

WORLD FACTBOOK OF CRIMINAL JUSTICE SYSTEMS

Czech Republic

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GENERAL OVERVIEW

1. Political System.

The Czech Republic is a sovereign, united and democratic, law-and-order state based on respect for the rights and liberties of citizens. The citizens provide the source of all state power through the mediation of legislative bodies of power, executive power, and judicial power. The political system is based on free competition of political parties that respect fundamental democratic principles and reject violence as the means for assertion of their interests. Political decisions originate from the will of the majority which is expressed by a free vote. The decisions of the majority also show concern and protection for those in the minority.

The self-government of territorial autonomous regions is guaranteed. The Czech Republic is divided into municipalities which are the principal autonomous units. The higher territorial autonomous parts are represented by regions in accordance with the Constitution. The territorial autonomous units are territorial communities of citizens who have the right of self-government. The law that would define specific autonomous powers of these territorial units has not yet been issued.

Law No. 436/1991 issued by the Czech National Council deals with districts and court administration. The law states that the execution of administrative power in the Czech Republic cannot interfere with the independence of the courts. The central body of the state administration is the Ministry of Justice. Representatives of the state authorities include the president and vice-president of the Supreme Court, and the presidents and vice-presidents of

the Courts of Appeal and various district courts.

Higher and lower district courts are administered by the Ministry of Justice, either directly or through the court presidents. Lower district courts can be administered by presidents of higher district courts. The administration of the Supreme Court and the Courts of Appeal by the Ministry of Justice is accomplished through the mediation of the presidents of these courts. Presidents of the Supreme Court, the Court of Appeal, and of the higher and lower district courts have ultimate responsibility over court administration, although they can give the judge of a corresponding court responsibility for individual acts of state administration.

2. Legal System.

The Czech Republic legal system is similar to that of continental Europe, characterized by using written, generally recognized normative acts issued by legislative or executive bodies. Customs and rules of citizens' coexistence are taken into account only cases where the rule invokes them explicitly. Customs are not considered to be the source of rights in the legal system. Similarly, neither the decisions of the court nor the scientific literature have the weight of the legal source, even though, as a result of their persuasiveness, they may exert a strong influence on lawyers' decisions. This is true especially in cases where the decisions of the Supreme Court of the Czech Republic are not binding on the lower courts. On the other hand, they significantly contribute to stabilization of the judicature and to unification of interpretation of precepts of law.

The most important source of the law in the Czech Republic is the Constitution of the Czech Republic. The first article states that the Charter of Human Rights and Liberties constitutes a part of the constitutional system. Article 10 of the Constitution declares the international treaties concerning human rights and basic liberties that have been ratified and promulgated as generally binding in the territory of the Czech Republic. These treaties have been declared as superior to the laws.

Another group of legal norms is represented by the generally-binding directives of the bodies of executive power. The decrees of the government are issued on the basis of laws and within their limits. These precepts of law are binding for ministries, other administrative authorities and the bodies of local autonomy.

The Constitution of the Czech Republic requires that during the time that the House of Deputies is dissolved, the Senate can, by

government proposal, pass legal measures concerning issues that cannot be postponed or issues that under different circumstances, would normally require a law to be passed. This lawmaking power is not applicable to the Constitution, state budget, state end-of-term account, electoral law, and international treaties, under Article 10 of the Constitution.

The Constitutional Court oversees whether laws conform to the Constitution. The Court makes decisions concerning the abolition of entire laws or individual provisions. They must decide if the law and/or its provisions are in accordance with the constitutional law or an international treaty according to Article 10 of the Constitution. They also decide on the abolition of other sections and provisions.

The Constitutional Court begins its review process following a proposal of the subjects covered by its jurisdiction. A proposal for the abolition of a law or its individual provisions can also be brought by a court; such a case requires that the lower court had reached a conclusion that the law used to find a solution for a problem was not constitutional. If the Constitutional Court finds that a discordance does exist between the law in question or its individual provisions and the Constitutional Law or an international treaty, under Article 10 of the Constitution, it can make a decision that such a law or its provisions be abolished. Their decision would have effect from the date mentioned in their findings.

3. History of the Criminal Justice System.

Established on October 28, 1918, Czechoslovakia inherited two codes, the Austrian Penal Code of 1852 in Bohemia and Moravia and the Hungarian Penal Code of 1878 in Slovakia and Transcarpathian Ukraine. These codes were incorporated into the Czechoslovak rule of law by the law no.11/1918, which established the independent Czechoslovak state. The new state thus received an obsolete but liberal criminal law code adequate to a law-and-order state of a standard that was usual in Central Europe. It was not until the Second World War that a new criminal law code was created, although three drafts had been submitted in the years 1921, 1926 and 1937.

