification).<sup>25</sup>

#### **Police custody**

The Police may, if it is necessary for them to perform their tasks, make audio, video, or other recordings of persons and property located in places accessible to the public (which does not include cells). The Police also may make recordings of its operations (anywhere, including in private premises).<sup>26</sup> As with pre-trial and post-trial detention, this provision is very general as well and allows for the placement of cameras in cells. According to the Binding Instruction, cameras must be placed in cells in such a way that they do not record sanitary facilities.<sup>27</sup>

Multi-hour cells are monitored non-stop; short-term and mobile cells may, but do not have to be, monitored by cameras.<sup>28</sup>

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<sup>20</sup> Police of the Czech Republic, Art. 2 of the Attachments Nos. I-III of Binding instruction No. 159 of the Police President on escorts, the guarding of persons, and police cells (*Závazný pokyn policejního prezidenta o eskortách, střežení osob a policejních celách*), 2 December 2009.

<sup>21</sup> Police of the Czech Republic, Art. 3 of Attachment No. I of Binding instruction No. 159 of the Police President on escorts, guarding of persons and police cells (*Závazný pokyn policejního prezidenta o eskortách, střežení osob a policejních celách*), 2 December 2009.

<sup>22</sup> Police of the Czech Republic, Art. 3 of Attachments Nos. I-II of Binding instruction No. 159 of the Police President on escorts, guarding of persons and police cells (*Závazný pokyn policejního prezidenta o eskortách, střežení osob a policejních celách*), 2 December 2009.

<sup>23</sup> Czech Republic, Art. 21a of the [Act No. 555/1992 Coll., on the Prison and Justice Guard](#) (*zákon o vězeňské a justiční stráž*), 10 December 1992.

<sup>24</sup> Interview with two employees of the Ombudsperson (national NPM), experts on detention on 26 March 2024.

<sup>25</sup> Public Defender of Rights, [Investigation Report No. 923/2018/VOP](#) (*Zpráva o šetření sp. zn. 923/2018/VOP*), 11 May 2018.

<sup>26</sup> Czech Republic, Art. 62 of the [Act No. 273/2008 Coll., on the Police of the Czech Republic](#) (*zákon o Policii ČR*), 11 August 2008.

<sup>27</sup> Police of the Czech Republic, Art. 2 of Attachment No. I of Binding instruction No. 159 of the Police President on escorts, guarding of persons and police cells (*Závazný pokyn policejního prezidenta o eskortách, střežení osob a policejních celách*), 2 December 2009.

<sup>28</sup> Police of the Czech Republic, Art. 1 of Attachments Nos. I-III of Binding instruction No. 159 of the Police President on escorts, guarding of persons and police cells (*Závazný pokyn policejního prezidenta o eskortách, střežení osob a policejních celách*), 2 December 2009.

#### d. NPM assessment

General note: During the reference period, the NPM issued 17 reports on visits to police cells and 7 reports on visits to pre-trial/post-trial detention facilities.

The NPM also issued a summary report on conditions in pre-trial detention facilities on 26 May 2022.

#### **Report of the NPM regarding pre-trial/post-trial detention:**

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 17/2021/NZ/MS*), 3 August 2021.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 34/2021/NZ/JM*), 22 September 2021.

Public Defender of Rights, [Summary Report on Visits to Facilities 2022](#) (*Souhrnná zpráva z návštěv zařízení 2022 sp. zn. 50/2021/NZ*), 26 May 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 4/2022/NZ/JM*), 10 May 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 22/2022/NZ/MS*), 16 August 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 28/2022/NZ/PG*), 21 November 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 8/2023/NZ/PG*), 8 June 2023.

#### **NPM assessment regarding police custody**

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 13/2021/NZ/JM*), 3 June 2021.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 18/2021/NZ/BM*), 28 June 2021.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 19/2021/NZ/PG*), 26 July 2021.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 31/2021/NZ/PG*), 14 September 2021.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 30/2021/NZ/PG*), 18 November 2021.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 37/2022/NZ/PG*), 18 November 2021.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 6/2022/NZ/PG*), 2 May 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 7/2022/NZ/BM*), 2 May 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 18/2022/NZ/PG*), 20 September 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 17/2022/NZ/PG), 12 October 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 39/2022/NZ/PG), 21 November 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 36/2022/NZ/SKO), 14 December 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 4/2023/NZ/SKO), 5 May 2023.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 3/2023/NZ/PG), 5 June 2023.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 17/2023/NZ/PG), 14 July 2023.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 16/2023/NZ/SKO), 18 July 2023.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 20/2023/NZ/SKO), 24 August 2023.

#### **Key recommendations of the NPM:**

“V několika navštívených zařízeních jsem se setkala s problémem v nedostatečném osvětlení cel. Viníkem je architektura často historických budov, které v některých celách neumožňují průnik dostatku denního světla. Nedostatek přirozeného denního osvětlení je přitom jedním z psychohygienických stresorů, které negativně působí na chování a psychiku obviněného. Tyto nežádoucí podmínky by měly být alespoň nahrazeny kvalitním umělým osvětlením. Mé doporučení k instalaci silnějšího osvětlení věznic akceptovaly.<sup>29</sup>”

*“In several of the facilities I visited, I encountered the problem of insufficient lighting in the cells. The culprit is the architecture of the often historic buildings, which in some cells do not allow sufficient daylight to penetrate. The lack of natural daylight is one of the psycho-hygienic stressors that negatively affects the behaviour and psyche of the detainees. These undesirable conditions should at least be replaced by good quality artificial lighting. My recommendation to install stronger lighting was accepted by the prisons.”*

...

“S mikroklimatickými podmínkami na celách souvisí i téma clon na zevním plášti některých ubytovacích budov. [...] V kombinaci s vnitřní zábranou, která neumožňuje otevřít okno, je možnosť efektivně vyvětrat místnost minimální. Taková úprava oken cel může mít, podle mého názoru, vliv na fyzické a psychické zdraví obviněných<sup>20</sup>, a proto by měla být velmi výjimečná a odůvodněná.<sup>30</sup>”

*“The microclimatic conditions in the cells are also related to the screens installed on the outside of some detention facilities. [...] In combination with an internal barrier that does not allow opening a window, the possibility of effectively ventilating the room is minimal. In my opinion, such modification of cell*

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<sup>29</sup> Public Defender of Rights, Summary Report on Visits to Facilities 2022 (Souhrnná zpráva z návštěv zařízení 2022 sp. zn. 50/2021/NZ), 26 May 2022.

<sup>30</sup> Public Defender of Rights, Summary Report on Visits to Facilities 2022 (Souhrnná zpráva z návštěv zařízení 2022 sp. zn. 50/2021/NZ), 26 May 2022.

windows may have an impact on the physical and psychological health of the accused and should therefore be very exceptional and justified.”

#### **Comments of the NPM members:**

##### Police custody

On microclimatic conditions: ‘There is natural light in some cells, in others there is artificial light. We want daylight and nightlight to be provided in the cells, and it usually is. The access to air is usually through some kind of ventilation.’

On video surveillance: ‘We [the NPM members] check [to ensure] that the camera doesn't even show the sink, because that's where you do your personal hygiene.’

##### Detention facilities (pre-trial, post-trial detention facilities)

On new legal norms governing microclimatic conditions: ‘We have information that the Ministry of Regional Development and the Ministry of Justice are putting together some kind of technical standard, some kind of decree on the structural and technical requirements for prisons.’

On video surveillance: ‘Cameras are generally used in prisons on the outside, in the yards, in the corridors, and that's perfectly fine. Then there are two special places where cameras are used, and these are the rooms designed for body searches, where detainees take off their clothes, which is why it is so sensitive, and the other rooms are the accommodation facilities, cells. It's not in every prison, but in about half of the prisons there are a few cells that are equipped with cameras, and we asked the Prison Service if they were going to investigate these private areas, to make some basic rules about how to handle the footage, how long to keep it, who has access to it, and so on. That was done and those rules are now set out in the Director General's regulation.’<sup>31</sup>

## 2. Allocation of detainees

### a. Geographical allocation

#### **Post-trial detention**

When deciding about the placement of detainees, the General Directorate of the Prison Service has to take into account, in particular, the type of treatment programme that a prison offers, the availability of necessary health services, and, if possible, the prison's proximity to the detainee's relatives.<sup>32</sup> Detainees or their family members may also request the transfer of the detainee to another prison during the course of the sentence.<sup>33</sup> However, as experts point out, given the locations of prisons in the Czech Republic not everyone can serve their sentence close to their place of residence (e.g. there is not a single prison in the Zlín region). Furthermore, it is difficult to place certain groups of detainees close to their home (e.g. juveniles - both female and male, or detainees with specific health conditions, etc.).<sup>34</sup>

#### **Pre-trial detention**

The legislation does not specify the geographical allocation of detainees. Logically, however, they are allocated in facilities close to the courts where their criminal cases are heard.<sup>35</sup>

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<sup>31</sup> Interview with two employees of the Ombudsperson (national NPM) who are experts on detention on 26 March 2024.

<sup>32</sup> Czech Republic, Art. 27 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Execution of the Punishment of the Deprivation of Liberty](#) (vyhláška, kterou se vydává řád výkonu trestu odnětí svobody), 30 December 1999.

<sup>33</sup> Czech Republic, Art. 9 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (zákon o výkonu trestu odnětí svobody), 3 August 1999.

<sup>34</sup> Drápal, J.; Jiříčka, V.; Raszková, T. (2021), *České vězeňství*, Praha: Wolters Kluwer ČR, p. 35.

<sup>35</sup> Drápal, J.; Jiříčka, V.; Raszková, T. (2021), *České vězeňství*, Praha: Wolters Kluwer ČR, p. 35.

## b. Allocation within detention facilities

There are many specific groups of detainees in the Czech Republic who are allocated separately from each other.

Post-trial detainees are placed separately from pre-trial detainees. Post-trial detainees serve their sentence in a post-trial prison or in a special department of a pre-trial prison;<sup>36</sup> pre-trial detainees are allocated to a pre-trial prison or to a special department of a post-trial prison<sup>37</sup> (i.e. there are separate facilities for pre-trial and post-trial detainees, but it is possible to set up special wards within these facilities for the other group of detainees).

### Post-trial detention

As to post-trial detention, there are two basic types of prisons in the Czech Republic according to the type of external security (external differentiation): prisons with security and prisons with increased security.<sup>38</sup> The court decides to which type of prison a detainee is assigned to serve his or her sentence.<sup>39</sup>

Prisons with security are further (internally) divided into three departments: low-security, medium-security, and high-security departments.<sup>40</sup> The prison director decides which department a detainee will be placed in on the basis of the recommendation of an expert committee (a detainee may also be placed in a higher/lower security department over time).<sup>41</sup>

In addition to this basic division, women, men, women with little children, and detainees with infectious diseases are each placed separately.

The following groups are usually placed separately:

- juveniles from adults;
- recidivists from first-time offenders;
- those convicted of intentional offences from those convicted of negligent offences;
- permanently unemployable detainees;
- detainees with mental and behavioural disorders;
- detainees in protective treatment and protective detention;
- very dangerous offenders.<sup>42</sup>

In addition, on the recommendation of professional staff, mothers with young children and members of the security forces, professional soldiers and municipal police officers serve their sentences in specialised units (even though they are no longer members of these services). Detainees with mental

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<sup>36</sup> Czech Republic, Art. 5 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

<sup>37</sup> Czech Republic, Art. 4 of [Act No. 293/1993 Coll., on the Performance of Custody](#) (*zákon o výkonu vazby*), 10 December 1993.

<sup>38</sup> Czech Republic, Art. 33 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

<sup>39</sup> Czech Republic, Art. 9 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

<sup>40</sup> Czech Republic, Art. 12a of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

<sup>41</sup> Czech Republic, Art. 12b of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

<sup>42</sup> Czech Republic, Art. 7 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999

and behavioural disorders and permanently unemployable detainees may also be placed in these specialised units.<sup>43</sup>

### **Protective detention**

Protective detention is a type of protective measure imposed by a court when the offender is not criminally responsible on the grounds of insanity, or when his/her stay at liberty is dangerous and protective treatment is not expected to lead to the sufficient protection of society.<sup>44</sup> Protective detention is imposed for an indefinite period, and the court must review the case every 12 months (6 months for minors) to determine whether the grounds for detention still exist.<sup>45</sup> Detainees sentenced to protective detention serve their sentences in special institutes, separately from the other detainees (there are three such institutes in Czechia: in Opava, Brno, and Prague; for more please see section 14).

Male and female detainees, detainees under the age of 19 are placed separately from adults and detainees with mental disorders are placed separately from other detainees.

### **Pre-trial detention**

In pre-trial detention, the following groups are allocated separately:

- men and women;
- detainees who have been detained out of a fear that they will obstruct criminal proceedings;
- detainees against whom joint proceedings are being conducted;
- accused persons and convicted persons;
- detainees with or suspected of having an infectious or mental illness.<sup>46</sup>

Unless other circumstances prevent it, other groups allocated separately:

- detainees who are prosecuted for certain serious crimes listed in the Criminal Code;<sup>47</sup>
- detainees who are accused of negligent offences and detainees who have not previously been sentenced to an unconditional prison sentence;
- detainees who are in deportation detention.<sup>48</sup>

A detainee is placed in a cell reserved exclusively for non-smokers upon his/her request. A detainee may be placed separately upon his/her request (unless the purpose of the detention prevents it) if conditions in the prison so permit. Detainees who behave aggressively in custody or who consistently violate their obligations or incite others to violate these obligations are placed in a special cell separately from other detainees.<sup>49</sup>

### **c. NPM assessment**

#### **NPM assessment regarding detention facilities**

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<sup>43</sup> Czech Republic, Art. 7 of [the Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999

<sup>44</sup> Czech Republic, Art. 100 of [Act No. 40/2009 Coll., Criminal Code](#) (*trestní zákoník*), 9 February 2009.

<sup>45</sup> Czech Republic, Art. 100 of [Act No. 40/2009 Coll., Criminal Code](#) (*trestní zákoník*), 9 February 2009.

<sup>46</sup> Czech Republic, Art. 7 of [Act No. 293/1993 Coll., on the Performance of Custody](#) (*zákon o výkonu vazby*), 10 December 1993.

<sup>47</sup> Czech Republic, Art. 88 (4) of [Act No. 40/2009 Coll., Criminal Code](#) (*trestní zákoník*), 9 February 2009.

<sup>48</sup> Czech Republic, Art. 7 of [Act No. 293/1993 Coll., on the Performance of Custody](#) (*zákon o výkonu vazby*), 10 December 1993.

<sup>49</sup> Czech Republic, Art. 7 of [Act No. 293/1993 Coll., on the Performance of Custody](#) (*zákon o výkonu vazby*), 10 December 1993.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 17/2021/NZ/MS), 3 August 2021.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 13/2021/NZ/JM), 3 June 2021.

Public Defender of Rights, [Summary Report on Visits to Facilities 2022](#) (Souhrnná zpráva z návštěv zařízení 2022 sp. zn. 50/2021/NZ), 26 May 2022.

### **Key recommendations of the NPM**

„Ve Věznici Odolov jsou zřízena dvě oddělení – s nízkým a středním stupněm zabezpečení. Oddíl B1 byl původně určen pro odsouzené se zařazením do nízkého stupně zabezpečení a oddíl B2 pro střední stupeň zabezpečení. V době návštěvy byli odsouzení z obou stupňů zabezpečení na oddílech promícháni, protože věznice by jinak nemohla zajistit dodržování mimořádného opatření Ministerstva zdravotnictví k oddělenému umístění pracujících na vnějších pracovištích (z důvodu prevence šíření onemocnění COVID-19). [...] Zmiňované opatření Ministerstva zdravotnictví bylo s účinností k 1. 7. 2021 zrušeno, a věznici se tak otevřela cesta k tomu, aby znovu odděleně umístila odsouzené dle stanoveného stupně zabezpečení. Věřím, že k tomu věznice sama aktivně přistoupila, přesto bych uvítala ujištění ze strany věznice, že k tomu opravdu došlo, případně, zda oddělenému umístění něco nadále brání.<sup>50</sup>“

„There are two departments in Odolov Prison – low and medium security. Department B1 was originally intended for detainees with low-security regime and Department B2 for detainees with medium-security regime. At the time of the visit, detainees from both security levels were mixed in the departments, as the prison could not otherwise ensure compliance with the Ministry of Health's emergency measure on the separate placement of detainees employed in external workplaces (to prevent the spread of COVID-19). [...] The aforementioned Ministry of Health measure was repealed with effect from 1 July 2021, opening the way for the prison to reinstate the separate placement of detainees according to the established security level. I believe that the prison itself has taken a proactive approach to this, yet I would welcome reassurance from the prison that this has indeed happened, or whether the segregated placement is still being prevented.“

### **Comments of the NPM members**

#### Detention facilities

On the allocation of detainees close to their families: *‘The problem is that most of the prisons are concentrated in the north-west, and then there are regions where there are no prisons at all. Like the Zlín region. So it can happen that if you come from the Zlín region, you will serve your sentence in one of the Czech prisons that can be 200-300 km away. It happens that we get complaints about this [...]. Unless the prisons are spread around the country in a more systematic way, well, there’s no solution, and we have just agreed with the Prison Service that there will be a system for asking for relocation. And we have agreed with them that they will keep some chronological waiting lists of applicants, so that if I’m, for instance, in Brno and I want to be transferred to Prague, if a place becomes available in Prague the prison will address me because I applied as number one on the waiting list. So there is such a thing, but these waiting lists are not cleared smoothly, because, of course, there is an overflow of applications to certain specific prisons.’<sup>51</sup>*

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<sup>50</sup> Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 17/2021/NZ/MS), 3 August 2021.

<sup>51</sup> Interview with two employees of the Ombudsperson (national NPM), experts on detention on 26 March 2024.

3. Hygiene and sanitary conditions (note – section 11 contains specific questions concerning female detainees)

a. Access to toilets

**Post-trial detention**

Cells must be equipped with hygiene facilities: a toilet and a sink with running drinking water. The toilet must be separated from the rest of the cell by at least a non-transparent partition.<sup>52</sup>

**Pre-trial detention**

The same rules apply regarding pre-trial detention.<sup>53</sup>

**Police custody**

Sanitary facilities (toilet, washbasin) do not have to be part of the cells (in mobile cells they are always outside the cell), but detainees must have access to them.<sup>54</sup> If sanitary facilities are part of the cell, they must be separated from the rest of the cell by a non-transparent partition.<sup>55</sup>

b. Access to showers and warm and running water

**Post-trial detention**

Detainees must have access to bathing (a shower with hot water) at least twice a week.<sup>56</sup> If for technical reasons detainees are unable to be given access to a shower, they must be given the chance to regularly wash themselves with hot water. The prison administration will provide convicts who do not have basic hygienic products or the funds to purchase them with the necessary quantity and assortment of hygienic products. Bathing is allowed more often if it is necessary due to the nature of the work a convict performs or due to other circumstances.

Convicts are required to maintain order and cleanliness in the shower/bathing facilities in accordance with hygienic standards.<sup>57</sup> To maintain order, cleanliness, and hygiene in the shower facilities, convicts are given a necessary amount of common cleaning and disinfecting agents.<sup>58</sup> The frequency with which these facilities are cleaned is not set out in the relevant legal norms.

**Pre-trial detention**

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<sup>52</sup> Czech Republic, Art. 17 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Exercise of the Punishment of the Deprivation of Liberty](#) (*vyhláška, kterou se vydává řád výkonu trestu odnětí svobody*), 30 December 1999.

<sup>53</sup> Czech Republic, Art. 9 of [Act No. 293/1993 Coll., on the Performance of Custody](#) (*zákon o výkonu vazby*), 10 December 1993; Czech Republic, Art. 14 of the [Regulation No. 109/1994 Coll., Rules of Procedure of the Exercise of Detention](#) (*vyhláška, kterou se vydává řád výkonu vazby*), 3 June 1994.

<sup>54</sup> Czech Republic, Art. 33 of [Act No. 273/2008 Coll., on the Police of the Czech Republic](#) (*zákon o Policii ČR*), 11 August 2008; Police of the Czech Republic, Art. 2 of Attachments Nos.I-III of Binding instruction No. 159 of the Police President on escorts, the guarding of persons, and police cells (*Závazný pokyn policejního prezidenta o eskortách, střežení osob a policejních celách*), 2 December 2009.