After the communist take-over in February of 1948, the Czechoslovak criminal law was adapted to conform with the criminal law used in the Soviet Union, a trend which continued throughout the period that Czechoslovakia was under communist rule. The Penal Code of 1950 was the first to have effect for the state as a whole, and included all material law. The Code was used to repress

political opposition from people of varying political and moral viewpoints and practicing faiths. The law was also used to suppress individual expressions of disobedience. The criminal law was used to support political and economic reforms. For instance, the Penal Code of 1950 had sections on the collectivization of agriculture. (Sect. 135,136).

After sharp criticism concerning the misuse of the criminal law during the Stalinist period, an amendment of the Penal Code was passed in Czechoslovakia on December 19, 1956, which introduced moderation. However, the existing system with its politically repressive ideology was not changed. (Khrustshev, 1956).

The Penal Code of November 29, 1961 passed in connection with the "Principles of penal legislation of the USSR and the Union's republics" of December 26, 1958 and the new Russian Soviet Federative Socialist Republic Penal Code of October 27, 1960 had some features of modern legal thinking. After the Prague uprising of 1968 was suppressed, the situation worsened significantly. During the "normalization" period, the criminal law was enlarged to include a number of new offenses. Actions such as participating in breaking the peace and the refusal to obey labor conscription were made criminal under the law. The repressive elements of prison sentences were reinforced and "preventative surveillance", essentially a type of police surveillance, was introduced.

After November of 1989, an urgent need for elaboration of a new penal law appeared that would conform to the principles of a liberal and humane law-and-order state. As early as December 1989, law no. 159/1989 abolished the regulations that clearly violated human rights, such as those concerning emigration, and those used to suppress the influence of the church. The substantial amendment of the Penal Code that was put into effect on May 2, 1990 essentially changed old rules, decriminalized many actions, and removed ideological influences from the legal system.

Other amendments of the criminal law and of the code of criminal procedure passed in 1991 brought the two bodies of law into concordance with the Charter of Human Rights and Liberties and with international agreements by which the Czech Republic was bound. The amendments modify terminology and improve previous shortcomings.

Changes brought by the 1993 amendment of the Criminal Law and Code of Criminal Procedure were put into effect on January 1, 1994. Regarding material law, some concepts were newly defined. The existing procedure for the execution of custodial sentence was abolished. Rules linked

with new forms of criminality mostly related to the development of business activities. The amendment of the Code of Criminal Procedure should simplify and accelerate proceedings and introduce higher efficiency into the legal process. Legislative developments toward the change of criminal law have not yet been completed at this time.

CRIME

1. Classification of Crime.

* Legal classification. Aside from the definition of a criminal offense, issues of criminal law also include the qualification of criminal offenses and their incorporation into certain categories based on the danger these offenses present to society, as well as the distinction between criminal offenses and violations which occur in other branches of the law. By distinguishing among categories of individual acts, most serious anti-social acts which are decided in court can be singled out from other acts where means of social control other than those of criminal law apply.

The classification of punishable offenses can be traced to the Austrian Criminal Code of 1852, which was valid in the territory of Bohemia, Moravia and Silesia, constituting the present Czech Republic. The Code distinguished 3 categories of punishable offenses: felony (zločin), misdemeanor (prečin) and petty offence (prestupek). These categories classified crimes based on their seriousness.

The Criminal Law Act of 1950 abolished the existing classification system and introduced a single term for a criminal offense. In 1961, Act No. 38/1961 (Coll.) established local people's courts and introduced a new category of offenses called wrongdoings (provinění). The danger these offenses posed to society did not reach the degree necessary to classify the act as a criminal offense. A new category of a punishable offense, misdemeanors, (prečin) was introduced by the Misdemeanors Act that came into effect in 1970. Simultaneously, the category of "wrongdoings" and local people's courts were abolished.

The amendment to the Criminal Law Act of 1961 effected by the Act No. 175/1990 Coll. abolished the Misdemeanors Act, essentially abolishing the offense category of misdemeanor. The Czech criminal law in force recognizes a single category of punishable offence, referred to as a criminal offense in the Criminal Law Act.