<sup>55</sup> Police of the Czech Republic, Art. 3 of the Attachments of Binding Instruction No. 159 of the Police President on escorts, guarding of persons and police cells (*Závazný pokyn policejního prezidenta o eskortách, střežení osob a policejních celách*), 2 December 2009.

<sup>56</sup> Czech Republic, Art. 21 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Exercise of the Punishment of the Deprivation of Liberty](#) (*vyhláška, kterou se vydává řád výkonu trestu odnětí svobody*), 30 December 1999.

<sup>57</sup> Czech Republic, Art. 48 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Exercise of the Punishment of the Deprivation of Liberty](#) (*vyhláška, kterou se vydává řád výkonu trestu odnětí svobody*), 30 December 1999.

<sup>58</sup> Czech Republic, Art. 17 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Exercise of the Punishment of the Deprivation of Liberty](#) (*vyhláška, kterou se vydává řád výkonu trestu odnětí svobody*), 30 December 1999.



The rules on access to regularly cleaned shower/bathing facilities are similar to the ones that apply to post-trial detention. One additional rule applies to bathing/showering: Accused persons are guarded by a person of the same sex.<sup>59</sup> On the recommendation of a doctor, or if required for hygienic reasons, bathing is allowed for accused persons more often.<sup>60</sup>

Detainees are required to maintain the cleanliness of facilities in accordance with hygienic standards and customs. They clean the shower facilities, but the frequency with which this cleaning is done is not set out in the relevant legal norms. The detainees are provided with the necessary cleaning agents.<sup>61</sup>

### **Police custody**

A person placed in a cell has the right to access to water and to the performance of basic hygiene.<sup>62</sup> Access to showers does not have to be provided.<sup>63</sup>

#### **c. Access to sanitary products**

### **Post-trial detention**

Convicts who do not have basic hygienic products or the funds to purchase them will be provided by the prison administration with the quantity and assortment of hygienic products they need.<sup>64</sup>

### **Protective detention**

Detainees are provided with the necessary hygienic products.<sup>65</sup>

### **Pre-trial detention**

The same rules apply to pre-trial detention.<sup>66</sup>

#### **d. Hygienic conditions in cells**

### **Post-trial detention**

Detainees are required to maintain order and cleanliness in accordance with hygienic standards.<sup>67</sup> Cleaning and other work necessary to ensure the day-to-day operations of the prison shall be carried out by convicted persons without entitlement to remuneration.<sup>68</sup> To maintain order, cleanliness, and

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<sup>59</sup> Czech Republic, Art. 36 of [Regulation No. 109/1994 Coll., Rules of Procedure of the Exercise of Detention \(vyhláška, kterou se vydává řád výkonu vazby\)](#), 3 June 1994.

<sup>60</sup> Czech Republic, Art. 36 of [Regulation No. 109/1994 Coll., Rules of Procedure of the Exercise of Detention \(vyhláška, kterou se vydává řád výkonu vazby\)](#), 3 June 1994.

<sup>61</sup> Czech Republic, Art. 14 of [Regulation No. 109/1994 Coll., Rules of Procedure of the Exercise of Detention \(vyhláška, kterou se vydává řád výkonu vazby\)](#), 3 June 1994

<sup>62</sup> Czech Republic, Art. 33 of [Act No. 273/2008 Coll., on the Police of the Czech Republic \(zákon o Policii ČR\)](#), 11 August 2008.

<sup>63</sup> Police of the Czech Republic, Art. 2 of Attachment No. I of Binding Instruction No. 159 of the Police President on escorts, the guarding of persons, and police cells (*Závazný pokyn policejního prezidenta o eskortách, střežení osob a policejních celách*), 2 December 2009.

<sup>64</sup> Czech Republic, Art. 17 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Exercise of the Punishment of the Deprivation of Liberty \(vyhláška, kterou se vydává řád výkonu trestu odnětí svobody\)](#), 30 December 1999.

<sup>65</sup> Czech Republic, Art. 20 of [Act No. 129/2008 Coll., on the Execution of Protective Detention \(zákon o výkonu zabezpečovací detence\)](#), 16 April 2008.

<sup>66</sup> Czech Republic, Art. 35 of [Regulation No. 109/1994 Coll., Rules of Procedure of the Exercise of Detention \(vyhláška, kterou se vydává řád výkonu vazby\)](#), 3 June 1994.

<sup>67</sup> Czech Republic, Art. 48 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Exercise of the Punishment of the Deprivation of Liberty \(vyhláška, kterou se vydává řád výkonu trestu odnětí svobody\)](#), 30 December 1999.

<sup>68</sup> Czech Republic, Art. 48 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Exercise of the Punishment of the Deprivation of Liberty \(vyhláška, kterou se vydává řád výkonu trestu odnětí svobody\)](#), 30 December 1999.

hygiene in the bedrooms and other areas of the prison, convicts are given the necessary amount of standard cleaning and disinfecting agents.<sup>69</sup>

The detainees wear clothes provided by the prison. Their underwear is changed at least once a week, clothing or footwear as required, and prison bed linen every 14 days.<sup>70</sup> Under certain conditions, they may wear their own clothes, and in this case a change of clothes can be obtained by post or brought in by visitors.

### **Pre-trial detention**

The detainees are obliged to maintain cleanliness in accordance with hygienic standards and customs. The detainees are given the necessary cleaning agents.<sup>71</sup>

In pre-trial detention, detainees usually wear their own clothes; a change of clothes can be obtained by post or brought in by visitors, and detainees must wear their own clothes and the clothes they wear can be exchanged for clean ones by post or during visits at least once a week. At the detainees' request, they can clean their clothes and laundry in the detention facility. If the detainees wear clothes provided by the prison (this obligation can be imposed upon detainees by the prison administration), they have a change of personal laundry at least once a week, of clothing or footwear as required, and of prison bed linen every 14 days.<sup>72</sup>

### **Police custody**

The relevant legal norms state that cells must be hygienically sound and must be fit for purpose.<sup>73</sup>

#### **e. NPM assessment**

#### **NPM assessment regarding detention facilities**

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 17/2021/NZ/MS*), 3 August 2021.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 13/2021/NZ/JM*), 3 June 2021.

Public Defender of Rights, [Summary Report on Visits to Facilities 2022](#) (*Souhrnná zpráva z návštěv zařízení 2022 sp. zn. 50/2021/NZ*), 26 May 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 28/2022/NZ/PG*), 21 November 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 8/2023/NZ/PG*), 8 June 2023.

#### **NPM assessment regarding police custody**

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<sup>69</sup> Czech Republic, Art. 17 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Exercise of the Punishment of the Deprivation of Liberty](#) (*vyhláška, kterou se vydává řád výkonu trestu odnětí svobody*), 30 December 1999.

<sup>70</sup> Czech Republic, Art. 19 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Exercise of the Punishment of the Deprivation of Liberty](#) (*vyhláška, kterou se vydává řád výkonu trestu odnětí svobody*), 30 December 1999.

<sup>71</sup> Czech Republic, Art. 14 of [Regulation No. 109/1994 Coll., Rules of Procedure of the Exercise of Detention](#) (*vyhláška, kterou se vydává řád výkonu vazby*), 3 June 1994.

<sup>72</sup> Czech Republic, Art. 29-30 of [Regulation No. 109/1994 Coll., Rules of Procedure of the Exercise of Detention](#) (*vyhláška, kterou se vydává řád výkonu vazby*), 3 June 1994.

<sup>73</sup> Czech Republic, Art. 33 of [Act No. 273/2008 Coll., on the Police of the Czech Republic](#) (*zákon o Policii ČR*), 11 August 2008.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 18/2021/NZ/BM), 28 June 2021.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 19/2021/NZ/PG), 26 July 2021.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 31/2021/NZ/PG), 14 September 2021.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 30/2021/NZ/PG), 18 November 2021.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 37/2022/NZ/PG), 18 November 2021.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 6/2022/NZ/PG), 2 May 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 7/2022/NZ/BM), 2 May 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 18/2022/NZ/PG), 20 September 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 17/2022/NZ/PG), 12 October 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 39/2022/NZ/PG), 21 November 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 4/2023/NZ/SKO), 5 May 2023.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 3/2023/NZ/PG), 5 June 2023.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 17/2023/NZ/PG), 14 July 2023.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 16/2023/NZ/SKO), 18 July 2023.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 21/2023/NZ), 9 September 2023.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 20/2023/NZ/SKO), 24 August 2023.

### **Key recommendations of the NPM**

“V případě, že umístění toalety nedovoluje dostatečně vysoké zástěny z důvodu zamezení větrání či průniku denního světla, bylo by vhodné stavební příčku nebo kovové dveře od úrovně pasu nahoru doplnit průsvitnou (neprůhlednou) nebo zatahovací zástěnou. Zdůrazňuji, že taková úprava je pouze dočasná a řeší ochranu soukromí pouze do plánovaných rekonstrukcí. Současně se stavebně-technickým řešením oddělení sanitárního zařízení je třeba také zajistit jeho účinné odvětrávání. I nedostatek

soukromí při používání sanitárního zařízení a špatná ventilace mohou dosáhnout s dalšími faktory (podmínkami) ponižujícího zacházení.<sup>74</sup>”

*“If the location of the toilet does not allow the installation of a sufficiently high screen due to ventilation or daylight ingress, it would be appropriate to add a translucent (opaque) or retractable screen to the building partition or metal door from waist level upwards. I stress that such a modification is only temporary and protects privacy only until the planned renovations. At the same time as the structural-technical solution for the separation of sanitary facilities, it is also necessary to ensure its effective ventilation. Even lack of privacy when using sanitary facilities and poor ventilation can, in combination with other factors (conditions) amount to degrading treatment.”*

### **Comments of the NPM members**

#### Police custody

On the availability of hygienic products: *‘I don’t think it’s a problem, there’s a list of things a person can get and there are always sanitary towels for women in every cell, which we also check. Other than that they are given toilet paper in the cell.’*

#### Detention facilities

On receiving hygienic products from the Prison Service: *‘If the detainee is destitute, he receives what is known as social pocket money. It’s a small amount per month. And he can use it to buy everything in the prison canteen. That means cigarettes, of course, but also toiletries. If there is a detainee who has no money at all and is missing, for example, toilet paper or toothpaste, the Prison Service employee will give it to him. Nobody is left without hygiene.’<sup>75</sup>*

## 4. Nutrition

### a. Quality and quantity of food

#### **Post-trial detention**

Detainees are provided with regular food under conditions and in amounts that meet the requirements for maintaining health and take into account the detainees’ health condition, age, and the difficulty of the work they perform. The meal plan that is offered takes into account the cultural and religious traditions of detainees.<sup>76</sup>

#### **Protective detention**

The same rules apply in protective detention.<sup>77</sup>

#### **Pre-trial detention**

The same rules apply to pre-trial detention.<sup>78</sup>

#### **Police custody**

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<sup>74</sup> Public Defender of Rights, [Summary Report on Visits to Facilities 2022](#) (Souhrnná zpráva z návštěv zařízení 2022 sp. zn. 50/2021/NZ), 26 May 2022.

<sup>75</sup> Interview with two employees of the Ombudsperson (national NPM), experts on detention on 26 March 2024.

<sup>76</sup> Czech Republic, Art. 16 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (zákon o výkonu trestu odnětí svobody), 3 August 1999.

<sup>77</sup> Czech Republic, Art. 20 of [Act No. 129/2008 Coll., on the Execution of Protective Detention](#) (zákon o výkonu zabezpečovací detence), 16 April 2008.

<sup>78</sup> Czech Republic, Art. 11 of [Act No. 293/1993 Coll., on the Performance of Custody](#) (zákon o výkonu vazby), 10 December 1993.

Detainees have the right to be provided with food three times a day at reasonable intervals.<sup>79</sup>

#### b. Drinking water

##### **Post-trial detention**

The cells must be equipped with sanitary facilities, which include a toilet and a sink with running drinking water.<sup>80</sup>

##### **Pre-trial detention**

The same rule applies to pre-trial detention.<sup>81</sup>

##### **Police custody**

A person placed in a cell has the right to access to water.<sup>82</sup>

#### c. Dietary requirements

##### **Post-trial detention**

A doctor can decide on special nutrition for a detainee and on its type and duration.<sup>83</sup>

A detainee who for personal reasons or out of conviction, does not want to follow the standard meal plan, is allowed to obtain supplementary food at his or her own expense, if the conditions in the prison allow it.<sup>84</sup>

##### **Pre-trial detention**

The same rules apply in pre-trial detention. In addition, if detainees have sufficient funds, they can buy lunch from the kitchen of the Prison Service staff (if the capacity of the kitchen allows it).<sup>85</sup>

##### **Police custody**

Detainees have the right to be provided with food three times a day at reasonable intervals.<sup>86</sup> Different food/meals may be provided at the person's own expense if requested, and if the conditions in the prison allow it.<sup>87</sup>

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<sup>79</sup> Czech Republic, Art. 33 of [Act No. 273/2008 Coll., on the Police of the Czech Republic](#) (*zákon o Policii ČR*), 11 August 2008.

<sup>80</sup> Czech Republic, Art. 17 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Execution of the Punishment of the Deprivation of Liberty](#) (*vyhláška, kterou se vydává řád výkonu trestu odnětí svobody*), 30 December 1999.

<sup>81</sup> Czech Republic, Art. 14 of [Regulation No. 109/1994 Coll., Rules of Procedure of the Execution of Detention](#) (*vyhláška, kterou se vydává řád výkonu vazby*), 3 June 1994.

<sup>82</sup> Czech Republic, Art. 33 of the [Act No. 273/2008 Coll., on the Police of the Czech Republic](#) (*zákon o Policii ČR*), 11 August 2008.

<sup>83</sup> Czech Republic, Art. 15 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Execution of the Punishment of the Deprivation of Liberty](#) (*vyhláška, kterou se vydává řád výkonu trestu odnětí svobody*), 30 December 1999.

<sup>84</sup> Czech Republic, Art. 16 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Execution of the Punishment of the Deprivation of Liberty](#) (*vyhláška, kterou se vydává řád výkonu trestu odnětí svobody*), 30 December 1999.

<sup>85</sup> Czech Republic, Art. 27–28 of [Regulation No. 109/1994 Coll., Rules of Procedure of the Execution of Detention](#) (*vyhláška, kterou se vydává řád výkonu vazby*), 3 June 1994.

<sup>86</sup> Czech Republic, Art. 33 of [Act No. 273/2008 Coll., on the Police of the Czech Republic](#) (*zákon o Policii ČR*), 11 August 2008.

<sup>87</sup> Police of the Czech Republic, Binding Instruction No. 159 of the Police President on escorts, the guarding of persons, and police cells (*Závazný pokyn policejního prezidenta o eskortách, střežení osob a policejních celách*), 2 December 2009.

#### d. NPM assessment

##### **NPM assessment regarding detention facilities:**

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 34/2021/NZ/JM), 22 September 2021.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 28/2022/NZ/PG), 21 November 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 8/2023/NZ/PG), 8 June 2023.

##### **NPM assessment regarding police custody**

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 19/2021/NZ/PG), 26 July 2021.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 30/2021/NZ/PG), 18 November 2021.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 37/2022/NZ/PG), 18 November 2021.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 6/2022/NZ/PG), 2 May 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 3/2023/NZ/PG), 5 June 2023.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 17/2023/NZ/PG), 14 July 2023.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 16/2023/NZ/SKO), 18 July 2023.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 20/2023/NZ/SKO), 24 August 2023.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 21/2023/NZ), 9 September 2023.

##### **Key recommendations of the NPM**

“Někteří odsouzení si stěžovali, že mají málo jídla, řada dalších si jídlo chválila. Většina odsouzených ale uváděla, že se jídelníček každých 14 dnů opakuje. Jídelníček na nástěnkách oddílů nevisel. Odsouzení ale uváděli, že není potřeba, aby měli jídelníček vyvěšen, protože vědí, co který den bude k jídlu. [...] Jídelníčky schvaluje ředitel věznice i nutriční terapeut. Dieta, vegetariánská i bezlepková strava se připravuje. Složení stravy nemohu hodnotit. Doporučuji ale, aby odsouzeným u stravní normy Zs, Ns, Ms, Vs věznice častěji obměňovala alespoň snídaně, které se opakují v jídelníčku nejvíce.<sup>88</sup>”

*“Some detainees complained that they had little food, many others liked the food. However, most convicts reported that the diet was repeated every 14 days. The menu did not hang on the ward notice boards. However, convicts reported that there was no need for them to have a menu posted because they knew what was going to be eaten on any given day. [...] The menus are approved by the prison director and the nutritional therapist. Diet, vegetarian and gluten-free diets are prepared. I cannot assess*

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<sup>88</sup> Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 8/2023/NZ/PG), 8 June 2023.

*the composition of the diet. I recommend, however, that for inmates on dietary standards Zs, Ns, Ms, Vs, the prison should rotate more frequently at least the breakfasts, which are the most repeated in the menu.”*

### **Comments of the NPM members**

#### Police custody

On respecting special requests/diets: *‘If they have a diet prescribed by a doctor before they are put in a cell, [the police] naturally follow it. And if possible, they try to respect the person’s wishes, or if the person has money [they allow them to buy food they wish].’*

#### Detention facilities

On respecting special requests/diets: *‘It varies a lot from prison to prison, depending on what the kitchen is like [...]. But there are some prisons that normally prepare Muslim food, vegetarian food, for example, which is not possible in every prison, but the Prison Service tries to respect this. Further, there are about 13 types of dietary food that are prescribed by a doctor. These menus in each prison are prepared by a nutritionist, so the nutritional value is monitored and so on.’<sup>89</sup>*

## 5. Time spent outside the cell and outdoors

### a. Time spent outdoors

#### **Post-trial detention:**

Detainees are entitled to spend at least one hour per day outdoors.<sup>90</sup> The right to spend time outdoors may be restricted or cancelled only for a serious reason and on the basis of a decision by the prison director or an employee of the Prison Service authorised by the director.<sup>91</sup>

#### **Pre-trial detention:**

The same rules apply in pre-trial detention.<sup>92</sup>

#### **Police custody**

The relevant legal norms do not contain any standards regarding time spent outdoors.

### b. Time spent indoors

#### **Post-trial detention:**

According to the relevant legal norms, detainees are locked in their cells or dormitories every day during the eight-hour sleep period. The period during which detainees are locked in their cells or dormitories may be extended by the director of the prison in justified cases. The reasons for this extended lock-up must be set out in the internal rules of the prison.<sup>93</sup>

#### **Pre-trial detention:**

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<sup>89</sup> Interview with two employees of the Ombudsperson (national NPM), experts on detention on 26 March 2024.

<sup>90</sup> Czech Republic, Art. 16 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (zákon o výkonu trestu odnětí svobody), 3 August 1999.

<sup>91</sup> Czech Republic, Art. 20 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Execution of the Punishment of the Deprivation of Liberty](#) (vyhláška, kterou se vydává řád výkonu trestu odnětí svobody), 30 December 1999.

<sup>92</sup> Czech Republic, Art. 11 of [Act No. 293/1993 Coll., on the Performance of Custody](#) (zákon o výkonu vazby), 10 December 1993.

<sup>93</sup> Czech Republic, Art. 50 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Execution of the Punishment of the Deprivation of Liberty](#) (vyhláška, kterou se vydává řád výkonu trestu odnětí svobody), 30 December 1999.

In pre-trial detention, detainees are placed in a reduced regime unit, unless the purpose of detention would be jeopardised by doing so or unless other circumstances prevent it (in which case they are placed in cells). This department has a residential area with social and cultural facilities in which the accused may move freely at specified times, and they may socialise with other detainees.<sup>94</sup>

In its summary report on pre-trial detention facilities, the NPM points out that the structural conditions of some prisons make the creation of reduced regime units impossible. In practice, it is often difficult to create these units for certain specific groups as well (women, juveniles, non-smokers).<sup>95</sup>

### **Police custody**

The relevant legal norms does not contain any standards regarding the time spent indoors, although the NPM repeatedly emphasises in its reports the importance of the detainees' right to fresh air.<sup>96</sup>

#### **c. Recreational facilities**

### **Post-trial detention**

Detainees are allowed to play sports during their time outdoors (see point 5a).<sup>97</sup> Prisons must have a library (see point 5d) and detainees may borrow and play board games,<sup>98</sup> but the legislation does not prescribe any other specific sports or recreational facilities that must be available to detainees.

In addition, detainees have to follow a special, individual programme of treatment, which includes recreational activities (please see point 7a).

### **Protective detention**

Detainees have the right to borrow books and print materials from the institutional library and to borrow and play board games. The director of the institution may, in justified cases, allow the detainee to use other items but may also prohibit the possession of certain books and other items at the recommendation of the medical establishment.<sup>99</sup>

### **Pre-trial detention**

Detainees should be held in a reduced regime unit if the purpose of their detention allows it (see point 5b). This unit also includes social and cultural facilities (the legislation does not further specify what type of facilities).<sup>100</sup>

Detention facilities must have a library, and detainees may borrow and play board games.<sup>101</sup>

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<sup>94</sup> Czech Republic, Art. 8 of [Act No. 293/1993 Coll., on the Performance of Custody](#) (*zákon o výkonu vazby*), 10 December 1993.

<sup>95</sup> Public Defender of Rights, [Summary Report of Visits to Facilities 2022](#) (*Souhrnná zpráva z návštěv zařízení 2022 sp. zn. 50/2021/NZ*), 26 May 2022.

<sup>96</sup> E.g. Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 16/2023/NZ/SKO*), 18 July 2023.

<sup>97</sup> Czech Republic, Art. 20 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Execution of the Punishment of the Deprivation of Liberty](#) (*vyhláška, kterou se vydává řád výkonu trestu odnětí svobody*), 30 December 1999.

<sup>98</sup> Czech Republic, Art. 22 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

<sup>99</sup> Czech Republic, Art. 12 of [Act No. 129/2008 Coll., on the Execution of Protective Detention](#) (*zákon o výkonu zabezpečovací detence*), 16 April 2008.

<sup>100</sup> Czech Republic, Art. 8 of [Act No. 293/1993 Coll., on the Performance of Custody](#) (*zákon o výkonu vazby*), 10 December 1993.

<sup>101</sup> Czech Republic, Art. 17 of [Act No. 293/1993 Coll., on the Performance of Custody](#) (*zákon o výkonu vazby*), 10 December 1993.



#### d. Educational activities

##### Post-trial detention

Prisons must have a library with fiction and religious and scientific literature<sup>102</sup> (there are no rules governing the right to access computers or the Internet; the prison director may allow detainees access to a computer for educational purposes).<sup>103</sup> Detainees are also allowed to buy (order) books, newspapers, and magazines,<sup>104</sup> and are allowed to have a radio.<sup>105</sup> They can contribute to the inmates' magazine, listen to the radio, and watch television and can participate in other educational and recreational activities.<sup>106</sup> In this respect, the relevant legislation includes a very general rule according to which prisons must use the widest possible range of forms, methods, and means to uphold the right of detainees to education and recreation, with an emphasis on such forms, methods, and means that require an active approach on the part of the detainees and are aimed at minimising the risks of criminal activity.<sup>107</sup>

The implementation of this standard is a matter for the internal regulations of prisons.

In addition, detainees have to follow a special, individual programme of treatment, which includes educational activities (please see point 7a).

##### Pre-trial detention

Detainees should be held in a reduced regime unit if the purpose of their detention allows it (see point 5b). This unit also includes social and cultural facilities (the legislation does not further specify what type of facilities).<sup>108</sup>

Detention facilities must have a library with fiction and religious and scientific literature<sup>109</sup> (there are no rules governing the right to access computers or the Internet; the prison director may allow detainees access to a computer for educational purposes).<sup>110</sup> Detainees are also allowed to buy (order) books, newspapers, and magazines,<sup>111</sup> and are allowed to have a radio and a television.<sup>112</sup>

In addition, the detention facility is obliged to offer the detainee participation in at least one preventive educational, hobby, or sports programme (please see point 7a).

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<sup>102</sup> Czech Republic, Art. 39 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Execution of the Punishment of the Deprivation of Liberty](#) (*vyhláška, kterou se vydává řád výkonu trestu odnětí svobody*), 30 December 1999.

<sup>103</sup> Czech Republic, Art. 34 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

<sup>104</sup> Czech Republic, Art. 21 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

<sup>105</sup> Czech Republic, Art. 4 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Execution of the Punishment of the Deprivation of Liberty](#) (*vyhláška, kterou se vydává řád výkonu trestu odnětí svobody*), 30 December 1999.

<sup>106</sup> Czech Republic, Art. 40 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Execution of the Punishment of the Deprivation of Liberty](#) (*vyhláška, kterou se vydává řád výkonu trestu odnětí svobody*), 30 December 1999.

<sup>107</sup> Czech Republic, Art. 40 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Execution of the Punishment of the Deprivation of Liberty](#) (*vyhláška, kterou se vydává řád výkonu trestu odnětí svobody*), 30 December 1999.

<sup>108</sup> Czech Republic, Art. 8 of [Act No. 293/1993 Coll., on the Performance of Custody](#) (*zákon o výkonu vazby*), 10 December 1993.

<sup>109</sup> Czech Republic, Art. 52 of [Regulation No. 109/1994 Coll., Rules of Procedure of the Execution of Detention](#) (*vyhláška, kterou se vydává řád výkonu vazby*), 3 June 1994.

<sup>110</sup> Czech Republic, Art. 17 of [Act No. 293/1993 Coll., on the Performance of Custody](#) (*zákon o výkonu vazby*), 10 December 1993.

<sup>111</sup> Czech Republic, Art. 17 of [Act No. 293/1993 Coll., on the Performance of Custody](#) (*zákon o výkonu vazby*), 10 December 1993.

<sup>112</sup> Czech Republic, Art. 17 of [Act No. 293/1993 Coll., on the Performance of Custody](#) (*zákon o výkonu vazby*), 10 December 1993.

#### e. NPM assessment

##### **NPM assessment regarding detention facilities**

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 17/2021/NZ/MS), 3 August 2021.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 34/2021/NZ/JM), 22 September 2021.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 4/2022/NZ/JM), 10 May 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 22/2022/NZ/MS), 16 August 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 28/2022/NZ/PG), 21 November 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 8/2023/NZ/PG), 8 June 2023.

##### **NPM assessment regarding police custody**

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 18/2021/NZ/BM), 28 June 2021.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 31/2021/NZ/PG), 14 September 2021.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 30/2021/NZ/PG), 18 November 2021.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 7/2022/NZ/BM), 2 May 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 17/2022/NZ/PG), 12 October 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 4/2023/NZ/SKO), 5 May 2023.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 3/2023/NZ/PG), 5 June 2023.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 17/2023/NZ/PG), 14 July 2023.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 16/2023/NZ/SKO), 18 July 2023.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 21/2023/NZ), 9 September 2023.

##### **Key recommendations of the NPM**

„Institut zmírněné vazby je jedním z projevů principu humanizace vězeňství, jeho účelem je mimo jiné snížení intenzity zátěžových situací vyplývajících z uvěznění [...] Vytvoření prostorů pro zmírněnou vazbu je v praxi pro některé z věznic obtížně řešitelný problém. Věznice se nachází v některých případech v památkově chráněných budovách nebo dispozice budovy neumožňují vyhrazení ideálního prostoru,

který by splňoval původní účel zavedení tohoto institutu. [...] Za nastaveného systému (tvořeného podmínkami dle právních předpisů, samotnou věznicí a stavebnětechnickými možnostmi) nemohou někteří obvinění na ubytování ve vazbě se zmírněným režimem dosáhnout bez ohledu na to, jak se chovají v průběhu vazebního stíhání. Ve všech navštívených věznicích se to týkalo osob obviněných ze závažnější trestné činnosti, v některých věznicích je zmírněná vazba nedostupná i obviněným ženám. Ve druhém jmenovaném případě problém souvisí opět s prostorovými možnostmi věznic s ohledem na v tomto kontextu malý počet vazebně stíhaných žen.<sup>113</sup>“

*„The institute of reduced regime is one of the manifestations of the principle of humanization of the prison system; its purpose is, among other things, to reduce the intensity of stressful situations resulting from imprisonment [...] Creating spaces for reduced regime is a difficult problem to solve in practice for some prisons. In some cases, the prisons are located in listed buildings or the layout of the building does not allow for an ideal space to be set aside to fulfil the original purpose of introducing this institution. [...] Under the set system (created by legislation, the prison itself and the architectural possibilities), some detainees cannot achieve accommodation in a detention facility with a reduced regime, regardless of their behaviour during the proceedings. In all prisons visited, this was the case for persons accused of more serious crimes, and in some prisons, the reduced regime is also unavailable to female detainees. In the latter case, the problem is related to the spatial possibilities of the prisons, given the small number of female detainees in this context.“*

## **Comments of the NPM members**

### Police custody

On the possibility of detainees spending time outside their cells: *‘Detainees go for walks, depending on whether there is a yard or not. I think it's really rare that there are such yards. We get a lot of references from officers also to staffing shortages, so when there is just one officer in that unit, it is not possible to take a detainee anywhere at that time because they have to wait for a colleague. So spending time outside the cell is rare, but we recommend it.’*

### Detention facilities

On the time spent outside the cells and recreational facilities: *‘In pre-trial detention, the rule is that a detainee should spend three hours a day outside the cell. Then there also exists a special regime, so-called reduced regime detention: the detainees are not locked in their cells during the day and they have access to a room where there is, for example, a table tennis table, darts, a library, an aquarium, something like that.*

*There is usually a sports hall in every prison. It might be an indoor football hall, or it might be a fitness room, or it might be an exercise yard set up for ball games. Then, of course, the detainees are required to work, that also counts as one of the activities outside their cell. And then, of course, there are educational and religious activities, and that all sounds good. Problems arise with capacity, however; there is not enough space, especially in the closed areas of the prisons, for each detainee to spend more than three hours a day outside their cell.’<sup>114</sup>*

## **6. Solitary confinement**

### **a. Placement in solitary confinement**

## **Post-trial detention**

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<sup>113</sup> Public Defender of Rights, [Summary Report on Visits to Facilities 2022](#) (Souhrnná zpráva z návštěv zařízení 2022 sp. zn. 50/2021/NZ), 26 May 2022.

<sup>114</sup> Interview with two employees of the Ombudsperson (national NPM), experts on detention on 26 March 2024.

Solitary confinement is a form of disciplinary punishment ordered for a disciplinary offence (a disciplinary offence is a culpable breach of an obligation, order, or discipline imposed by law during the execution of a sentence).<sup>115</sup> A detainee may be placed in a closed department (with the exception of the time they must perform tasks specified in their programme of treatment) for a maximum of 28 days. A detainee may be placed all day in a closed department for a maximum of 20 days or placed in solitary confinement (for a maximum of 20 days).<sup>116</sup>

The disciplinary punishment of placing a person in a closed department can be imposed repeatedly and carried out immediately. The repeat imposition of the disciplinary punishment of all-day placement in a closed department or in solitary confinement may not begin until at least 10 days have elapsed since a preceding instance of this same disciplinary punishment. However, if the disciplinary punishment of all-day placement in a closed department or solitary confinement is re-imposed while a detainee is serving one of these disciplinary punishments, both such disciplinary punishments may be carried out immediately.<sup>117</sup>

Detainees in solitary confinement do not work, do not take part in the programme of treatment, are not allowed to smoke or to read daily newspapers, books, or other publications, except for legal, educational, or religious literature, and are not allowed to shop for food or personal belongings, except for hygienic necessities. These detainees are not allowed to rest in bed except during the time designated for rest according to the internal rules. The detainees have the right to go out for a walk for one hour a day. Detainees placed in a closed department or solitary confinement must, at their request, be allowed an individual spiritual service.<sup>118</sup>

The same rules apply for the disciplinary punishment of all-day placement in a closed department, with the exception that the convict is obliged to do cleaning activities and perform work necessary for the everyday operations of the prison.<sup>119</sup>

### **Protective detention**

Detainees cannot receive the disciplinary punishment of solitary confinement, but they can be placed in segregation units if they are a danger to themselves or to others. While in segregation, detainees are under constant supervision (the Prison Service uses CCTV), must undergo medical examinations, and must have their health checked every 24 hours.<sup>120</sup>

### **Pre-trial detention**

A detainee may be placed in solitary confinement for up to 10 days.<sup>121</sup>

A disciplinary sentence of solitary confinement may be imposed only if the intentional breach of the established rules is very serious or previous re-imposed disciplinary penalties and other measures have not had any effect. After a period of imposed solitary confinement, another disciplinary punishment of

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<sup>115</sup> Czech Republic, Art. 46 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

<sup>116</sup> Czech Republic, Art. 46 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

<sup>117</sup> Czech Republic, Art. 49 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

<sup>118</sup> Czech Republic, Art. 50 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Execution of the Punishment of the Deprivation of Liberty](#) (*vyhláška, kterou se vydává řád výkonu trestu odnětí svobody*), 30 December 1999.

<sup>119</sup> Czech Republic, Art. 49 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

<sup>120</sup> Czech Republic, Art. 35 of [Act No. 129/2008 Coll., on the Execution of Protective Detention](#) (*zákon o výkonu zabezpečovací detence*), 16 April 2008.

<sup>121</sup> Czech Republic, Art. 22 of [Act No. 293/1993 Coll., on the Performance of Custody](#) (*zákon o výkonu vazby*), 10 December 1993.

solitary confinement may only be carried out once five days have elapsed if the disciplinary sentence lasted five days or less, and after ten days if the disciplinary punishment lasted longer than five days.<sup>122</sup>

During the period of solitary confinement, detainees are not allowed to receive visitors (with some exceptions), are not allowed to receive packages or purchase food and personal items, are not allowed to read magazines or books (except legal, educational, or religious literature), and are not allowed to play board games or use their own portable radio or television. However, the accused may receive and send correspondence and is allowed to read the daily press.<sup>123</sup>

### **Police custody**

The relevant legal norms do not contain any standards regarding solitary confinement.

#### **b. Monitoring of detainees**

### **Post-trial detention:**

In order to impose the disciplinary punishment of all-day confinement and solitary confinement, a prior assessment by a doctor that the detainee is medically fit to undergo this disciplinary punishment is necessary. Prior to the commencement of the disciplinary penalty of day confinement or solitary confinement, and at least once a week during its execution, the detainee must be examined by a doctor who assesses whether he or she is medically fit to undergo the disciplinary penalty.<sup>124</sup>

The Prison Service may, at its discretion, use CCTV in the cell.<sup>125</sup>

### **Pre-trial detention**

The imposition of this disciplinary penalty requires a prior assessment by a doctor that the accused is medically fit to undergo the penalty.<sup>126</sup>

During the execution of the disciplinary sentence of solitary confinement, the accused is under increased supervision by a member of the Prison Service.<sup>127</sup>

The Prison Service may, at its discretion, use CCTV in the cell.<sup>128</sup>

#### **c. NPM assessment**

### **NPM assessment regarding detention facilities**

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 28/2022/NZ/PG*), 21 November 2022.

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<sup>122</sup> Czech Republic, Art. 63 of [Regulation No. 109/1994 Coll., Rules of Procedure of the Exercise of Detention](#) (*vyhláška, kterou se vydává řád výkonu vazby*), 3 June 1994.

<sup>123</sup> Czech Republic, Art. 22 of [Act No. 293/1993 Coll., on the Performance of Custody](#) (*zákon o výkonu vazby*), 10 December 1993.

<sup>124</sup> Czech Republic, Art. 49 of [Act No. 169/1999 Coll., on Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

<sup>125</sup> Czech Republic, Art. 21a of [Act No. 555/1992 Coll., on the Prison and Justice Guard](#) (*zákon o vězeňské a justiční strážii*), 10 December 1992

<sup>126</sup> Czech Republic, Art. 22 of [Act No. 293/1993 Coll., on the Performance of Custody](#) (*zákon o výkonu vazby*), 10 December 1993.

<sup>127</sup> Czech Czech Republic, Art. 63 of [Regulation No. 109/1994 Coll., Rules of Procedure of the Execution of Detention](#) (*vyhláška, kterou se vydává řád výkonu vazby*), 3 June 1994.

<sup>128</sup> Czech Republic, Art. 21a of [Act No. 555/1992 Coll., on the Prison and Justice Guard](#) (*zákon o vězeňské a justiční strážii*), 10 December 1992.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 8/2023/NZ/PG), 8 June 2023.

### Key recommendations of the NPM

„Cely na OVKT [oddělení pro výkon kázeňských trestů] neslouží k trvalému umístění osob, ale odsouzení zde mohou strávit nepřetržitě i několik dnů. Proto by podle mého názoru měly splňovat podmínky, které platí pro ubytovací místnost. Drtivá většina odsouzených v českých věznicích nepochází ze zemí, kde je běžné používání tzv. tureckého záchodu, a může to být pro ně ponižující, pro osoby se zdravotním omezením pak dokonce výrazně problematické. [...] Doporučuji rekonstruovat i stávající cely na OVKT, tedy odstranit turecké záchody a vybudovat zde toaletu v antivandalovém provedení.“<sup>129</sup>

*“Cells in the DDP [department for disciplinary punishment] are not used for permanent placement of persons, but detainees may spend several days there continuously. The overwhelming majority of detainees in Czech prisons do not come from countries where the use of the so-called Turkish toilet is common, and this can be humiliating for them and even significantly problematic for people with disabilities. [...] I recommend that the existing cells in the DDP be reconstructed, i.e. that the Turkish toilets be removed and that an anti-vandal toilet be built.”*

### Comments of the NPM members

#### Detention facilities

On the imposition of solitary confinement and conditions in cells: *‘It did not occur to us that this disciplinary punishment was being carried out repeatedly and in direct succession. Since a judicial review of this type of disciplinary action was introduced about 10 years ago, the Prison Service itself has not used it very often.*

*Of course, when we inspect prisons, we look at the conditions in the closed units. Some places have Turkish toilets, dirty toilets, for example. We drew attention to this when we visited a prison last year.*

*As far as health checks are concerned, a nurse at least visits the closed ward at regular intervals to see how the detainees are doing, and a doctor has to examine them and assess their fitness before they are placed in the closed unit.*

*There are usually no cameras there, there are always cameras in the corridor of the closed unit, but in the cells sometimes there are cameras, sometimes there aren't. It's not a rule.”<sup>130</sup>*

## 7. Work and education of detainees to promote social reintegration

### a. General measures to promote social reintegration

#### Post-trial detention

According to the relevant scientific literature, the main forms of preparing detainees for release from prison are: programmes of treatment, treatment of addictions, work by example/regime, work with a collective of detainees, differentiation of detainees, work with the family, cooperation with other subjects, preparation for release itself.<sup>131</sup>

*Preparation for independent living during serving the sentence*

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<sup>129</sup> Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 8/2023/NZ/PG), 8 June 2023.

<sup>130</sup> Interview with two employees of the Ombudsperson (national NPM), experts on detention on 26 March 2024.

<sup>131</sup> Drápal, J.; Jiříčka, V.; Raszková, T. (2021), *České vězeňství*, Praha: Wolters Kluwer ČR, p. 286.

All detainees must follow a special programme of treatment (program zacházení), which defines the goals of execution of the punishment of the deprivation of liberty.<sup>132</sup> The content of the programme of treatment is determined by professional staff for each detainee individually<sup>133</sup> and is approved by the director or his/her deputy. The programme aims in particular to minimise the identified risks that were or are related to crime or that may affect the committing of a crime in the future. The programme describes the activities that a detainee is required to perform, including work, recreational, and educational activities.

*Work activities* include the following: employment, work activities related to the prison's everyday operations (každodenní provoz), and work therapy, which is led by employees of the Prison Service who have special training in this area.

*Educational activities* include the following: education provided out by vocational schools, education led or supervised by employees of the Prison Service, and participation in correspondence courses and in the network of elementary and secondary schools and universities in the Czech Republic.

*Special educational activities* include the following: social, pedagogical, and therapeutic activities that focus on the reasons for and consequences of committing a crime and on changing the attitudes, thinking, and behaviour of detainees.

*Recreational activities* include the following: forms of individual and group recreational activities are organised and led by employees with the necessary professional education, who help detainees to develop their abilities, knowledge, and social skills.