A special part of the Criminal Law Act describes all types of criminal offenses and their characteristics. Codification of this special

part dates from 1961 and is divided into 12 sections. Under this system, criminal acts fall into three large categories: criminal acts against the public interest (Sections 1 to 3), criminal acts against an individual (Sections 7 to 9), and military criminal acts (Section 12). The remaining sections deal with the relationships among these categories.

The provision of Section 8, subsection 2 of the Code of Criminal Procedure stipulates a prosecution principle that a court may institute a criminal prosecution only if an indictment was brought by the prosecutor. There are no criminal offenses in the law that are subject to private prosecution.

Under an amendment to the Code of Criminal Procedure of 1990, (Sect.1, Subsection 163a) a range of criminal acts were defined in which prosecution is subject to the consent of the aggrieved party. Prior to this amendment, all crimes had been prosecuted ex-officio, disregarding the views of the aggrieved party.

The Czech National Council's Act on Summary Offenses No. 200/1990 (Sect.1, subsect. 2), as amended by subsequent regulations, defines a summary offense as a culpable act with other elements herein, which is not an administrative offense punishable under special legal regulations or an indictable offense. The difference between indictable offenses and summary offenses lies mainly in their degree of threat to society. Summary offenses are decided by competent administrative bodies. Only in the most serious cases, according to special regulations, are summary offense decisions reviewable in court.

Within the general part of the Criminal Law Act we should point out the provision of Section 13, subsection 89 which has been incorporated into the Criminal Law Act by an amendment of 1990. The provision defines a new term of "addictive substances" in a way which involves alcohol, drugs, psychotropic substances and other substances which may impair the human mind, a person's self-control and perception and social behavior. It includes all kinds of alcoholic and non-alcoholic drugs, ranging from traditional drugs to the substances designated for technical use. The newly introduced term "addictive substance" in the Criminal Law Act is also reflected in other provisions relating to insanity and diminished sanity.

* Age of criminal responsibility. The provision of Sect. 11 of the Criminal Law Act stipulates that a person who commits a criminal act before his 15th birthday shall not be held criminally

responsible. Persons between the ages of 15 and 18 when they commit a criminal offense are defined in the criminal law act as "juveniles". Criminal responsibility, as well as the prosecution of such persons, is governed by special regulations which are in chapter 7 of a general part of the Criminal Code and chapter 19 of the Code of criminal procedure, for proceedings against a juvenile.

* Drug offenses. The special part of the Criminal Law Act lists criminal acts related to drugs and psychotropic substances among the criminal acts that are dangerous to the public. Under the provisions of Sections 187 and 188 of the Criminal Law Act, it is a crime to illegally produce or possess drugs and psychotropic substances and poisons. Under provision 187 of the Criminal Law Act, the person who without permission produces, imports, exports, transports, supplies to another person, or keeps for another person drugs, psychotropic substance or poison is to be punished. However, the use or the procurement of these substances and keeping them for one's own personal use is not punishable.

Under the provisions of Section 188 of the Criminal Law Act, producing, supplying or keeping substances for unlawful production of a drug or psychotropic substance or poison is also punishable. The provision affects cases which have the nature of preparation for a criminal act under the provision of Section 187 of the Criminal Law Act.

An amendment to the Criminal Law Act of 1990 under section 188 includes a new provision against "disseminating drug addiction" under Section 188 of the Criminal Law Act. This occurs when an offender incites another person to abuse addictive substances other than alcohol, supports him or her in doing so, or otherwise incites or disseminates the abuse of such substances.

The crime of exposing others to danger under the influence of an addictive substance is covered under Section 201 of the Criminal Law Act. This section includes cases where an offender under the influence of an addictive substance works or engages in activities which may endanger the life or health of others or cause considerable damage to property, under strictly defined conditions. These conditions include the presence of a previous sentence or punishment for the same or similar criminal act, increasing the exposure to danger or causing harmful consequence.

Acts which may not be included under the provisions of the Criminal Law Act, mainly for the lack of material substance, are punishable under the Summary Offenses Act No. 200/1990 Coll., as amended by subsequent regulations. Summary

offenses relating to health care (Sect.1, subsect. 29g) and the protection against alcoholism and other drug addictions (Sect.1, subsect.30a,b,c,e,f,g,h) are included.

Under provision of Section 195 of the Criminal Law Act, the government defines by an order what it regards as drugs, psychotropic substances and poisons within the meaning of Sections 187 and 188 of the Criminal Law Act. The appropriate legal rule is the Government Order No. 192/1988 Coll. (Government Decrees No. 182/1990, 33/1992 and 278/1993 Coll.), which lists these substances in an appendix. Substances regarded as drugs include cocaine, morphine, opium, and heroin. Psychotropic substances include amphetamine, ephedrine, and neprobamate.

2. Crime Statistics.

Criminal statistics are derived from the authorities responsible for criminal proceedings. Basic data concerning crimes and offenses, prosecutions, tried and sentenced persons, respective sentences and sentence execution can be found in the statistics of police, prosecutor's offices, courts and prisons.

All definitions of criminal offenses included in the criminal justice annual books issued by the police, prosecutor's offices, and prison service are based on the valid criminal law and its itemization. In contrast to other authorities, the police use their own administrative terms to specify individual types of criminality. They classify various types of criminality as follows: general, violent, morality-linked, property-linked (for example, theft, burglary), business-linked, and other types.

There are two sources of police statistics. The criminal offense form and the "known offender" form contain all data used to prepare the statistics. The prosecutor's and court statistics are based on similar documents called "criminal statistic" forms. Prison statistics are based on simple forms of their own which collect essential data.

The principal source of information on criminality for the government, parliament, press, etc. are the police statistics, which are presented to the state authorities and institutions through the Ministry of Interior. These statistics include both completed and attempted crimes, particularly in the cases of murder and rape.

* Murder. In 1993, the police statistics registered 278 murders, including 83 attempted murders.

* Rape. Information not obtained.

* Theft. In 1993, the police statistics registered 179,897 thefts.

* Serious drug offense. Presently, the number of drug abuse related crimes are not presented separately in police statistics.

* Crime regions. The level of criminality is observed in individual regions at police collection sites. The data obtained from these sites are transferred to the center where they are statistically evaluated. Tables are prepared in which the crimes are classified according to the code. The data is then summarized and categorized by districts. There are 75 regions and 10 districts in Prague. The data are sometimes categorized according to the formerly used larger regions that divided the territory of the Czech Republic into 7 parts. On the basis of these data, the rates of crime for each region are compared with other regions.

Presently, the capital of Prague has the highest number of crimes in the country. Crime is concentrated particularly in the center of Prague, followed by other capital districts, industrial regions with migrating inhabitants like North Moravia (including the town of Ostrava), and North Bohemia lagging significantly behind. Property crimes such as theft, burglary, and car theft are prevalent in Prague, in addition to robbery and murder. Many of these offenses, including those of organized crime, are targeted at foreigners and foreign tourists.

Property crimes are also high in the regions of North Moravia and North Bohemia. These regions also have higher incidents of burglary, robbery, malicious assault, and bodily harm than other regions. The lowest crime rate exists in South Bohemia. This region has the lowest population density in Bohemia, little industry and a relatively non-migrating population.

VICTIMS

1. Groups Most Victimized by Crime.

There is no separate collection of statistical data concerning victims of crime. Victim information is included in the record of a criminal incident. The sex and number of persons involved in the crime are recorded, as well as information on how the crime was committed and the economic status of the injured party.

Victims' Assistance Agencies.

A non-governmental organization, the White Circle of Safety (Bily kruh bezpeei) provides

assistance to victims of crime. No state funds are available for victim compensation. Crisis centers mainly provide psychological help to women who have been raped. A victim of crime may also seek help from out-patient psychiatric services.

3. Role of Victim in Prosecution and Sentencing.

Under Czech criminal procedure, an injured party is a person who suffered property loss or bodily harm, or who suffered moral or other injury. This person is a party to any ensuing criminal proceedings, and can make suggestions to help establish objective facts in reaching an appropriate decision. Status as injured party does not prevent the victim from giving evidence as a witness. Two groups of injured parties are distinguished: an injured person who may claim damages and an injured person who does not have the right to claim damages.

The Code of Criminal Procedure does not entitle the injured party to bring in an indictment, to take over prosecution or influence the question of punishment. The injured party may institute prosecution by lodging a complaint. The 1990 amendment to the Code of Criminal Procedure requires that for certain crimes consent of the injured party is as a prerequisite for prosecution. The right of dismissal applies to all criminal proceedings up to the point of appellate proceedings. Legal regulations in force before the amendment provided that all crimes would be prosecuted ex-officio, disregarding the opinion of the injured party. This amendment is a breakthrough for the principle of legality.