#### *Preparing for independent living before release*

There are three ways of preparing detainees for independent living. Detainees sentenced to more than three years of imprisonment and detainees who need help in preparing for independent life can be placed in exit units and follow a specific exit treatment programme.<sup>134</sup> Detainees are usually placed in the exit unit six months before the expected end of their sentence by the prison director at the recommendation of the professional staff. In these units, detainees learn skills necessary for independent life, such as preparing their own food, participating in psychosocial counselling, debt counselling, extramural activities, etc. Such units are currently present in almost all prisons, but they face a number of problems: capacity, motivation (of the detainees), administration, etc.<sup>135</sup>

An exit treatment programme is also prepared for detainees who are not placed in an exit unit but who, owing to the length of their sentence or their need for assistance, need to be prepared for life after release.<sup>136</sup>

Other detainees' programme of treatment is updated at least three months before their release.<sup>137</sup>

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<sup>132</sup> Czech Republic, Art. 41 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty \(zákon o výkonu trestu odnětí svobody\)](#), 3 August 1999; Czech Republic, Art. 36-40 of the [Regulation No. 345/1999 Coll., Rules of Procedure of the Execution of the Punishment of the Deprivation of Liberty \(vyhláška, kterou se vydává řád výkonu trestu odnětí svobody\)](#), 30 December 1999.

<sup>133</sup> Czech Republic, Art. 8 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Execution of the Punishment of the Deprivation of Liberty \(vyhláška, kterou se vydává řád výkonu trestu odnětí svobody\)](#), 30 December 1999.

<sup>134</sup> Czech Republic, Art. 74 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty \(zákon o výkonu trestu odnětí svobody\)](#), 3 August 1999.

<sup>135</sup> Drápal, J.; Jiříčka, V.; Raszková, T. (2021), *České vězeňství*, Praha: Wolters Kluwer ČR, p. 288.

<sup>136</sup> Czech Republic, Art. 36a of [Regulation No. 345/1999 Coll., Rules of Procedure of the Execution of the Punishment of the Deprivation of Liberty \(vyhláška, kterou se vydává řád výkonu trestu odnětí svobody\)](#), 30 December 1999.

<sup>137</sup> Czech Republic, Art. 41 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty \(zákon o výkonu trestu odnětí svobody\)](#), 3 August 1999.

## Pre-trial detention

Detainees do not participate in special programmes of treatment. During detention, the prison is obliged to offer the detainee the opportunity to participate in at least one preventive educational, hobby, or sports programme.<sup>138</sup>

### b. Access to work

## Post-trial detention

Detainees are assigned to work by the prison director and are obliged to work if they are medically fit to do so (they are subject to disciplinary punishment if they refuse to work).<sup>139</sup> Working conditions, working hours, and overtime work are governed by general labour law norms,<sup>140</sup> but remuneration of labour is determined separately:<sup>141</sup> they are entitled to remuneration for their work, the amount of which is set by government regulation.<sup>142</sup> They may work either within the prison or for third parties (in this case their consent is required, except in the case of work for certain entities such as the state, the municipalities etc.).<sup>143</sup>

## Protective detention

A detainee who is not enrolled in a work therapy programme may be allowed to work in the detention facility at his or her request.<sup>144</sup> Working conditions, working hours, and overtime work are governed by general labour law norms,<sup>145</sup> but the remuneration of labour is determined separately.<sup>146</sup>

## Pre-trial detention

In pre-trial detention, detainees have the right, but not the obligation, to work.<sup>147</sup> Their working conditions and remuneration are governed by general labour law. Although the law allows for the employment of detainees in pre-trial detention, in practice they are not currently assigned to work.<sup>148</sup>

### c. Access to education

## Post-trial detention

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<sup>138</sup> Czech Republic, Art. 4a of [Act No. 293/1993 Coll., on the Performance of Custody \(zákon o výkonu vazby\)](#), 10 December 1993.

<sup>139</sup> Czech Republic, Art. 41 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Execution of the Punishment of the Deprivation of Liberty \(vyhláška, kterou se vydává řád výkonu trestu odnětí svobody\)](#), 30 December 1999.

<sup>140</sup> Czech Republic, Art. 32 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty \(zákon o výkonu trestu odnětí svobody\)](#), 3 August 1999.

<sup>141</sup> Czech Republic, Art. 33 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty \(zákon o výkonu trestu odnětí svobody\)](#), 3 August 1999.

<sup>142</sup> Czech Republic, Government Regulation No. 361/2017 Coll, on the Amount and Conditions of Remuneration of Convicted Persons Assigned to Work while Serving a Prison Sentence ([nařízení vlády o výši a podmínkách odměňování odsouzených zařazených do práce ve výkonu trestu odnětí svobody](#)), 7 November 2017.

<sup>143</sup> Czech Republic, Art. 30 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty \(zákon o výkonu trestu odnětí svobody\)](#), 3 August 1999.

<sup>144</sup> Czech Republic, Art. 23 of [Act No. 129/2008 Coll., on the Execution of Protective Detention \(zákon o výkonu zabezpečovací detence\)](#), 16 April 2008.

<sup>145</sup> Czech Republic, Art. 32 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty \(zákon o výkonu trestu odnětí svobody\)](#), 3 August 1999.

<sup>146</sup> Czech Republic, Art. 33 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty \(zákon o výkonu trestu odnětí svobody\)](#), 3 August 1999.

<sup>147</sup> Czech Republic, Art. 19 of [Act No. 293/1993 Coll., on the Performance of Custody \(zákon o výkonu vazby\)](#), 10 December 1993.

<sup>148</sup> Drápal, J.; Jiříčka, V.; Raszková, T. (2021), *České vězeňství*, Praha: Wolters Kluwer ČR, p. 121.



Detainees are provided with education on both a formal and an informal level.

Informal education is provided through the programmes of treatment (see para. 7a), while formal education takes place in educational institutions and is completed with a certificate or a diploma.<sup>149</sup>

Education is usually provided by separate departments of secondary vocational schools,<sup>150</sup> but other educational institutions may also cooperate with prisons (allowing detainees to obtain a high school or university diploma).<sup>151</sup> It must not be stated on the certificate or diploma that it was obtained in a prison.<sup>152</sup> Detainees who do not complete their studies while serving their sentence have the right to complete their studies at the appropriate school.<sup>153</sup>

### **Protective detention**

Detainees whose state of health so permits are allowed to receive basic or, where appropriate, secondary education or to participate in other forms of education that enable them to acquire or improve their qualifications. A juvenile detainee who has not successfully completed primary education is always allowed to receive basic education in a course leading to basic education.<sup>154</sup>

### **Pre-trial detention**

No specific rules regulate the education of detainees. The detention facility is obliged to offer the detainee the opportunity to participate in at least one preventive educational, hobby, or sports programme (please see point 7a).<sup>155</sup>

#### **d. NPM assessment**

### **NPM assessment regarding detention facilities**

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 13/2021/NZ/JM*), 3 June 2021.

Public Defender of Rights, [Summary Report on Visits to Facilities 2022](#) (*Souhrnná zpráva z návštěv zařízení 2022 sp. zn. 50/2021/NZ*), 26 May 2022.

### **Key recommendations of the NPM**

„[Vazební] věznice v České republice nezajišťují zaměstnávání obviněných. [...] Jsem přesvědčena, že právě zaměstnávání může být cestou k tomu, jak v budoucnosti zajistit rozšíření programu smysluplných aktivit obviněných osob. Je nutné si uvědomit, že nezaměstnávání obviněných má velký dopad do jejich sociální sféry. Vzetím do vazby může dojít ke ztrátě zaměstnání, v jehož důsledku dochází k nemožnosti hradit běžné výdaje, např. nájem bytu, což má další negativní dopad – ztrátu bydlení. Nezaměstnávání současně ohrožuje i celou rodinu obviněného v situaci, kdy obviněný byl a je hlavní výdělečnou osobou.

<sup>149</sup> Drápal, J.; Jiříčka, V.; Raszková, T. (2021), *České vězeňství*, Praha: Wolters Kluwer ČR, p. 130.

<sup>150</sup> Czech Republic, Art. 34 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999; Czech Republic, Art. 46 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Execution of the Punishment of the Deprivation of Liberty](#) (*vyhláška, kterou se vydává řád výkonu trestu odnětí svobody*), 30 December 1999.

<sup>151</sup> Drápal, J.; Jiříčka, V.; Raszková, T. (2021), *České vězeňství*, Praha: Wolters Kluwer ČR, p. 131.

<sup>152</sup> Czech Republic, Art. 46 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Execution of the Punishment of the Deprivation of Liberty](#) (*vyhláška, kterou se vydává řád výkonu trestu odnětí svobody*), 30 December 1999.

<sup>153</sup> Czech Republic, Art. 46 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Execution of the Punishment of the Deprivation of Liberty](#) (*vyhláška, kterou se vydává řád výkonu trestu odnětí svobody*), 30 December 1999.

<sup>154</sup> Czech Republic, Art. 22 of [Act No. 129/2008 Coll., on the Execution of Protective Detention](#) (*zákon o výkonu zabezpečovací detence*), 16 April 2008.

<sup>155</sup> Czech Republic, Art. 4a of [Act No. 293/1993 Coll., on the Performance of Custody](#) (*zákon o výkonu vazby*), 10 December 1993.

Obvinění nemohou zpravidla bez pomoci zvenčí realizovat nákupy ve vězeňské kantýně či si zajistit potřebné léky a další základní životní potřeby.“

Doporučení: Hledat způsoby a možnosti zaměstnávání obviněných.<sup>156</sup>

*“[Pre-trial] detention facilities in the Czech Republic do not provide employment for the detainees. [...] I am convinced that employment may be a way to ensure the expansion of the programme of meaningful activities for detainees in the future. It is necessary to realize that the non-employment of detainees has a great impact on their social sphere. Detention can lead to loss of employment, resulting in the inability to pay for current expenses such as rent, which has the additional negative impact of loss of housing. At the same time, the lack of employment also threatens the detainee's entire family if the detainee was and is the main earner. Detainees usually cannot make purchases at the prison canteen or provide themselves with the necessary medicines and other basic necessities of life without outside help.*

*Recommendation: seek ways and opportunities to employ the detainees.”*

### **Comments of the NPM members**

#### Detention facilities

On the possibility to work: *‘The detainees are obliged to work. It also counts as one of the activities outside the cell. Working is a way of not going mad in prison, of doing something meaningful. As far as the detainees in pre-trial detention are concerned, we have noticed during prison inspections and I have it confirmed that no detainee in pre-trial detention is currently employed in the Czech Republic.’*

On access to computers/internet: *‘Detainees cannot use the internet everywhere, but the Prison Service is testing the internet for detainees in selected prisons in a pilot programme. Of course, access to some sites is restricted, but the websites of government departments, courts, and so on are accessible. The other thing that detainees have access to is Skype, so they can get access to computers, but it’s really just to use the app or mostly just to use video chat. They can call to see their loved ones. But it’s not like sitting down at a computer and working with some of the other applications.’<sup>157</sup>*

## 8. Healthcare (note – section 11 contains specific questions concerning female detainees)

### a. Access to healthcare

#### **Post-trial detention**

Healthcare is provided to detainees by the Prison Service in its healthcare facilities, detainees do not have the right to visit healthcare facilities of their own choosing.<sup>158</sup> If necessary, healthcare is provided in cooperation with other healthcare providers.

Detainees have the right to health services to the extent and under the conditions stipulated by the law governing health services and the conditions for their provision, taking into account restrictions arising from the purpose of the sentence,<sup>159</sup> i.e. they have access to specialised healthcare services (such as dentists, opticians, etc.) to the same extent as the general public.

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<sup>156</sup> Public Defender of Rights, [Summary Report on Visits to Facilities 2022](#) (*Souhrnná zpráva z návštěv zařízení 2022* sp. zn. 50/2021/NZ), 26 May 2022.

<sup>157</sup> Interview with two employees of the Ombudsperson (national NPM), experts on detention on 26 March 2024.

<sup>158</sup> Czech Republic, Art. 27 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

<sup>159</sup> Czech Republic, Art. 16 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

Detainees' right to privacy is regulated by the Act on Health Services.<sup>160</sup> It states that the provider of health services is obliged to ensure that health services are provided to detainees in the presence of a member of the Prison Service, within his or her sight, but out of his or her earshot. In cases of danger to life, health, or safety, a member of the Prison Service is entitled to be present during the provision of medical services and within earshot.

If the health condition of the detainee requires the provision of urgent medical care and if it is not possible for it to be provided in the medical facility of the Prison Service (e.g. outside the working hours of the medical staff), the Prison Service must call a medical emergency service or a medical rescue service.<sup>161</sup>

### **Protective detention**

Detainees do not have the right to visit healthcare facilities of their own choosing.<sup>162</sup> Detainees have the right to health services to the extent and under the conditions stipulated by the law governing health services and the conditions for their provision, taking into account restrictions arising from the purpose of the sentence.<sup>163</sup> Detainees may be enrolled in a treatment programme, including a healthcare programme, in which case they are obliged to comply with the requirements set out in the programme.<sup>164</sup>

### **Pre-trial detention**

The same rule applies in pre-trial detention.<sup>165</sup>

### **Police custody**

If a detainee becomes ill, suffers an injury, or attempts suicide, the police officer guarding the cell takes the necessary measures to protect the detainee's life or health, specifically by providing first aid and calling a doctor to request an opinion on whether the person should be kept in his/her cell or should be moved to a medical facility. If, in the opinion of the doctor, the detainee's state of health prevents him/her from remaining in the cell, the police officer must release the person from the cell immediately. If it is necessary for the person's health condition, the police officer will arrange his/her transfer to a medical facility.<sup>166</sup>

#### **b. Availability of medical staff**

### **Post-trial detention**

Detainees should be provided with care anytime they need it. Medical services and personnel should be available non-stop. If it is not possible to provide healthcare in the facilities of the Prison Service (e.g.

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<sup>160</sup> Czech Republic, Art. 46 of [Act No. 372/2011 Coll., on Health Services](#) (*zákon o zdravotních službách*), 8 December 2011.

<sup>161</sup> Czech Republic, Art. 23 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Exercise of the Punishment of the Deprivation of Liberty](#) (*vyhláška, kterou se vydává řád výkonu trestu odnětí svobody*), 30 December 1999.

<sup>162</sup> Czech Republic, Art. 16 of [Act No. 129/2008 Coll., on the Execution of Protective Detention](#) (*zákon o výkonu zabezpečovací detence*), 16 April 2008.

<sup>163</sup> Czech Republic, Art. 19 of [Act No. 129/2008 Coll., on the Execution of Protective Detention](#) (*zákon o výkonu zabezpečovací detence*), 16 April 2008.

<sup>164</sup> Czech Republic, Art. 25 of [Act No. 129/2008 Coll., on the Execution of Protective Detention](#) (*zákon o výkonu zabezpečovací detence*), 16 April 2008.

<sup>165</sup> Czech Republic, Art. 18 of [Act No. 293/1993 Coll., on the Performance of Custody](#) (*zákon o výkonu vazby*), 10 December 1993; Czech Republic, Art. 32 of [Regulation No. 109/1994 Coll., Rules of Procedure of the Exercise of Detention](#) (*vyhláška, kterou se vydává řád výkonu vazby*), 3 June 1994.

<sup>166</sup> Czech Republic, Art. of [Act No. 273/2008 Coll., on the Police of the Czech Republic](#) (*zákon o Policii ČR*), 11 August 2008.

outside working hours of the prison's medical staff), the detainee must be escorted to a medical facility outside of the prison or an emergency service must be called.<sup>167</sup>

### **Pre-trial detention**

The same rules apply in pre-trial detention.<sup>168</sup>

#### **c. Medical examination upon admission**

### **Post-trial detention**

Detainees are obliged to undergo a preventive initial examination, periodic and emergency examinations, and an exit medical examination, which includes the provision of necessary diagnostic and laboratory examinations and vaccinations. The initial examination is performed during the first two weeks the detainee spends in the detention facility.<sup>169</sup>

### **Preventive detention**

The detainee must undergo an initial examination upon his/her admission while still in the admission department.<sup>170</sup>

### **Pre-trial detention**

The same rules apply in pre-trial detention.<sup>171</sup>

### **Police custody**

A detainee who is obviously under the influence of an addictive substance may be placed in a cell, provided that the doctor cannot find any reason for him/her to be placed in an anti-alcohol or anti-drug detention centre or other medical facility.

If a police officer finds that a person who is to be placed in a cell is injured, or if the officer has been warned that the person has a serious illness, or if there is a reasonable suspicion that the person is suffering from a disease, the police officer must arrange for the person's medical treatment and request a doctor's opinion on the state of his or her health.<sup>172</sup>

#### **d. Preventive care**

### **Post-trial detention**

Detainees have the right to health services to the same extent as the general public, taking into account the restrictions arising from the purpose of the sentence,<sup>173</sup> which is to say that they have access to vaccinations, preventive care, and health screening to the extent and under the same conditions as

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<sup>167</sup> Czech Republic, Art. 23 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Exercise of the Punishment of the Deprivation of Liberty](#) (*vyhláška, kterou se vydává řád výkonu trestu odnětí svobody*), 30 December 1999.

<sup>168</sup> Czech Republic, Art. 32 of [Regulation No. 109/1994 Coll., Rules of Procedure of the Exercise of Detention](#) (*vyhláška, kterou se vydává řád výkonu vazby*), 3 June 1994.

<sup>169</sup> Czech Republic, Art. 6 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Exercise of the Punishment of the Deprivation of Liberty](#) (*vyhláška, kterou se vydává řád výkonu trestu odnětí svobody*), 30 December 1999.

<sup>170</sup> Czech Republic, Art. 4 of [Act No. 129/2008 Coll., on the Execution of Protective Detention](#) (*zákon o výkonu zabezpečovací detence*), 16 April 2008.

<sup>171</sup> Czech Republic, Art. 8 of [Act No. 293/1993 Coll., on the Performance of Custody](#) (*zákon o výkonu vazby*), 10 December 1993.

<sup>172</sup> Czech Republic, Art. 31 of [Act No. 273/2008 Coll., on the Police of the Czech Republic](#) (*zákon o Policii ČR*), 11 August 2008.

<sup>173</sup> Czech Republic, Art. 16 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

other persons, except for the right to medical treatment of their own choosing (choice of healthcare facilities, choice of treatment method).

Preventive care is not only a right, but also an obligation: the detainee is required to undergo a preventive initial, periodic, and exit (or, when necessary, emergency) medical examination to the extent determined by a physician, including the necessary diagnostic and laboratory examinations, vaccinations, and preventive measures established by the public health authorities.<sup>174</sup>

### **Pre-trial detention**

The same rules apply in pre-trial detention.<sup>175</sup>

#### **e. Specialised care**

### **Post-trial detention**

In general, every detainee has the right to health services to the extent provided for in the relevant legal norms on the provision of health services (with some necessary limitations).<sup>176</sup> Detainees with severe disabilities must be provided with appropriate conditions to enable them to serve their sentence with dignity.<sup>177</sup>

The specialised care offered depends on the type of disease or condition a detainee has – for example, drug addiction is usually discovered during the initial medical examination, and the examining doctor must decide on the treatment procedure.<sup>178</sup> Detainees addicted to drugs or other substances can also be ordered by the court to undergo protective treatment and they are then placed in specialised wards.

### **Pre-trial detention**

The same general rules apply in pre-trial detention.<sup>179</sup>

#### **f. Treatment of the detainee's choosing**

### **Post-trial detention**

Detainees do not have the right to freely choose the provider of their health services or the medical facility for themselves.<sup>180</sup>

### **Pre-trial detention**

There is no specific rule on this in the case of pre-trial detention, but the relevant legal norms state that detainees have the right to health services to the extent and under the conditions stipulated by the law

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<sup>174</sup> Czech Republic, Art. 28 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

<sup>175</sup> Czech Republic, Art. 18 of [Act No. 293/1993 Coll., on the Performance of Custody](#) (*zákon o výkonu vazby*), 10 December 1993.

<sup>176</sup> Czech Republic, Art. 16 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

<sup>177</sup> Czech Republic, Art. 16 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

<sup>178</sup> Drápal, J.; Jiříčka, V.; Raszková, T. (2021), *České vězeňství*, Praha: Wolters Kluwer ČR, p. 220.

<sup>179</sup> Czech Republic, Art. 99 of [Act No. 40/2009 Coll., Criminal Code](#) (*trestní zákoník*), 9 February 2009.

<sup>180</sup> Czech Republic, Art. 27 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

governing health services and the conditions for their provision, taking into account the restrictions arising from the purpose of the pre-trial detention.<sup>181</sup>

### **Police custody**

A person deprived of his or her liberty has the right to be examined or treated by a doctor of his or her choosing; this does not apply in the case of the doctor's examination determining whether he or she can be placed in a police cell or whether he or she needs to be released.<sup>182</sup>

#### g. NPM assessment

### **NPM assessment regarding detention facilities**

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 17/2021/NZ/MS*), 3 August 2021.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 34/2021/NZ/JM*), 22 September 2021.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 13/2021/NZ/JM*), 3 June 2021.

Public Defender of Rights, [Summary Report on Visits to Facilities 2022](#) (*Souhrnná zpráva z návštěv zařízení 2022 sp. zn. 50/2021/NZ*), 26 May 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 22/2022/NZ/MS*), 16 August 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 28/2022/NZ/PG*), 21 November 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 8/2023/NZ/PG*), 8 June 2023.

### **NPM assessment regarding police custody**

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 19/2021/NZ/PG*), 26 July 2021.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 18/2021/NZ/BM*), 28 June 2021.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 37/2021/NZ/PG*), 18 November 2021.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 17/2022/NZ/PG*), 12 October 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 36/2022/NZ/SKO*), 14 December 2022.

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<sup>181</sup> Czech Republic, Art. 18 of [Act No. 293/1993 Coll., on the Performance of Custody](#) (*zákon o výkonu vazby*), 10 December 1993.

<sup>182</sup> Czech Republic, Art. 24 of [Act No. 273/2008 Coll., on the Police of the Czech Republic](#) (*zákon o Policii ČR*), 11 August 2008.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 16/2023/NZ/SKO), 18 July 2023.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 21/2023/NZ), 9 September 2023.

### **Key recommendations of the NPM**

„Zdravotní péče, která je poskytována v českých věznicích, je poskytována přímo prostřednictvím vězeňské služby, která zdravotnický personál zaměstnává. Přestože evropská praxe se různí, vzrůstá počet států, které vězeňské zdravotnictví převádí z gesce Ministerstva spravedlnosti na Ministerstvo zdravotnictví. Výbor CPT toto opakovaně České republice ve svých zprávách (např. z důvodu nezávislosti a sladění standardů péče) doporučoval.

Po návštěvě výboru CPT v roce 2018 začalo Ministerstvo spravedlnosti v této věci konat. Výsledkem těchto aktivit na začátku roku 2021 bylo dokončení analýzy systémového řešení vězeňského zdravotnictví. Tato analýza nastínila možnosti, jak by transformace mohla vypadat a jaké jsou klady a zápory jednotlivých variant. Analýza pracuje s několika verzemi, všechny však počítaly s tím, že vězeňské zdravotnictví zůstane nadále pod resortem Ministerstva spravedlnosti, které bude nadále rozhodovat o udělení oprávnění k poskytování zdravotních služeb, a povinnost poskytovat zdravotní služby vězněným osobám bude mít vězeňská služba. [...]

Znovu přitom opakuji, že veřejný ochránce práv již od roku 2016 podporuje myšlenku co nejužšího propojení vězeňského a civilního zdravotnictví tak, jako doporučují Světová zdravotnická organizace (WHO) a CPT.<sup>183</sup>

*“The health care in Czech prisons is provided directly by the Prison Service, which employs the medical staff. Although European practice varies, an increasing number of countries are transferring prison health care from the Ministry of Justice to the Ministry of Health. The CPT Committee has repeatedly recommended this to the Czech Republic in its reports (e.g. for reasons of independence and harmonisation of standards of care).*

*Following the CPT Committee’s visit in 2018, the Ministry of Justice started to take action on this matter. As a result of these activities, an analysis of the systemic design of prison health care was completed in early 2021. This analysis outlined options for what transformation could look like and the pros and cons of each option. The analysis worked with several versions, but all of them envisaged that the prison health system would remain under the Ministry of Justice, which would continue to decide on the authorisation to provide health services, and that the Prison Service would be obliged to provide health services to prisoners. [...]*

*I would like to reiterate that since 2016, the Ombudsman has been supporting the idea of linking prison and civil health care as closely as possible, as recommended by the World Health Organisation (WHO) and the CPT.”*

### **Comments of the NPM members**

#### Police custody

On the right to be examined by a doctor of the detainee’s choosing: *‘I think it’s more like 50-50: the police either do not know that the person has that right, or if they do, they tell us that they have never come across a person who has asked for it. So I do not think it works in practice, but those officers who*

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<sup>183</sup> Public Defender of Rights, [Summary Report on Visits to Facilities 2022](#) (Souhrnná zpráva z návštěv zařízení 2022 sp. zn. 50/2021/NZ), 26 May 2022.

at least know that the person can ask for it say that they would at least try to contact the doctor during his/her office hours.'

### Detention facilities

On the availability of medical staff: *'This is a fairly common reason for complaints [that are addressed to us]. There is a shortage of medical staff in prisons, with one-third of Czech prisons currently looking for a doctor, nurse, dentist, or other specialist.'*<sup>184</sup>

## 9. Prevention of violence and ill-treatment

### a. Protection from violence by prison staff

#### **Post-trial detention**

In order to protect detainees against violence (committed by other detainees or by prison staff), Prison Service employees are required to report all cases of violence to the prison director and to carry out all measures necessary to stop such behaviour.

Detainees must report all cases of violence against other detainees (committed by other detainees or by prison staff) to Prison Service employees or to the director. The prison director is required to investigate these reports. He or she has a duty to ensure that the Prison Service employee does not come into direct contact with the convicted person until the case has been investigated.<sup>185</sup>

Act No. 555/1992 Coll. on Prison and Judicial Guards regulates the lawful use of force against detainees. It states that if it is necessary to ensure order and security, a member of the prison staff is entitled to use coercive measures against persons who are a danger to life or health, who intentionally damage property or violently seek to thwart the purpose of detention, or who disrupt order or security. It also lists the coercive measures that can be used.<sup>186</sup>

Detainees themselves also have the right to lodge complaints with the competent authorities and to request a meeting with the prison director or other authorities.<sup>187</sup>

Prison staff members must attend basic training when they start work. This course teaches them the methodology of working with detainees, ethical principles, the appropriate and professional use of coercive measures, etc. The Prison Service Academy also organises specialised courses for interested persons on an irregular basis.<sup>188</sup>

#### **Pre-trial detention:**

Prison Service employees must report all cases of violence (committed by other detainees or by prison staff) to the competent authorities.<sup>189</sup> It further states that Prison Service employees are allowed to visually examine the detainee during the shower to detect traces of physical violence on the detainee's body.<sup>190</sup>

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<sup>184</sup> Interview with two employees of the Ombudsperson (national NPM), experts on detention on 26 March 2024.

<sup>185</sup> Czech Republic, Art. 35 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Exercise of the Punishment of the Deprivation of Liberty](#) (*vyhláška, kterou se vydává řád výkonu trestu odnětí svobody*), 30 December 1999.

<sup>186</sup> Czech Republic, Art. 21a of [Act No. 555/1992 Coll., on the Prison and Justice Guard](#) (*zákon o vězeňské a justiční strážii*), 10 December 1992.

<sup>187</sup> Czech Republic, Art. 26 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

<sup>188</sup> Prison Service of the Czech Republic, [Basic professional training – staff](#) (*Základní odborná příprava – příslušníci*)

<sup>189</sup> Czech Republic, Art. 61 of [Regulation No. 109/1994 Coll., Rules of Procedure of the Exercise of Detention](#) (*vyhláška, kterou se vydává řád výkonu vazby*), 3 June 1994.

<sup>190</sup> Czech Republic, Art. 36 of [Regulation No. 109/1994 Coll., Rules of Procedure of the Exercise of Detention](#) (*vyhláška, kterou se vydává řád výkonu vazby*), 3 June 1994.



Detainees themselves also have the right to lodge complaints with the competent authorities and to request a meeting with the prison director or other authorities. The complaint must always be sent immediately and the meeting with the prison director must take place as soon as possible.<sup>191</sup>

### **Police custody**

Established rules stipulate that no detainee shall be subjected to torture or cruel, inhuman, or degrading treatment. They also establish certain standards that must be respected by the Police (e.g. to conduct body searches in a manner that respects the dignity of the person, to use handcuffs only when necessary, etc.).

Detainees can lodge a complaint against the police under general administrative (or criminal) law.<sup>192</sup>

(The relevant legal norms do not specifically address sexual violence in any type of detention facility, and general legal norms apply to these cases. The Ombudsperson has addressed this issue; please see section 15).

#### **b. Protection from violence by other detainees**

The same rules apply to protection from violence by other detainees, please see point 9a.

In addition, the Prison Service in its internal documents<sup>193</sup> sets out detailed rules regarding the protection of potentially vulnerable detainees against violence. The Prison Service interviews every detainee upon admission in order to identify potentially vulnerable detainees, and monitors risks during their sentence.

The Prison Service maintains a list of detainees that includes detainees who are potential victims of violence (underweight, with a low mental capacity, other vulnerable persons who may be the target of physical or sexual violence, persons vulnerable because of their profession, etc.) and prisoners who are potential perpetrators of violence. Potential victims of violence are subjected to more frequent body searches (at least once a week) and medical examinations, and Prison Service staff are obliged to check on the condition of these persons, to notify their superiors of the perpetration of violence and to keep a record of incidents.<sup>194</sup> Potential victims may be placed separately from other detainees.<sup>195</sup>

#### **c. NPM assessment**

### **NPM assessment regarding detention facilities**

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 4/2022/NZ/JM*), 10 May 2022.

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<sup>191</sup> Czech Republic, Art. 20 of [Act No. 293/1993 Coll., on the Performance of Custody](#) (*zákon o výkonu vazby*), 10 December 1993.

<sup>192</sup> Czech Republic, Art. 175 of [Act No. 500/2004 Coll., Administrative Procedure Code](#) (*správní řád*), 24 September 2004; Czech Republic, Art. 329 of [Act no. 40/2009 Coll., Criminal Code](#) (*trestní zákoník*), 9 February 2009.

<sup>193</sup> Prison Service of the Czech Republic, Regulation of the Director General No. 24/2022, on the Prevention, Avoidance and Early Detection of Violence Against Accused Persons, Convicted Persons and Prisoners and on the Recording of Signs of Inappropriate or Degrading Behaviour (nařízení o předcházení, zabránění a včasném odhalování násilí u obviněných, odsouzených a chovanců a o zaznamenávání známek nevhodného nebo ponižujícího jednání), 12 August 2022.

<sup>194</sup> Prison Service of the Czech Republic, Regulation of the Director General No. 24/2022, on the Prevention, Avoidance and Early Detection of Violence Against Accused Persons, Convicted Persons and Prisoners and on the Recording of Signs of Inappropriate or Degrading Behaviour (nařízení o předcházení, zabránění a včasném odhalování násilí u obviněných, odsouzených a chovanců a o zaznamenávání známek nevhodného nebo ponižujícího jednání), 12 August 2022.

<sup>195</sup> Interview with two employees of the Ombudsperson (national NPM), experts on detention on 26 March 2024.

Public Defender of Rights, [Summary Report on Visits to Facilities 2022](#) (*Souhrnná zpráva z návštěv zařízení 2022 sp. zn. 50/2021/NZ*), 26 May 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 22/2022/NZ/MS*), 16 August 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 28/2022/NZ/PG*), 21 November 2022.

#### **NPM assessment regarding police custody**

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 18/2021/NZ/BM*), 28 June 2021.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 19/2021/NZ/PG*), 26 July 2021.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 31/2021/NZ/PG*), 14 September 2021.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 30/2021/NZ/PG*), 18 November 2021.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 37/2022/NZ/PG*), 18 November 2021.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 18/2022/NZ/PG*), 20 September 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 17/2022/NZ/PG*), 12 October 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 39/2022/NZ/PG*), 21 November 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 4/2023/NZ/SKO*), 5 May 2023.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 3/2023/NZ/PG*), 5 June 2023.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 17/2023/NZ/PG*), 14 July 2023.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 21/2023/NZ*), 9 September 2023.

#### **Key recommendations of the NPM**

„Téma zaznamenávání zranění zjištěných při lékařské prohlídce diskutuji s vězeňskou službou dlouhodobě. Jedná se o jedno ze zásadních témat pro prevenci špatného zacházení. Ve většině navštívených věznic jsem shledala možný prostor ke zlepšení naplňování uvedených standardů na zaznamenávání zranění. Způsob zaznamenávání zranění, se kterým jsem se při návštěvách setkala, byl nedostatečný ve světle popsaných mezinárodních standardů. Je nutné upozornit, že detailnější popis zranění, ze kterého by bylo možno dovodit rozsah zranění, stáří, tvar a další poznatky, je důležitý pro možnost případné oběti špatného zacházení podat relevantní stížnost a pro případné trestní řízení. Rovněž by jednotlivé záznamy měly obsahovat vyjádření samotného obviněného k věci. Důkladná

dokumentace zranění je přitom klíčová v situacích, kdy následně vězněná osoba vznese hajitelné tvrzení, že byla podrobena špatnému zacházení. [...]

Doporučení: vyhotovovat do zdravotnické dokumentace lékařský záznam o zranění vězněných osob zjištěných při prohlídce, který bude obsahovat co nejpřesnější popis událostí, zacházení a následných fyzických i psychických projevů, jak je udává pacient, záznam o lékařském nálezu včetně podrobného popisu zranění (charakter, velikost, umístění, barva kůže apod.), a stanovisko lékaře, co se týká pravděpodobné souvislosti nálezu a možného špatného zacházení.<sup>196</sup>

*„I have been discussing the topic of recording injuries discovered during medical examinations with the Prison Service for a long time. It is one of the key topics for the prevention of ill-treatment. In most of the prisons I visited, I found room for improvement in the implementation of these standards for recording injuries. The method of recording injuries that I encountered during my visits was inadequate in light of the international standards described. It is important to note that a more detailed description of the injury, from which the extent of the injury, age, shape and other findings could be deduced, is important for the ability of a potential victim of ill-treatment to make a relevant complaint and for possible criminal proceedings. The individual records should also include the accused's own statement on the matter. Meanwhile, thorough documentation of injuries is crucial in situations where a detainee subsequently makes a credible allegation that he or she has been subjected to ill-treatment. [...]*

*Recommendation: make a medical record in the medical file of the prisoner's injuries discovered during the examination, including as accurate a description as possible of the events, treatment and subsequent physical and psychological manifestations as reported by the patient, a record of the medical findings, including a detailed description of the injuries (nature, size, location, skin colour, etc.), and the physician's opinion as to the likely connection between the findings and possible ill-treatment.“*

## **Comments of the NPM members**

### Detention facilities

*On the internal system for the prevention of violence: ‘Prisons essentially have their own, not an outside, police force. It is called the Prevention and Complaints Unit and these officers deal with suspected violence between detainees. They can also investigate allegations of staff violence against detainees. If there is a suspicion that a crime was committed, they refer these cases to the General Inspectorate of the Security Forces. This is an independent body that investigates only criminal acts by officers and staff. There are a number of such cases currently before the Czech courts, so this [procedure] may be more successful in uncovering the truth than before.*

*I think it is important that there exists an internal violence prevention system. This means that there is some kind of index on the placement of vulnerable detainees when they are placed in detention facilities. There may be somebody who is of a weaker physical constitution, who may have a lower IQ, who may be from a particularly vulnerable group – typically I can think of an openly gay person. Specialist staff will interview them on arrival and may put them on what is called an index. And if they're on the index as a possible object of violence, then there are more frequent doctor's appointments associated with that. This means that a doctor will check if there are any signs of violence on the person's body and, of course, the prison staff should know that there is someone on their ward who has been put on the index to keep a protective hand over them. To put it simply, this is a system of prevention. It is described in the internal regulations of the Prison Service.<sup>197</sup>*

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<sup>196</sup> Public Defender of Rights, [Summary Report on Visits to Facilities 2022](#) (Souhrnná zpráva z návštěv zařízení 2022 sp. zn. 50/2021/NZ), 26 May 2022.

<sup>197</sup> Interview with two employees of the Ombudsperson (national NPM), experts on detention on 26 March 2024.

## 10. Contact with the outside world

### a. Visits

#### **Post-trial detention**

##### *Family members*

Detainees have the right to receive visits from close relatives for a period of three hours per month. Visits take place in special rooms. The prison director may order the visit to take place in a room separated by a partition, but the director may also allow the visit to take place without visual and auditory monitoring by prison staff (prisons are not, however, required to set up rooms allowing such visits and many detention facilities do not have them).<sup>198</sup> No more than four persons may visit a detainee at one time (the internal rules of the prison may allow more visitors); children under the age of 15 must be accompanied by an adult.<sup>199</sup> Detainees can be rewarded for good behaviour by, among other things, being granted an increase in their visiting time to five hours a month.<sup>200</sup>

##### *Other persons*

The general rule states that in the interests of the detainee's rehabilitation or for other compelling reasons, the detainee may be permitted to receive visits from persons other than close relatives.<sup>201</sup>

Detainees have the right to request a meeting with the prison director or other authorities that are listed in the law.<sup>202</sup> Detainees have the right to legal assistance by a lawyer, who is entitled, within the limits of his or her authority, to correspond with the detainee and to speak to him or her without the presence of a third party. This right of the detainee must be guaranteed within 24 hours of receipt of the request.<sup>203</sup>

#### **Protective detention**

Detainees have the right to receive visits from close relatives twice a week for a period of at least two hours. No more than four persons may visit a detainee at one time (the internal rules of the prison may allow more visitors); children under the age of 15 must be accompanied by an adult.<sup>204</sup>

#### **Pre-trial detention**

Detainees are allowed to receive a visit of not more than four persons once every two weeks for a period of ninety minutes (this rule does not state that visitors have to be close relatives). In justified cases, the director of the prison may authorise the visit of a larger number of persons or within a period of less

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<sup>198</sup> Drápal, J.; Jiříčka, V.; Raszková, T. (2021), *České vězeňství*, Praha: Wolters Kluwer ČR, p. 137.

<sup>199</sup> Czech Republic, Art. 19 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty \(zákon o výkonu trestu odnětí svobody\)](#), 3 August 1999.

<sup>200</sup> Czech Republic, Art. 45 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty \(zákon o výkonu trestu odnětí svobody\)](#), 3 August 1999.

<sup>201</sup> Czech Republic, Art. 19 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty \(zákon o výkonu trestu odnětí svobody\)](#), 3 August 1999.

<sup>202</sup> Czech Republic, Art. 26 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty \(zákon o výkonu trestu odnětí svobody\)](#), 3 August 1999.

<sup>203</sup> Czech Republic, Art. 26 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty \(zákon o výkonu trestu odnětí svobody\)](#), 3 August 1999.

<sup>204</sup> Czech Republic, Art. 10 of [Act No. 129/2008 Coll., on the the Execution of Protective Detention \(zákon o výkonu zabezpečovací detence\)](#), 16 April 2008.

than two weeks or for a period of more than ninety minutes.<sup>205</sup> Minors must be accompanied by an adult.<sup>206</sup>

The defence attorney is allowed to visit the detainee without limitations.<sup>207</sup>

### **Police custody**

Detainees have the right to secure legal assistance and to speak to a lawyer without the presence of a third party. To this end, the police officer must provide the necessary assistance without delay if requested by the person concerned.<sup>208</sup>

Detainees also have the right to be examined or treated by a doctor of their choosing.<sup>209</sup>

(As to visits of medical practitioners, please also see section 8.)

#### **b. Correspondence**

### **Post-trial detention**

Detainees may receive and send written correspondence at their own expense without restriction. Correspondence is subject to inspection (which is carried out by the Prison Service). Inspection of correspondence is not permitted in certain cases (e.g. correspondence between the accused and his/her lawyer, between the accused and the state authorities of the Czech Republic, etc.).

Detainees may also receive packages containing food and personal items weighing up to 5 kg once every six months. This restriction does not apply to packages containing clothing, educational and recreational items, or items necessary for the programme of treatment. The packages are subject to inspection by the prison staff.<sup>210</sup>

Detainees also have the right to contact their close relatives via phone during the period specified in the internal rules of the place of detention. This right may be restricted only in justified cases, in particular when it is necessary to protect the safety or rights of other persons. Detainees may also contact via phone their defence attorney or the lawyer representing them in another case. For compelling reasons, the detainee may be allowed to use the telephone to contact a person other than a close relative.<sup>211</sup>

### **Protective detention**

As a general rule, detainees have the right to receive and send correspondence and use the phone at their own expense without restriction. Correspondence may be inspected by the Prison Service and the institution director may decide not to forward correspondence to the detainee (who must be informed

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<sup>205</sup> Czech Republic, Art. 14 of [Act No. 293/1993 Coll., on the Performance of Custody \(zákon o výkonu vazby\)](#), 10 December 1993.