The injured party is entitled to inspect records, submit petitions regarding verification of evidence and take part in a trial and public session concerning an appeal. Before the end of proceedings, the injured party is entitled to make a statement (entitled to the last word). Injured persons who can claim damages from the defendant are entitled to suggest to the court that it impose on the defendant an obligation to compensate any loss resulting from the crime. In criminal proceedings, the court only decides on property damage claims, that is, claims which can be expressed in monetary terms. Discussions on claims for compensation in "adhesive proceedings" are held as part of the regular court proceedings, not in an independent formal part of the proceedings.

If the defendant is acquitted by the court, the court refers the injured party with his claim for compensation to civil proceedings, or to a proceeding before another competent body. If the court finds the defendant guilty, it can grant a claim for compensation, refer the injured party

with the whole claim to civil proceedings, or to proceedings before another competent body, or grant the claim only in part, and refer the injured party with the rest of the claim to civil proceedings, or to proceedings before another competent body.

4. Victims' Rights Legislation.
Information not obtained.

POLICE

1. Administration.

The police are subordinate to the Ministry of Interior. The police consist of the Police Presidium of the Czech Republic, sections operating in the whole territory, and sections whose operations are confined to limited regions. Police sections are established by the Minister as proposed by the Police President. There are several police departments: regular police, criminal police, traffic police, safeguard service, Department for Investigation of Corruption and Business-linked Criminality, Aliens Office and frontier police, swift action squad, and railway and airport police.

The Police Presidium directs the police, and is headed by the Police President, who supervises all police officers except those working at the Ministry of Interior or in investigation sections established and directed by the Ministry of Interior. These investigators are appointed by the Minister.

The Police President is appointed and subject to recall by the Minister of Interior with input from the government of the Czech Republic. The directors who are appointed and recalled by the Police President serve as heads of the above-mentioned departments.

Local public order affairs are within the competence of the local police. Work of the local police in towns and the capital of Prague is conducted by the corresponding municipal police. The municipal police cooperate with the Police of the Czech Republic; their mutual relations are specified by regulations issued by the government. In particular, municipal police enforce laws and regulations, protect persons and property, maintain order, investigate and penalize small offenses, and try to prevent crime.

In general, the police have the following duties: ensuring the protection of persons and property, helping to keep the peace, fighting terrorism, investigating crimes, convicting offenders, directing traffic, and performing administrative duties.

2. Resources.

* Expenditures. Information not obtained.

* Number of police. As of January 1, 1994, the total number of police officers was 56,000.

3. Technology.

* Availability of police automobiles. Information not obtained.

* Electronic equipment. Information not obtained.

* Weapons. Information not obtained.

4. Training and Qualifications. Information not obtained.

5. Discretion.

* Use of force. A policeman is authorized to use a weapon in the following cases: a) to avert imminent or continuing attack against himself or another person, b) when the offender does not surrender when ordered to or refuses to leave his shelter, c) to overcome an offender who is hampering an officer in the performance of his duty, d) to prevent the offender's flight, e) when necessary to stop a vehicle whose driver is endangering life (reckless driving).

Before using a weapon, the policeman is obliged to persuade the wrongdoer to stop the illicit action. If a person's life and health are threatened, he may take measures without trying to persuade the offender.

Coercive means used by policemen are: grasps, clutches, blows, self-defense kicks, tear gas, truncheon, handcuffs, police dog, pushing by using a horse(s), technical means to prevent departure of a vehicle, stopping strip, water gun, striking with a gun, threats of firing a gun, and warning shots.

The police are authorized to use the following weapons: firearms, stabbing weapons, cutting weapons, special kinds of weapons like a sniper's rifle, shot-guns, pistols with a silencer, weapons with target lighting, mechanical firearms, specially adapted firearms, explosives, and special explosive objects.

* Stop/apprehend a suspect. The police are authorized to bring into custody persons caught committing a crime, and to hold suspects long enough to carry out necessary operations. Suspects cannot be held longer than 24 hours.

A policeman is authorized to put in custody a person who endangers the property, life, or health of other persons, a person who attempts to escape custody, a person who damages police property, a person caught committing an offense, a person who is suspected of preparing for, attempting, or committing an offense.

A person who physically attacks another person or a policeman can be confined by shackling to a suitable object. Restriction of movement can be imposed only until the person stops his or her wrongdoing or is placed in a police cell and cannot exceed 2 hours.

* Decision to arrest. If a reason for detention exists and the accused person cannot be summoned, brought in, or detained to be present for the examination, the judge will draw up a warrant for the accused person's arrest. This decision to issue a warrant is based on the direction of the prosecutor in the preparatory procedure or the tribunal chief justice in the procedure before the court. The police carry out the obligations of the arrest warrant, which may require finding the residence of the accused. The arresting officers are required to bring the accused before the court within 24 hours.