<sup>206</sup> Czech Republic, Art. 44 of [Regulation No. 109/1994 Coll., Rules of Procedure of the Exercise of Detention \(vyhláška, kterou se vydává řád výkonu vazby\)](#), 3 June 1994.

<sup>207</sup> Czech Republic, Art. 47 of [Regulation No. 109/1994 Coll., Rules of Procedure of the Exercise of Detention \(vyhláška, kterou se vydává řád výkonu vazby\)](#), 3 June 1994.

<sup>208</sup> Czech Republic, Art. 24 of [Act No. 273/2008 Coll., on the Police of the Czech Republic \(zákon o Policii ČR\)](#), 11 August 2008.

<sup>209</sup> Czech Republic, Art. 24 of [Act No. 273/2008 Coll., on the Police of the Czech Republic \(zákon o Policii ČR\)](#), 11 August 2008.

<sup>210</sup> Czech Republic, Art. 39-43 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty \(zákon o výkonu trestu odnětí svobody\)](#), 3 August 1999. Czech Republic; Art. 24 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Exercise of the Punishment of the Deprivation of Liberty \(vyhláška, kterou se vydává řád výkonu trestu odnětí svobody\)](#), 30 December 1999.

<sup>211</sup> Czech Republic, Art. 43a of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty \(zákon o výkonu trestu odnětí svobody\)](#), 3 August 1999.

of this decision). It is not permitted to inspect or restrict correspondence between the detainee and certain persons or authorities (e.g. lawyer, guardian, ombudsman, etc.).<sup>212</sup>

Detainees may also receive packages containing food and personal items weighing up to 5 kg once every three months.<sup>213</sup>

### **Pre-trial detention**

Detainees may receive and send written correspondence at their own expense without restriction. Correspondence is subject to inspection (which is carried out either by the authority conducting the criminal proceedings or by the Prison Service). Inspection of correspondence is not permitted in certain cases (e.g. correspondence between the accused and his/her lawyer, between the accused and the state authorities of the Czech Republic, etc.).<sup>214</sup>

Detainees may also receive packages containing food and personal items weighing up to 5 kg once every three months. This restriction does not apply to packages containing clothing, books, newspapers, magazines, and toiletries sent for replacement purposes. The packages are subject to inspection by the prison staff.<sup>215</sup>

Detainees also have the right to contact their close relatives via phone during the period specified in the internal rules of the place of detention (with some exceptions – for example, if the purpose of the detention would be jeopardised). This right may be restricted only in justified cases, in particular when it is necessary to protect the safety or rights of other persons. Detainees may also contact via phone their defence attorney or the lawyer representing them in another case. For compelling reasons, the detainee may be allowed to use the telephone to contact a person other than a close relative.<sup>216</sup>

#### **c. Visits with children**

There are no provisions regarding a child-friendly environment or visits with children.

Prison staff are allowed to modify the rules relating to visits – for example, by allowing them to take place on a different day or more frequently and for a shorter period. This may be a preferable option for, for example, families with young children, but prisons are not obliged to comply with this request. Child-friendly rooms are set up in some detention facilities but not in all of them. (For example, the Ombudsperson mentions in his 2022 Report that in one of the prisons he visited a child-friendly room had been set up, but that only post-trial detainees, not pre-trial detainees, could use it.)<sup>217</sup>

#### **d. NPM assessment**

### **NPM assessment regarding detention facilities**

Public Defender of Rights, [Summary Report of Visits to Facilities 2022](#) (*Souhrnná zpráva z návštěv zařízení 2022 sp. zn. 50/2021/NZ*), 26 May 2022.

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<sup>212</sup> Czech Republic, Art. 8, 9 of [Act No. 129/2008 Coll., on the Execution of Protective Detention](#) (*zákon o výkonu zabezpečovací detence*), 16 April 2008.

<sup>213</sup> Czech Republic, Art. 14 of [Act No. 129/2008 Coll., on the Execution of Protective Detention](#) (*zákon o výkonu zabezpečovací detence*), 16 April 2008.

<sup>214</sup> Czech Republic, Art. 13 of [Act No. 293/1993 Coll., on the Performance of Custody](#) (*zákon o výkonu vazby*), 10 December 1993.

<sup>215</sup> Czech Republic, Art. 16 of [Act No. 293/1993 Coll., on the Performance of Custody](#) (*zákon o výkonu vazby*), 10 December 1993.

<sup>216</sup> Czech Republic, Art. 13a of [Act No. 293/1993 Coll., on the Performance of Custody](#) (*zákon o výkonu vazby*), 10 December 1993.

<sup>217</sup> Public Defender of Rights, [Summary Report of Visits to Facilities 2022](#) (*Souhrnná zpráva z návštěv zařízení 2022 sp. zn. 50/2021/NZ*), 26 May 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 22/2022/NZ/MS), 16 August 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 28/2022/NZ/PG), 21 November 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 8/2023/NZ/PG), 8 June 2023.

### **NPM assessment regarding police custody**

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 31/2021/NZ/PG), 14 September 2021.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 17/2023/NZ/PG), 14 July 2023.

### **Key recommendations of the NPM**

„Zjištění z návštěv:

Ve dvou navštívených věznicích nebyly obviněným vůbec umožněny návštěvy bez sluchové a zrakové kontroly.

V jedné navštívené věznici při návštěvě nebylo možné konzumování jídla a pití.

V jedné věznici byl dětský koutek součástí prostoru kaple, ale mohli ho využívat pouze odsouzení se svými rodinami, nikoli obvinění.

Doporučení:

Umožňovat obviněným po individuálním zhodnocení návštěvy bez sluchové a zrakové kontroly.

Umožnit návštěvníkům zakoupení drobného občerstvení.

Zajistit, aby kontakt obviněné osoby s dětmi, ale i se všemi ostatními jejími návštěvníky, probíhal co nejběžnějším způsobem.“<sup>218</sup>

*“Findings from visits:*

*In the two prisons visited, the pre-trial detainees were not allowed to visit at all without hearing and sight checks.*

*In one prison visited, food and drink were not allowed during the visit.*

*In one prison, the children's play area was part of the chapel area, but could only be used by convicts and their families, not by the pre-trial detainees.*

*Recommendation:*

*Allow defendants to visit without hearing and vision screening after individual assessment.*

*Allow visitors to purchase small refreshments.*

*Ensure that the accused person's contact with the children, and all other visitors, is as casual as possible.”*

### **Comments from the NPM members**

#### Detention facilities

On a child-friendly environment: *‘We have been working on child-friendly environments all last year and have made a number of recommendations to all possible authorities, including the Prison Service. Today, in most prisons there is a children's corner in the visiting room, with some cartoons, drawings on the walls, children's furniture, toys, and a play rug. It usually looks nice.*

*A few years ago, we got the possibility for shared visits in the prison regulations. So now the prison director can legally, upon request, divide the three hours [per month] that each detainee is entitled to*

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<sup>218</sup> Public Defender of Rights, [Summary Report of Visits to Facilities 2022](#) (Souhrnná zpráva z návštěv zařízení 2022 sp. zn. 50/2021/NZ), 26 May 2022.

into two parts. Maybe one hour, then two, or one and a half and one and a half. If the detainee asks for it, there's no problem. It's just that they don't ask for it very often.<sup>219</sup>

## 11. Special measures for female detainees

### a. General conditions of detention for women and girls

Both pre-trial and post-trial detention norms contain special provisions concerning the detention of women. Special rules apply to pregnant women and to mothers of young children (for example, some disciplinary punishments are forbidden in their case). Different hygienic standards apply to women.

The internal rules and the availability of preventive educational, hobby, and sports programmes take into account the special needs of pregnant women, women in the six-week postpartum period, and breastfeeding mothers.<sup>220</sup>

### b. Separation from men

#### Post-trial detention

In post-trial detention, women are placed separately from men.<sup>221</sup>

#### Pre-trial detention

The same rules apply in pre-trial detention.<sup>222</sup>

#### Police custody

The same rules apply in police custody.<sup>223</sup>

### c. Hygiene

#### Post-trial detention

In post-trial detention, women can take a shower every day. Conditions must be provided for doing one's own laundry and making minor repairs to personal belongings.<sup>224</sup>

The legislation contains a general norm that detainees must be allowed to have toiletries in their cells and that the prison administration must provide basic toiletries in the necessary quantity and assortment to a detainee who does not have basic toiletries or the means to purchase them. It follows that women can either purchase the necessary items at their own expense or have them provided by the prison.<sup>225</sup>

#### Pre-trial detention

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<sup>219</sup> Interview with two employees of the Ombudsperson (national NPM), experts on detention on 26 March 2024.

<sup>220</sup> Czech Republic, Art. 76 of [Regulation No. 109/1994 Coll., Rules of Procedure of the Exercise of Detention \(vyhláška, kterou se vydává řád výkonu vazby\)](#), 3 June 1994; Czech Republic, Art. 89 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Exercise of the Punishment of the Deprivation of Liberty \(vyhláška, kterou se vydává řád výkonu trestu odnětí svobody\)](#), 30 December 1999.

<sup>221</sup> Czech Republic, Art. 7 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty \(zákon o výkonu trestu odnětí svobody\)](#), 3 August 1999.

<sup>222</sup> Czech Republic, Art. 7 of [Act No. 293/1993 Coll., on the Performance of Custody \(zákon o výkonu vazby\)](#), 10 December 1993.

<sup>223</sup> Czech Republic, Art. 30 of [Act No. 273/2008 Coll., on the Police of the Czech Republic \(zákon o Policii ČR\)](#), 11 August 2008.

<sup>224</sup> Czech Republic, Art. 89 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Exercise of the Punishment of the Deprivation of Liberty \(vyhláška, kterou se vydává řád výkonu trestu odnětí svobody\)](#), 30 December 1999.

<sup>225</sup> Czech Republic, Art. 21 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Exercise of the Punishment of the Deprivation of Liberty \(vyhláška, kterou se vydává řád výkonu trestu odnětí svobody\)](#), 30 December 1999.



There are no special rules concerning the hygienic conditions of women in pre-trial detention, but the legislation contains the same general norm as in the case of post-trial detention: detainees must be allowed to have toiletries in their cells and the prison administration must provide basic toiletries in the necessary quantity and assortment to a detainee who does not have basic toiletries or the means to purchase them. It follows that women can either purchase the necessary items at their own expense or have them provided by the prison.<sup>226</sup>

### **Police custody**

No special rules apply to women.

#### **d. Healthcare**

### **Post-trial detention**

Female detainees, as well as male detainees, have the right to health services to the extent and under the conditions stipulated by the law that governs health services and the conditions for their provision, taking into account the restrictions arising from the purpose of the sentence. This means they should be given the same care as the general public, including pregnancy and post-natal treatment.<sup>227</sup> Medical services are provided by the Prison Service, and, if necessary, healthcare is provided in cooperation with other healthcare providers.

### **Pre-trial detention**

The same rules apply in pre-trial detention.<sup>228</sup>

### **Police custody**

No special rules apply to women.

#### **e. Pregnancy and women with babies or young children**

### **Post-trial detention**

According to the relevant legislation,<sup>229</sup> the court will postpone the start of a custodial sentence if a woman is pregnant or is the mother of a child under one year of age and has been convicted of a crime, except in the case of a particularly serious crime, for a period of one year after the child's birth (there is no such rule regarding women in pre-trial detention).

The following special conditions for imprisoned mothers with young children are set out in the relevant regulations: the prison director may, at the mother's request, allow a mother to care for her child until the child reaches 3 years of age. A mother who has been allowed to carry and care for her minor child is usually accommodated in a section for mothers of minor children. Each mother and child have a separate bedroom, in which there is a bed with a mattress for the child, a changing table, a closet for baby clothes and cosmetics, a playpen, and a washbasin.<sup>230</sup>

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<sup>226</sup> Czech Republic, Art. 35 of [Regulation No. 109/1994 Coll., Rules of Procedure of the Exercise of Detention](#) (*vyhláška, kterou se vydává řád výkonu vazby*), 3 June 1994.

<sup>227</sup> Czech Republic, Art. 16 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

<sup>228</sup> Czech Republic, Art. 18 of [Act No. 293/1993 Coll., on the Performance of Custody](#) (*zákon o výkonu vazby*), 10 December 1993.

<sup>229</sup> Czech Republic, Art. 322 of [Act No. 141/1961 Coll.](#), Criminal Procedure Code (*trestní řád*), 9 December 1961.

<sup>230</sup> Czech Republic, Art. 91 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Exercise of the Punishment of the Deprivation of Liberty](#) (*vyhláška, kterou se vydává řád výkonu trestu odnětí svobody*), 30 December 1999.

The postponement of the imprisonment of mothers who were caring for their child prior to their conviction can be extended by 10 days per year].<sup>231</sup>

### **Pre-trial detention**

The prison director may, at the mother's request, allow a mother to care for her child until the child reaches 1 year of age. The requirements on cell space and equipment are the same as in the case of post-trial detention.<sup>232</sup>

### **Police custody**

No special rules apply to women.

#### f. NPM assessment

### **NPM assessment regarding detention facilities**

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 4/2022/NZ/JM*), 10 May 2022.

Public Defender of Rights, [Summary Report of Visits to Facilities 2022](#) (*Souhrnná zpráva z návštěv zařízení 2022 sp. zn. 50/2021/NZ*), 26 May 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 28/2022/NZ/PG*), 21 November 2022.

### **Key recommendations of the NPM**

„V minulosti se veřejný ochránce práv zabýval individuálním případem ženy ve vazbě, která s dostatečným časovým předstihem (3 týdny) žádala o to, aby mohla být umístěna po porodu se svým narozeným dítětem. Dostala se jí však informace (od sociálního pracovníka věznice), že žádat může až po porodu. Ještě v den porodu byla odloučena na 3 dny od svého dítěte. Správný postup by byl ten, kdyby si budoucí matka zažádala s dostatečným předstihem o umístění společně s dítětem na specializovaném oddílu ve Věznici Světlá nad Sázavou a následně by po uplynutí přiměřené doby po porodu (poté, co by jí nebyla nutná hospitalizace v civilním zdravotnickém zařízení) byla i s dítětem eskortována do věznice se specializovaným oddílem [...]. Považuji za naprosto nepřijatelné, aby mohlo (jako v uvedeném případě) dojít ihned po porodu k odloučení dítěte od matky, pokud k tomu není opravdu závažný důvod. Vězeňská služba již vydala nový vnitřní předpis, který reflektoval uvedené pochybení, a neměla by tak v budoucnu nastat uvedená situace.

Doporučení: Dbát zvýšené pozornosti při nastavení a provádění procesů souvisejících s těhotnými obviněnými ženami a jejich možností být po porodu se svým dítětem.<sup>233</sup>

*“In the past, the Ombudsman has dealt with an individual case of a woman in detention who, well in advance (3 weeks), requested to be placed with her newborn child after giving birth, but was informed (by a social worker at the prison) that she could only apply after the birth. She was separated from her child for 3 days on the day of delivery. The correct procedure would have been for the mother-to-be to have applied well in advance for placement together with her child in a specialised ward at Světlá nad*

<sup>231</sup> Czech Republic, Art. 68 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

<sup>232</sup> Czech Republic, Art. 28a-28c of [Act No. 293/1993 Coll., on the Performance of Custody](#) (*zákon o výkonu vazby*), 10 December 1993; Czech Republic, Art. 78a of [Regulation No. 109/1994 Coll., Rules of Procedure of the Exercise of Detention](#) (*vyhláška, kterou se vydává řád výkonu vazby*), 3 June 1994.

<sup>233</sup> Public Defender of Rights, [Summary Report of Visits to Facilities 2022](#) (*Souhrnná zpráva z návštěv zařízení 2022 sp. zn. 50/2021/NZ*), 26 May 2022.

*Sázavou Prison and then, after a reasonable period of time after the birth (after hospitalisation in a civilian medical facility was no longer necessary), she and her child would have been escorted to a prison with a specialised ward [...]. I find it totally unacceptable that (as in the present case) a child can be separated from their mother immediately after birth unless there is a really compelling reason to do so. The Prison Service has already issued a new internal regulation which reflects the above-mentioned misconduct and the situation should not arise in the future.*

*Recommendation: Pay increased attention to the set-up and implementation of processes relating to pregnant female detainees and their ability to be with their child after delivery.”*

## **Comments of the NPM members**

### Detention facilities

On the conditions of women: *‘I don't think women are very visible in the prison population. In our country, women make up about 8% of the prison population and the complaints from women, when they do come in, are along the lines of “my fellow detainee is being rude to me”, they are more like interpersonal disputes than, for example, staff violence or anything like that. But I am not saying there are no problems. One of the cases currently before the district court in Havlíčkův Brod is about the excessive use of force against a woman. This year we will systematically visit women's prisons.’<sup>234</sup>*

#### 12. Special measures for foreign nationals

##### a. General measures for foreign nationals

Are there any measures for foreign nationals in place? What are these?

### **Post-trial detention**

When allocating detainees who are foreign nationals, it is necessary to ensure that, as far as possible, they are placed with persons who speak a similar language or come from the same country.<sup>235</sup>

The prison must inform such detainees in their mother tongue of their rights and obligations and of the possibility of contacting the diplomatic mission of their state, submitting a request for transfer to their home state, and receiving a consular visit.<sup>236</sup> As far as possible, they must be allowed to read books in their mother tongue<sup>237</sup> and to learn Czech, and their specific cultural and religious needs shall be taken into account.<sup>238</sup>

### **Pre-trial detention**

When allocating detainees who are foreign nationals, it is necessary to ensure that, as far as possible, they are placed with persons who speak a similar language or come from the same country.<sup>239</sup> As far as

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<sup>234</sup> Interview with two employees of the Ombudsperson (national NPM), experts on detention on 26 March 2024.

<sup>235</sup> Czech Republic, Art. 72 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (zákon o výkonu trestu odnětí svobody), 3 August 1999.

<sup>236</sup> Czech Republic, Art. 72 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (zákon o výkonu trestu odnětí svobody), 3 August 1999.

<sup>237</sup> Czech Republic, Art. of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (zákon o výkonu trestu odnětí svobody), 3 August 1999.

<sup>238</sup> Czech Republic, Art. 98 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Exercise of the Punishment of the Deprivation of Liberty](#) (vyhláška, kterou se vydává řád výkonu trestu odnětí svobody), 30 December 1999.

<sup>239</sup> Czech Republic, Art. 80 of [Regulation No. 109/1994 Coll., Rules of Procedure of the Exercise of Detention](#) (vyhláška, kterou se vydává řád výkonu vazby), 3 June 1994.

possible, they shall be allowed to read books in their mother tongue and to learn Czech, and their specific cultural and religious needs shall be taken into account.<sup>240</sup>

The prison must inform detainees in their mother tongue of their rights and obligations and of the possibility of contacting the diplomatic mission of their home country and the possibility of receiving a consular visit.<sup>241</sup>

#### b. Interpretation and translation

##### **Post-trial detention**

The prison must inform detainees in their mother tongue of their rights and obligations and of the possibility of contacting the diplomatic mission of their home country, submitting a request for transfer to their home country, and receiving a consular visit. Where possible, they should be allowed to read books in their mother tongue and be housed with detainees who speak a similar language.<sup>242</sup> The relevant legislation does not contain other standards regulating interpretation.

#### c. NPM assessment

##### **NPM assessment regarding police custody**

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 19/2021/NZ/PG*), 26 July 2021.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 6/2022/NZ/PG*), 2 May 2022.

Public Defender of Rights, [Summary Report of Visits to Facilities 2022](#) (*Souhrnná zpráva z návštěv zařízení 2022 sp. zn. 50/2021/NZ*), 26 May 2022.

##### **Key recommendations of the NPM**

„Při poskytování zdravotní péče cizincům se ve třech věznicích nevyužívalo profesionálního tlumočení vůbec, nebo pouze zřídka. Toto bylo nahrazováno domlouvání posunky a gesty, použitím online překladače nebo využitím jazykových schopností nezdravotnického personálu věznice. [...]

Doporučení: Zajistit v případě potřeby profesionální tlumočení při poskytování zdravotní péče cizincům.”<sup>243</sup>

*“Three prisons did not use professional interpreting at all or only rarely when providing health care to foreigners. This was substituted by signing and gesturing, using an online translator or using the language skills of non-medical prison staff. [...]*

*Recommendation: Provide professional interpreting services when needed when providing health care to foreigners.”*

##### **Comments of the NPM members**

###### Detention facilities

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<sup>240</sup> Czech Republic, Art. 80 of [Regulation No. 109/1994 Coll., Rules of Procedure of the Exercise of Detention](#) (*vyhláška, kterou se vydává řád výkonu vazby*), 3 June 1994.

<sup>241</sup> Czech Republic, Art. 28 of [Act No. 293/1993 Coll., on the Performance of Custody](#) (*zákon o výkonu vazby*), 10 December 1993.

<sup>242</sup> Czech Republic, Art. 72 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

<sup>243</sup> Public Defender of Rights, [Summary Report of Visits to Facilities 2022](#) (*Souhrnná zpráva z návštěv zařízení 2022 sp. zn. 50/2021/NZ*), 26 May 2022.

On allocating of foreigners together with persons who speak a similar language: *'I do not think it is a problem. It has a lot to do with faith, with religion, and the Prison Service does take this into account. I know that after the outbreak of the Russian aggression in Ukraine, the Prison Service took special measures to separate these two nations in prisons, specifically because they had previously put them together because of their common history and close language.'*<sup>244</sup>

### 13. Special measures relating to detention of children and young adults/juvenile detention regime

#### a. Age groups

##### **Post-trial detention**

For the purposes of post-trial detention, a juvenile is a person who, at the time of committing the offence, has reached the age of 15 and has not exceeded the age of 18.<sup>245</sup> When the detainee reaches the age of 19, the director of the prison may apply to the court for the transfer of the detainee to a detention facility for adults.<sup>246</sup>

##### **Pre-trial detention**

For the purpose of pre-trial detention, a juvenile is a person who has not yet reached the age of 18.<sup>247</sup> If the juvenile in pre-trial detention turns 18, he or she can remain in a separate place if his or her personal circumstances justify it and if this is not in conflict with the best interests of other juveniles.

##### **Police custody**

For the purposes of police custody, a juvenile is a person who has not yet reached the age of 18.<sup>248</sup>

#### b. General measures for detained children and young adults

### What are the national standards relating to detention of children/young detainees?

##### **Post-trial detention**

A number of special provisions apply to juvenile prisons.

Juvenile detention facilities divide detainees into four basic differentiation groups on the basis of personality characteristics and offences committed, and these groups are further subdivided into permeable groups. Juvenile detainees are assigned to these groups on the basis of their compliance with the programme of treatment, their personality characteristics, their potential for rehabilitation, their behaviour, their attitude towards the offence committed, and the execution of the type of punishment.<sup>249</sup>

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<sup>244</sup> Interview with two employees of the Ombudsperson (national NPM), experts on detention on 26 March 2024.

<sup>245</sup> Czech Republic, Art. 1 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

<sup>246</sup> Czech Republic, Art. 61 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

<sup>247</sup> Czech Republic, Art. 25 of [Act No. 293/1993 Coll., on the Performance of Custody](#) (*zákon o výkonu vazby*), 10 December 1993.

<sup>248</sup> Czech Republic, Art. 30 of [Act No. 273/2008 Coll., on the Police of the Czech Republic](#) (*zákon o Policii ČR*), 11 August 2008.

<sup>249</sup> Czech Republic, Art. 82-85 of [Act No. 169/1999 Coll., on Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

Juveniles must be given access to education, particularly in the case of compulsory schooling.<sup>250</sup> During the period of education, the juvenile shall be assigned to work. Some jobs cannot be performed by juveniles.<sup>251</sup>

Juveniles may receive visits for 5 hours a month<sup>252</sup> and parcels (max. 5 kg) four times a year.<sup>253</sup>

The rewards and disciplinary punishments for juveniles are different from those for adults.<sup>254</sup>

Juveniles may talk to workers from the Office of the Social and Legal Protection of Children without third parties being present.<sup>255</sup>

### **Pre-trial detention**

In pre-trial detention, the prison must ensure that a juvenile who is required to attend school does so. Juveniles can receive visits once a week and parcels (max. 5 kg) once every two months. Some disciplinary punishments cannot be imposed or are modified.<sup>256</sup>

Juveniles may talk to workers from the Office of the Social and Legal Protection of Children without third parties being present.<sup>257</sup>

#### **c. Separation from adults**

### **Post-trial detention**

Juvenile detainees are placed separately from adults,<sup>258</sup> either in separate prisons or in separate juvenile wards.<sup>259</sup>

### **Pre-trial detention**

Juveniles are placed in separate cells,<sup>260</sup> usually in a separate department of the detention facility.<sup>261</sup>

### **Police custody**

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<sup>250</sup> Czech Republic, Art. 61 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

<sup>251</sup> Czech Republic, Art. 61 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

<sup>252</sup> Czech Republic, Art. 86 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Exercise of the Punishment of the Deprivation of Liberty](#) (*vyhláška, kterou se vydává řád výkonu trestu odnětí svobody*), 30 December 1999.

<sup>253</sup> Czech Republic, Art. 62 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

<sup>254</sup> Czech Republic, Art. 64 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

<sup>255</sup> Czech Republic, Art. 61 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

<sup>256</sup> Czech Republic, Art. 26 of [Act No. 293/1993 Coll., on the Performance of Custody](#) (*zákon o výkonu vazby*), 10 December 1993.

<sup>257</sup> Czech Republic, Art. 26 of [Act No. 293/1993 Coll., on the Performance of Custody](#) (*zákon o výkonu vazby*), 10 December 1993.

<sup>258</sup> Czech Republic, Art. 7 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

<sup>259</sup> Czech Republic, Art. 5 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

<sup>260</sup> Czech Republic, Art. 26 of [Act No. 293/1993 Coll., on the Performance of Custody](#) (*zákon o výkonu vazby*), 10 December 1993.

<sup>261</sup> Czech Republic, Art. 73 of [Regulation No. 109/1994 Coll., Rules of Procedure of the Exercise of Detention](#) (*vyhláška, kterou se vydává řád výkonu vazby*), 3 June 1994.

Detainees under the age of 18 and adults are placed in separate cells.<sup>262</sup>

#### d. NPM assessment

##### **NPM assessment regarding detention facilities**

Public Defender of Rights, [Summary Report of Visits to Facilities 2022](#) (*Souhrnná zpráva z návštěv zařízení 2022 sp. zn. 50/2021/NZ*), 26 May 2022.

##### **Key recommendations of the NPM**

„Ředitelé věznic mají v souladu se zákonem o výkonu vazby a řádem výkonu vazby stanovit způsob realizace práv a povinností obviněných vnitřním řádem věznice. Tento dokument upravuje většinu aspektů života obviněných při výkonu vazby, proto je nezbytné, aby byl pro vězněné osoby srozumitelný. Vnitřní řád zprostředkovaný vězňům by měl obecně reflektovat schopnosti osob pochopit a přečíst text. Dostupné by tedy měly být verze v různých jazycích a zjednodušené verze textu pro mladistvé či osoby, kterým čtení a psaní dělá potíže. [...]

Věznice disponují různými jazykovými mutacemi vnitřního řádu. Cizinci tedy měli tento dokument k dispozici v jazyce, kterému rozumějí. Nicméně vnitřní řád psaný zjednodušenou (tzv. easy-to-read) formou se ve věznicích nenacházel. [...]

Doporučení: Upravit vnitřní řády do easy-to-read formy.“

*“Prison directors are required to determine the manner in which the rights and obligations of the accused are to be exercised by means of the internal rules of the prison. This document regulates most aspects of the life of the accused while in detention, so it is essential that it be understandable to the detainees. Internal rules conveyed to prisoners should generally reflect the ability of persons to understand and read the text. Thus, versions in different languages and simplified versions of the text for juveniles or persons who have difficulty reading and writing should be available. [...]*

*Prisons have different language versions of the Internal Rules. Foreigners should therefore have access to this document in a language they understand. However, the internal rules written in a simplified (easy-to-read) form were not available in prisons. [...]*

*Recommendation: Modify the internal regulations into an easy-to-read form.”*

##### **Comments of the NPM members**

On separation from adults: *“The prisons are 100 percent compliant with this. Juveniles [...] are placed separately from others, there are quite clear rules [in the legislation] for that.”*

#### 14. Special measures to protect detainees with disabilities or serious medical conditions

##### a. Care in detention

##### **Post-trial detention**

In addition to applicable international standards, national legislation stipulates that sentences may only be carried out in a manner that respects the dignity of the detainee and limits the harmful effects of the deprivation of liberty. Detainees must be treated in such a way as to preserve their health.<sup>263</sup> Severely

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<sup>262</sup> Czech Republic, Art. 30 of [Act No. 273/2008 Coll., on the Police of the Czech Republic](#) (*zákon o Policii ČR*), 11 August 2008.

<sup>263</sup> Czech Republic, Art. 2 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

disabled detainees have the right to be provided with the appropriate conditions to allow them to serve their sentence with dignity.<sup>264</sup>

When allocating detainees, the Prison Service takes into account their state of health.<sup>265</sup> They may also be transferred to another prison in order to receive necessary medical care.<sup>266</sup> If it is necessary to provide the detainee with urgent medical care that cannot be provided in the prison or in a specialised medical facility of the Prison Service, the prison director may suspend the execution of the convicted person's sentence for the period of time necessary.<sup>267</sup>

In certain circumstances (offenders with a diminished mental capacity or mental disorder) the court may impose protective treatment or protective detention in addition to or instead of imprisonment (see point 2b).

Outpatient protective treatment may be carried out in a prison, while inpatient protective treatment is carried out in a prison if conditions permit. If inpatient protective treatment is to be continued after release from prison, the prison must inform the healthcare provider in good time.

With regard to protective detention, detainees are placed in special facilities and are subject to a number of special provisions (please see individual sections).

### **Pre-trial detention**

The same rules apply in pre-trial detention,<sup>268</sup> with one exception: it is not possible to suspend pre-trial detention for medical reasons.

#### **b. Continuity of care**

### **Post-trial detention**

If the detainee being released is ill, he or she will be transferred to the care of a healthcare provider of his or her choice. In this case (i.e. if the treatment was started during the sentence), the healthcare provider cannot refuse him/her.<sup>269</sup>

### **Pre-trial detention**

The same rules apply in pre-trial detention.<sup>270</sup>

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<sup>264</sup> Czech Republic, Art. 16 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

<sup>265</sup> Czech Republic, Art. 7 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Exercise of the Punishment of the Deprivation of Liberty](#) (*vyhláška, kterou se vydává řád výkonu trestu odnětí svobody*), 30 December 1999.

<sup>266</sup> Czech Republic, Art. 9 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

<sup>267</sup> Czech Republic, Art. 56 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

<sup>268</sup> Czech Republic, Art. 7. 18 of [Act No. 293/1993 Coll., on the Performance of Custody](#) (*zákon o výkonu vazby*), 10 December 1993.

<sup>269</sup> Czech Republic, Art. 13 of [Regulation No. 345/1999 Coll., Rules of Procedure of the Exercise of the Punishment of the Deprivation of Liberty](#) (*vyhláška, kterou se vydává řád výkonu trestu odnětí svobody*), 30 December 1999; Czech Republic, Art. 48 of [Act No. 372/2011 Coll., on Health Services](#) (*zákon o zdravotních službách*), 8 December 2011.

<sup>270</sup> Czech Republic, Art. 24 of [Act No. 293/1993 Coll., on the Performance of Custody](#) (*zákon o výkonu vazby*), 10 December 1993.



### c. Reasonable accommodation and accessibility

This obligation derives solely from international law.<sup>271</sup> Within its remit, the NPM monitors compliance with these principles and, where appropriate, draws attention in its reports to shortcomings in this area (see point 14d).<sup>272</sup>

### d. NPM assessment

#### **NPM assessment regarding detention facilities**

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 22/2022/NZ/MS), 16 August 2022.

#### **Key recommendations of the NPM**

„Během systematické návštěvy několik odsouzených používalo při chůzi francouzské hole, jeden z odsouzených měl výrazně omezenou hybnost horní končetiny. Žádný z odsouzených si na bariéry v prostředí nestěžoval, nicméně prostředí budovy, oddílu (schody či úzké dveře) i zázemí pro hygienu (toalety nebyly vybaveny madly, sprcha s vysokým vstupem apod.) odsouzených TPN vykazovaly značné množství bariérových prvků, které musí tito odsouzení při každodenních činnostech překonávat. Opatření: 1) V rámci budoucích úprav prostředí zohlednit i požadavky na přístupnost prostor pro lidi s omezením pohybu a pro lidi se smyslovým postižením (průběžně).“<sup>273</sup>

*“During the systematic visit, several prisoners used walking sticks and one inmate had severely restricted mobility of his upper limbs. None of the inmates complained about environmental barriers, but the building environment, the ward environment (stairs or narrow doors) and the hygiene facilities (toilets without grab rails, shower with high access, etc.) of the physically disabled prisoners revealed a significant number of barriers that these prisoners have to overcome in their daily activities.*

*Recommendation: As part of future environmental modifications, take into account the requirements for accessibility of the premises for people with reduced mobility and sensory disabilities (on an ongoing basis).”*

#### **Comments of the NPM members**

##### Detention facilities

On the allocation of detainees with disabilities: *‘In the past, for example 10 years ago, the way it used to work was that you would have people in wheelchairs in prisons that were not adapted at all, so you would find a wheelchair user on the first floor even though the yard was down the stairs and there was no elevator. We have come a long way since then and now people with disabilities are put in special wards that are designed for a certain proportion of those people. So people in wheelchairs, people on crutches, or people with severe mobility problems are on the ground floor. There are other special wards for detainees with mental health problems, for example, and there are supposed to be other wards for the elderly as well. Occasionally we come across a case where a wheelchair user is in some kind of barrier environment. But the rule is that these people should be in a specialised ward.’*<sup>274</sup>

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<sup>271</sup> United Nations (UN), [Convention on the Rights of Persons with Disabilities \(CRPD\)](#), 13 December 2006.

<sup>272</sup> Czech Republic, Act. No. [349/1999 Coll., on the Public Defender of Rights](#) (zákon o veřejném ochránci práv), 30 December 1999.

<sup>273</sup> Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 22/2022/NZ/MS), 16 August 2022.

<sup>274</sup> Interview with two employees of the Ombudsperson (national NPM), experts on detention on 26 March 2024.

## 15. Specific measures to protect detainees with special needs or other vulnerabilities

### a. Protection of LGBTI detainees

There are no such special measures in either pre-trial or post-trial detention, and these situations are governed by general norms (please see section 9).

### b. Protection of trans detainees

There are no such special measures in either pre-trial or post-trial detention, and these situations are governed by general norms. The Ombudsperson addressed this issue in 2017, when she found that a trans man was separated from other detainees in order to protect him from violence. The Ombudsperson stated that the prison staff did the right thing in trying to protect the detainee, but this protection must not lead to the isolation of the vulnerable person.<sup>275</sup>

### c. Protection of other vulnerable detainees

There are no such special measures in either pre-trial or post-trial detention, and these situations are governed by general norms. There is only one provision that addresses racial, ethnic, religious, or other hatred: it is forbidden for detainees to own materials propagating racial, ethnic, religious, national, or social hatred or fascism both in pre-trial and post-trial detention.<sup>276</sup>

### d. NPM assessment

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 15/2017/NZ/MS*), 17 July 2017.

## Key recommendations of the NPM

„Odsouzený [trans muž] je umístěn samostatně na cele, neprovádí aktivity či vycházky s jinými odsouzenými, sám se stravuje na cele, sám se sprchuje. Jediný pravidelný kontakt má s vychovatelkou, která se s ním účastní aktivit (včelín, ping pong). Dle sdělení pana C chodí jako možný objekt násilí na pravidelné měsíční lékařské prohlídky. Jmenovaný je cca 23 hodin sám na cele, čas tráví četbou, výrobou úlů, sledováním TV. Nadto mívá rozhovory s psychologem a s kaplanem. Sociální izolace mu vadí, chtěl by se účastnit aktivit s dalšími odsouzenými (nebo být umístěn na standardním oddíle po část dne) za přítomnosti personálu. Chtěl by být i pracovně zařazen. [...]

Opatření: Začleňovat odsouzeného C mezi ostatní odsouzené zprvu pod dohledem personálu věznice a snažit se o pracovní zařazení odsouzeného C (bezodkladně).<sup>277</sup>

*“The [trans male] prisoner is housed alone in his cell, does not participate in activities or outings with other prisoners, eats alone in his cell and showers alone. The only regular contact he has is with the warden who participates in activities with him (beehive, table tennis). According to Mr C., he has regular monthly medical check-ups as a possible object of violence. He spends about 23 hours alone in his cell, reading, making beehives, watching TV. He also has meetings with a psychologist and a chaplain. He is*

<sup>275</sup> Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 15/2017/NZ/MS*), 17 July 2017.

<sup>276</sup> Czech Republic, Art. 28 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999; Czech Republic, Art. 21 of [Act No. 293/1993 Coll., on the Performance of Custody](#) (*zákon o výkonu vazby*), 10 December 1993.

<sup>277</sup> Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 15/2017/NZ/MS*), 17 July 2017.

*uncomfortable with social isolation and would like to participate in activities with other inmates (or be placed on a regular ward for part of the day) with staff present. He would also like to be involved in work. [...]*

*Recommendation: To integrate convict C among the other convicts, initially under the supervision of the prison staff, and to try to find convict C a job (without delay)."*

### **Comments of the NPM members**

#### Detention facilities

On the protection of LGBTI people: *'If detainees are openly LGBTI, they may be identified as vulnerable, but no one asks them about their sexual preference or how they identify.'*<sup>278</sup>

(Note: no report from the reference period addresses this issue.)

## 16. Specific measures to address radicalisation in prisons

### a. General measures to prevent radicalisation

#### **Post-trial and pre-trial detention**

This issue is only marginally addressed by the relevant legal norms, which state that detainees must not possess books or other materials propagating national, ethnical, racial, etc., hatred, fascism, or similar movements.<sup>279</sup>

Due to the small number of radicalised detainees, the Prison Service does not have a separate general deradicalisation programme or specialised units for radicalised persons. Each radicalised detainee is treated individually, and specific measures are determined according to general internal regulations.<sup>280</sup>

### b. Risk assessments

To identify and assess the risk of radicalisation, the Prison Service uses the web application SAIRO (System of Analytical Identification of Radicalisation of Persons).<sup>281</sup> The details of the evaluation process are not made available to the general public.

### c. Training of staff

There are several levels of training for Prison Service staff on extremism and radicalisation. All staff are introduced to the basics during induction courses. New developments in this area are introduced to staff each year as part of service and professional training. Staff who deal with radicalisation as part of their duties complete a specific, certified e-learning training course.<sup>282</sup>

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<sup>278</sup> Interview with two employees of the Ombudsperson (national NPM), experts on detention on 26 March 2024.

<sup>279</sup> Czech Republic, Art. 48 of [Regulation No. 109/1994 Coll., Rules of Procedure of the Exercise of Detention \(vyhláška, kterou se vydává řád výkonu vazby\)](#), 3 June 1994; Czech Republic, Art. 33 of the [Regulation No. 345/1999 Coll., Rules of Procedure of the Execution of the Punishment of the Deprivation of Liberty \(vyhláška, kterou se vydává řád výkonu trestu odnětí svobody\)](#), 30 December 1999.

<sup>280</sup> Correspondence with a member of the Prison Service via email on 21 May 2024.

<sup>281</sup> Correspondence with a member of the Prison Service via email on 21 May 2024.

<sup>282</sup> Correspondence with a member of the Prison Service via email on 21 May 2024.

#### d. Deradicalisation measures

Due to the small number of radicalised detainees, the Prison Service does not have a separate general deradicalisation programme or specialised units for radicalised persons.<sup>283</sup>

#### e. NPM assessment

The NPM does not deal with the issue of radicalisation in detention facilities as part of his work.<sup>284</sup>

### 17. Inspections and monitoring

#### a. Inspections

The inspection of detention facilities is primarily the responsibility of the Public Prosecutor's Office. The Public Prosecutor inspects prisons on a regular basis.<sup>285</sup> According to the internal regulations of the Public Prosecutor's Office, the Public Prosecutor must inspect facilities in his/her district at least once every three months.<sup>286</sup>

#### b. Access to detention facilities by national authorities

The inspection of detention facilities is primarily the responsibility of the Public Prosecutor's Office. In addition to this institution, access to detention facilities is granted to employees of the Ombudsperson,<sup>287</sup> the Ministry of Justice,<sup>288</sup> some members of the Chamber of Deputies, and, to a limited extent and within the scope of their authority, some professional organisations (e.g. the Czech Medical Chamber), labour inspectorates, etc. The internal regulations of the Prison Service extend the circle of persons who have access to detention facilities to include certain constitutional officials (e.g. the President, members of the Chamber of Deputies, etc.).<sup>289</sup>

(Internal inspection is also conducted by the Prison Service, Prevention and Complaints Department.)<sup>290</sup>

#### c. Access to detention facilities by international bodies

The Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment has access to detention facilities in the Czech Republic, so does the National Preventive Mechanism (the Ombudsperson). In addition, the Czech Republic cooperates with the UN's Subcommittee on Prevention of Torture (SPT) and the Committee against Torture (CAT).<sup>291</sup>

#### d. NPM assessment

### Comments of the NPM members

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<sup>283</sup> Correspondence with a member of the Prison Service via email on 21 May 2024.

<sup>284</sup> Interview with two employees of the Ombudsperson (national NPM), experts on detention on 26 March 2024.

<sup>285</sup> Czech Republic, Art. 78 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (zákon o výkonu trestu odnětí svobody), 3 August 1999; Czech Republic, Art. 29 of the [Act No. 293/1993 Coll., on the Performance of Custody](#) (zákon o výkonu vazby), 10 December 1993.

<sup>286</sup> Supreme Public Prosecutor, [Art. 6 of Guideline No. 10/2012, on the Supervision of the Observance of Legal Regulations in Places where Personal Freedom is Restricted According to Legal Authorization](#) (pokyn o výkonu dozoru nad dodržováním právních předpisů v místech, kde je podle zákonného oprávnění omežována osobní svoboda), 2 November 2012.

<sup>287</sup> Czech Republic, Act. No. [349/1999 Coll., on the Public Defender of Rights](#) (zákon o veřejném ochránci práv), 30 December 1999.

<sup>288</sup> Czech Republic, [Act No. 255/2012 Coll., Code of Control Procedure](#) (kontrolní řád), 19 July 2012.

<sup>289</sup> Drápal, J.; Jiříčka, V.; Raszková, T. (2021), *České vězeňství*, Praha: Wolters Kluwer ČR, p. 372.

<sup>290</sup> Drápal, J.; Jiříčka, V.; Raszková, T. (2021), *České vězeňství*, Praha: Wolters Kluwer ČR, p. 342.

<sup>291</sup> Drápal, J.; Jiříčka, V.; Raszková, T. (2021), *České vězeňství*, Praha: Wolters Kluwer ČR, p. 372.

## Detention facilities

On the control mechanisms: *'Systematically, the Prison Service and its internal control bodies, the Ministry of Justice, we as an independent body, and then the supervisory public prosecutors visit prisons for inspections. In addition, there are many other bodies and organisations that can visit prisons – for example, from the international CPT networks. I do not think that prisons in particular, if I compare them to psychiatric hospitals, for example, are impregnable fortresses of some kind that external control can't get into.'*<sup>292</sup>

### 18. Access to remedy

#### a. Legal remedies

#### **Post-trial detention**

Detainees can turn to state authorities and international organisations with their complaints in the case of a breach of their rights.<sup>293</sup> They address their complaints to the authorities with the authority to deal with them (usually to the director of the detention facility, to the General Directorate of Prison Services, to the Ministry of Justice, or to the Public Prosecutor). If the complaint is found to be well-founded or partially well-founded, the detention facility is obliged to take the necessary remedial measures without delay (the detainee may appeal against the decision or bring an action before the administrative court).<sup>294</sup>

Detainees can also contact the Ombudsperson and initiate an inspection.<sup>295</sup> The Ombudsperson may propose remedial measures (which in this context mainly involve the review of a decision, act, or procedure of the authorities, the initiation of disciplinary procedures, and the provision of damages).<sup>296</sup>

In addition to the general rules, special provisions apply in certain cases (e.g. appeals against disciplinary punishment, against the confiscation of things, etc.).

Any claim for damages is resolved in civil court.<sup>297</sup>

#### **Protective detention**

The same rules apply in protective detention.<sup>298</sup>

#### **Pre-trial detention**

The same rules apply in pre-trial detention.<sup>299</sup>

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<sup>292</sup> Interview with two employees of the Ombudsperson (national NPM), experts on detention on 26 March 2024.

<sup>293</sup> Czech Republic, Art. 26 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999; Czech Republic, Art. 34 of the [Regulation No. 345/1999 Coll., Rules of Procedure of the Exercise of the Punishment of the Deprivation of Liberty](#) (*vyhláška, kterou se vydává řád výkonu trestu odnětí svobody*), 30 December 1999.

<sup>294</sup> Czech Republic, [Act No. 150/2002 Coll., Administrative Procedure Code](#) (*soudní řád správní*), 17 April 2002.

<sup>295</sup> Czech Republic, Art. 9, 10 of [Act No. 349/1999 Coll., on the Public Defender of Rights](#) (*zákon o veřejném ochránci práv*), 30 December 1999.

<sup>296</sup> Czech Republic, Art. 19, 10 of [Act No. 349/1999 Coll., on the Public Defender of Rights](#) (*zákon o veřejném ochránci práv*), 30 December 1999.

<sup>297</sup> Czech Republic, [Act No. 99/1963 Coll., Code of Civil Procedure](#) (*občanský soudní řád*), 17 December 1963.

<sup>298</sup> Czech Republic, Art. 15 of [Act No. 129/2008 Coll., on the Execution of Protective Detention](#) (*zákon o výkonu zabezpečovací detence*), 16 April 2008.

<sup>299</sup> Czech Republic, Art. 20 of [Act No. 293/1993 Coll., on the Performance of Custody](#) (*zákon o výkonu vazby*), 10 December 1993; Czech Republic, Art. 60 of the [Regulation No. 109/1994 Coll., Rules of Procedure of the Exercise of Detention](#) (*vyhláška, kterou se vydává řád výkonu vazby*), 3 June 1994.

## Police custody

Detainees can lodge a complaint against the police under general administrative (or criminal) law.<sup>300</sup>

### b. Legal assistance

## Post-trial detention

Detainees have the right to legal assistance from a lawyer, who is entitled, within the limits of his or her authority, to correspond with the detainee and to speak to him or her without the presence of a third party. This right of the detainee has to be ensured within 24 hours of receipt of the request.<sup>301</sup> The Prison Service cannot inspect the content of correspondence between a detainee and his/her attorney.

## Protective detention

The same rules apply in protective detention.<sup>302</sup>

## Pre-trial detention

The same rules apply in pre-trial detention.<sup>303</sup>

## Police custody

A detainee has the right to secure legal assistance and to speak to a lawyer without a third person being present.<sup>304</sup>

### c. Request and complaints

Detainees can turn to the state authorities, the Ombudsperson, and international organisations with their complaints in the case of a breach of their rights (please see point 18a). The complaint must be sent to the addressee without delay. The prison director designates which staff of the Prison Service are responsible for receiving, sending, and registering complaints and requests and creates such conditions for the submission of complaints and requests by detainees where they cannot be dealt with by persons other than those authorised to do so.<sup>305</sup>

### d. Independent authority

Please see point 18a.

### e. NPM assessment

## NPM assessment regarding police custody

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (*Zpráva ze systematické návštěvy zařízení sp. zn. 19/2021/NZ/PG*), 26 July 2021.

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<sup>300</sup> Czech Republic, Art. 175 of [Act No. 500/2004 Coll., Administrative Procedure Code](#) (*správní řád*), 24 September 2004; Czech Republic, Art. 329 of [Act No. 40/2009 Coll., Criminal Code](#) (*trestní zákoník*), 9 February 2009.

<sup>301</sup> Czech Republic, Art. 17, 18, 26 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

<sup>302</sup> Czech Republic, Art. 8, 9, 10, 15 of [Act No. 129/2008 Coll., on the Execution of Protective Detention](#) (*zákon o výkonu zabezpečovací detence*), 16 April 2008.

<sup>303</sup> Czech Republic, Art. 13, 13a, 14, 20 of [Act No. 293/1993 Coll., on the Performance of Custody](#) (*zákon o výkonu vazby*), 10 December 1993.

<sup>304</sup> Czech Republic, Art. 24 of [Act No. 273/2008 Coll., on the Police of the Czech Republic](#) (*zákon o Policii ČR*), 11 August 2008.

<sup>305</sup> Czech Republic, Art. 26 of [Act No. 169/1999 Coll., on the Execution of the Punishment of the Deprivation of Liberty](#) (*zákon o výkonu trestu odnětí svobody*), 3 August 1999.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 31/2021/NZ/PG), 14 September 2021.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 30/2021/NZ/PG), 18 November 2021.

Public Defender of Rights, [Summary Report on Visits to Facilities 2022](#) (Souhrnná zpráva z návštěv zařízení 2022 sp. zn. 50/2021/NZ), 26 May 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 17/2022/NZ/PG), 12 October 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 39/2022/NZ/PG), 21 November 2022.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 4/2023/NZ/SKO), 5 May 2023.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 3/2023/NZ/PG), 5 June 2023.

Public Defender of Rights, [Report on a Systematic Visit to a Facility](#) (Zpráva ze systematické návštěvy zařízení sp. zn. 16/2023/NZ/SKO), 18 July 2023.

### Key recommendations of the NPM

„Zjištění z návštěv

V jedné z navštívených věznic se schránky na stížnosti nacházely na chodbách, takže obvinění k nim měli přístup pouze při navádění na vycházky či aktivity.

V jiné navštívené věznici byly schránky na stížnosti umístěny na každém patře u schodiště a byly odděleny mřížemi od prostoru, kde se obvinění mohli pohybovat.

V další navštívené věznici se v oddílu pro výkon vazby nacházela jen jedna schránka na stížnosti, a to vedle dveří kanceláře zástupce vedoucího oddělení výkonu vazby a trestu; přístup obviněných ke schránce tak byl značně omezen. z Ve třech navštívených věznicích nebylo na schránkách uvedeno, kdo je vybírá (kdo stížnosti vyzvedává). [...]

Doporučení:

Doplnit na stížnostní schránky informaci, kdo stížnosti vybírá.

Umístit schránku na stížnosti na každý oddíl.<sup>306</sup>

*“Findings from visits*

*In one of the prisons visited, the complaints boxes were located in the corridors, so that the accused could only access them when being directed to outings or activities.*

*In another prison visited, the complaint boxes were located on each floor near the staircase and were separated by bars from the area where the accused could move around.*

*In another prison visited, there was only one complaint box in the detention section, next to the door of the office of the Deputy Head of the Detention and Sentencing Department; thus, the accused's access to the box was severely restricted.*

*In three prisons visited, the boxes did not indicate who collects them (who collects the complaints). [...]*

*Recommendation:*

*Add information on the complaint boxes indicating who collects the complaints.*

*Place a grievance box in each ward.”*

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<sup>306</sup> Public Defender of Rights, [Summary Report on Visits to Facilities 2022](#) (Souhrnná zpráva z návštěv zařízení 2022 sp. zn. 50/2021/NZ), 26 May 2022.

## Comments of the NPM members

### Detention facilities

On the effectivity of complaint mechanisms: *'We are emphasising and monitoring everywhere that there is a lockable box in the wards where detainees can put their complaints and that it can be ensured that the contents of the box are collected by someone other than the supervisor in the ward. And then it is handled by the internal department of the Prison Service, so the system as it is set up probably works. The problem is that for a lot of detainees it may not be credible because about 95% or 97% of all complaints are dismissed as unfounded.*

*In terms of complaints that are sent outside the prison, for example to us, we receive about 400 individual complaints a year from prisons. We have never faced a situation that someone wanted to make a complaint to us and was unable to do so, that the prison did not send it, or that it got lost somehow. Moreover, these complaints come to us unchecked. It's communication with a state authority, so it's not subject to any control.'*<sup>307</sup>

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<sup>307</sup> Interview with two employees of the Ombudsperson (national NPM), experts on detention on 26 March 2024.



<b>Thematic area</b>	<b>18. Access to remedy</b> <b>a. Legal remedies</b>
<b>Decision date</b>	27 July 2021
<b>Reference details</b>	<a href="#">Decision of the Constitutional Court No. Pl. ÚS 112/20</a>
<b>Key facts of the case</b>	The Supreme Administrative Court filed a petition with the Constitutional Court to repeal certain provisions of the Act on the Execution of the Punishment of the Deprivation of Liberty. Under the existing legislation, it was not possible to challenge certain disciplinary punishments in court, while the law allowed for judicial review of other disciplinary punishments. The Supreme Administrative Court concluded that this provision was unconstitutional.
<b>Main reasoning/argumentation</b>	The Constitutional Court granted the petition in part. Referring to the case law of the European Court of Human Rights and constitutional norms, it concluded that fundamental rights may only be restricted by law in accordance with the principles of the Charter of Fundamental Rights and Freedoms. Since the Act on the Execution of the Punishment of the Deprivation of Liberty does not explicitly restrict the right to a fair trial, the provision that excludes judicial review of certain disciplinary punishments is unconstitutional.
<b>Key issues (concepts, interpretations) clarified by the case</b>	On the one hand, the decision established that fundamental rights cannot be restricted on grounds other than those enumerated by law, and, on the other hand, it established that judicial review of disciplinary punishments cannot be excluded.
<b>Results (sanctions) and key consequences or implications of the case</b>	The Constitutional Court granted the application in part and repealed part of the contested provision. It did not repeal the entire provision because the original proceedings concerned only fines and no other disciplinary punishments (it is to be expected that any proceedings concerning the other disciplinary punishments will be decided according to the same principles).
<b>Key quotation in original language and translated into English with reference details</b>	<i>Zákon taxativně vypočítává práva a svobody, které jsou omezeny a kterých je odsouzený po dobu výkonu trestu zbaven. Z toho vyplývá, že jakákoli další omezení práv a svobod jdou již nad rámec omezení v zákoně taxativně vypočtených. Některá rozhodnutí o kázeňských trestech takovým dalším omezením postavení odsouzeného mohou být, a to v závislosti na povaze a závažnosti sankce, výrazným zásahem do základních práv a svobod [...] Proto nemůže být vyloučeno ze soudního přezkumu.</i>  The law exhaustively lists the rights and freedoms that are restricted and of which the convicted person is deprived during the period in which the

	<p>person is serving a sentence. It follows that any further restrictions on rights and freedoms go beyond those enumerated in the law. Depending on the nature and severity of the sanction, some disciplinary punishments may constitute a significant interference with fundamental rights and freedoms [...] and cannot therefore be excluded from judicial review.</p>
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Czech Republic, Supreme Administrative Court, (Nejvyšší správní soud), No. 6 As 41/2023-23, 15 June 2023

<b>Thematic area</b>	<b>8. Healthcare</b> <b>f. Treatment of the detainee's choosing</b>
<b>Decision date</b>	15 June 2023
<b>Reference details</b>	<a href="#">Decision of the Supreme Administrative Court No. 6 As 41/2023-23</a>
<b>Key facts of the case</b>	The detainee (the plaintiff) had undergone surgery (with his consent) in a Prison Service medical facility but believed the medical staff had not acted <i>lege artis</i> during the operation. The plaintiff believed that the provision of healthcare by the Prison Service was an exercise of public authority because, as a detainee, he was deprived of his freedom of movement and choice of health care provider by an act of public authority. He therefore challenged the Prison Service's actions before the Administrative Court.
<b>Main reasoning/argumentation</b>	The Court of First Instance, and subsequently the Supreme Administrative Court, concluded that the case was one of private rather than public law and that the plaintiff should therefore have brought his claims before the civil courts. The Prison Service did not act in a superior position vis-à-vis the plaintiff when it carried out the operation but acted as a provider of health services in a private capacity. Their relationship, based on the healthcare contract, was not a public law relationship but a private law relationship.
<b>Key issues (concepts, interpretations) clarified by the case</b>	If the action is brought against the provision of healthcare and the manner in which it is provided (not against the designation of a particular healthcare provider or the refusal of healthcare), it is a matter of private law, even if the plaintiff is restricted in his or her personal freedom and had no choice as to his or her healthcare provider.
<b>Results (sanctions) and key consequences or implications of the case</b>	The case was dismissed and the plaintiff was referred to civil proceedings.
<b>Key quotation in original language and translated into English with reference details</b>	<i>Žalovaná jako organizační složka Vězeňské služby ČR při vlastním poskytnutí zdravotní služby (operace) nevystupovala v postavení správního orgánu nadaného pravomocí mocensky zasahovat do práv a povinností žalobce, tedy ve vrchnostenském postavení vůči němu, nýbrž jako poskytovatel zdravotních služeb při soukromoprávním jednání. Jejich vztah založený smlouvou o péči o zdraví nebyl veřejnoprávním,</i>

	<p><i>nýbrž soukromoprávním vztahem. Podmínka pravomoci správních soudů rozhodnout o věci samé nebyla tedy v daném případě naplněna.</i></p> <p>‘The defendant, as an organisational unit of the Prison Service of the Czech Republic, did not act in the position of an administrative body vested with the power to interfere with the plaintiff’s rights and obligations, i.e. in a position of authority over the plaintiff, but as a provider of healthcare services in a private legal transaction. Their relationship based on the healthcare contract was not a public law relationship but a private law relationship. The condition for it to be within the jurisdiction of the administrative courts to rule on the merits of the case was therefore not met in the present case.’</p>
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Czech Republic, Supreme Administrative Court, (Nejvyšší správní soud), No. 4 As 179/2022-40, 16 February 2023

<b>Thematic area</b>	<b>2. Allocation of detainees</b> <b>b. Allocation within detention facilities</b>
<b>Decision date</b>	16 February 2023
<b>Reference details</b>	<a href="#">Decision of the Supreme Administrative Court No. 4 As 179/2022-40</a>
<b>Key facts of the case</b>	The detainee (the plaintiff) was placed in a cell with a very dangerous detainee who had assaulted other detainees in the past. The detainee therefore filed an administrative complaint alleging (among other alleged violations of his rights) that this conduct violated his right not to be placed with dangerous detainees, and that this conduct was intentional on the part of the Prison Service, the purpose being to ruin his Christmas. The court of first instance found that his claim was unfounded, but the Supreme Administrative Court found that his rights had been violated.
<b>Main reasoning/argumentation</b>	The Supreme Administrative Court stated that although the rule that very dangerous detainees are usually placed separately is not mandatory, this does not mean that a detainee has no right to be placed away from such a dangerous person, and that the Prison Service can allocate detainees arbitrarily. When placing detainees, all relevant facts must be taken into account in order to assess whether the legal conditions for placing a detainee in a cell with a dangerous person have been met in a given case.
<b>Key issues (concepts, interpretations) clarified by the case</b>	The Prison Service cannot arbitrarily decide whether to place a detainee in a cell with a dangerous person but must consider all the relevant facts. A detainee has a public subjective right to be protected from a dangerous detainee.
<b>Results (sanctions) and key consequences or implications of the case.</b>	The Supreme Administrative Court upheld the complaint of the plaintiff and returned the case to the Municipal Court in Prague for further proceedings.

<p><b>Key quotation in original language and translated into English with reference details</b></p>	<p>'Nor can we agree with the Regional Court's reasoning that the plaintiff does not have a public subjective right not to be housed together with a very dangerous person. Section 7 of the Act on the Execution of the Punishment of Deprivation of Liberty sets out the rules for the accommodation of convicted persons and, pursuant to its first paragraph, point (g), convicted persons who are very dangerous within the meaning of Section 72a of the Act are, as a rule, accommodated separately. Thus, although this rule is not mandatory and in the present case the plaintiff was also considered to be a very dangerous detainee, it was necessary to consider all the relevant facts in order to assess whether the legal conditions for his placement in a cell with convict K. were met in the present case.'</p> <p><i>Rovněž tak se není možné ztotožnit s argumentací krajského soudu, podle níž stěžovatel nemá veřejné subjektivní právo nebýt ubytován společně s osobou velmi nebezpečnou. Ustanovení § 7 zákona o výkonu trestu odnětí svobody totiž upravuje pravidla pro umístování odsouzených, přičemž podle jeho odstavce prvního písmena g) se zpravidla odděleně umísťují odsouzení, kteří jsou velmi nebezpeční podle § 72a téhož zákona. I když tedy toto pravidlo není obligatorní a v daném případě byl za velmi nebezpečného odsouzeného považován i stěžovatel, bylo zapotřebí zvážit všechny rozhodné skutečnosti za účelem posouzení, zda byly v daném případě dány zákonné podmínky pro jeho umístění na celu s odsouzeným K.</i></p>
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