If a reason exists for putting an offender into custody, but due to the urgency of the situation, an arrest warrant cannot be obtained, the investigator can provisionally put the accused person in custody. After 24 hours, the accused person must be set free, unless the prosecutor issues an arrest warrant.

* Search and seizure. When ensuring the security of safeguarded persons, the police are authorized to search and frisk. In order to carry out a search in houses and buildings, a policeman must obtain the owners' or users' consent. Such a search must be aimed only at ensuring the security of a safeguarded person. A policeman is authorized to enter any rooms accessible to the customers in a place of business in order to do his work. If it is feared that the life or health of a person is threatened or property can be damaged, the policeman is authorized to open a flat or any other closed room to take measures to foil the imminent danger.

* Confessions. A confession of the accused person does not exempt the authorities active in criminal proceedings from the obligation to investigate all circumstances of the case. It is forbidden for the accused person to be coerced into giving testimony or making a confession.

6. Accountability.

The inspection agency of the Ministry of Interior, with the Minister himself being in charge, evaluates complaints against policemen and investigates offenses committed by them.

PROSECUTORIAL AND JUDICIAL PROCESS

1. Rights of the Accused.

* Rights of the accused. All bodies in charge of criminal proceedings are bound to always inform the accused of his rights and provide him with a possibility to enforce those rights. A basic principle of criminal proceedings is that a person may not and shall not be prosecuted as a defendant on other than statutory grounds and in a manner stipulated by the Code of criminal procedure.

The defendant is entitled to state his opinion in respect of all facts with which he is charged and in respect of the evidence related to these facts, but is not obliged to give evidence. The defendant may state circumstances and evidence for his or her defense, make suggestions and submit petitions and legal remedies, is entitled to choose his advocate, to ask for an appointment to consult the advocate in the course of criminal proceedings. However, during his or her examination he may not consult his advocate to find out how to answer a question which he had been asked.

The defendant may ask to be examined in the presence of the advocate, and demand such presence in other acts of preliminary proceedings.

If he is in custody or imprisoned, the defendant may consult the advocate without the presence of a third party. In case that the accused did not use his right to choose an advocate, direct relatives, brothers or sisters, adoptive parents, adoptive children, spouse or a common law spouse may choose the advocate on his or her behalf.

The accused must have an advocate (a legal adviser) in preliminary proceedings, if he is in custody, in prison or under assessment in a medical institution, if he has been deprived of the capacity to perform legal acts or if his capacity to perform legal acts has been restricted, if the proceedings are conducted against a juvenile or a fugitive. The accused shall also have an advocate if the court, and in preliminary proceedings the investigator or the prosecutor, regard it as necessary, considering physical or mental disorders of the accused or if they doubt the capability of the accused to defend himself.

If the proceedings concern a criminal offence

for which the law prescribes the penalty of imprisonment with an upper limit exceeding 5 years, the accused must also have an advocate in preliminary proceedings. The accused shall also have an advocate in extradition proceedings and in proceedings which decide on the imposition of a protective anti-alcoholic treatment.

If the accused does not have an advocate in cases when he is bound to have an advocate, he shall be given a time-limit to choose one. Should the advocate not be chosen within the time-limit, an advocate shall be appointed for the accused without any delay, for the time period where defense is necessary. Should there be several accused persons, a common advocate shall be usually appointed for them, provided that their interests in the criminal proceedings do not contradict. The advocate shall be appointed, and if the reasons for necessary defense cease to exist his appointment shall be cancelled by the presiding judge and in preliminary proceedings by the judge. The appointed advocate is bound to take over the defense.

* Assistance to the accused. The accused who is unable to meet the costs of his defense is entitled to defense at a reduced fee or free defense.

2. Procedures.

* Preparatory procedures for bringing a suspect to trial. Crimes are investigated by police investigators. In the case of crime committed on board ship, the investigation can be conducted by the captain during a long voyage. During the investigation, the investigator proceeds on his own initiative in order to clarify all facts significant to the case, such as the offender and the consequences of the crime. The investigator assembles all evidence, not taking into account whether such evidence is against or in favor of the defendant.

The defendant cannot be forced to give evidence or plead guilty. The defense of the defendant and the evidence presented by him, provided it is not completely irrelevant, is carefully examined. With the exception of cases which require the consent of the prosecutor under the Code of Criminal Procedure, the investigator independently makes all decisions regarding the investigating procedure and acts related to the investigation and is fully responsible for their lawful and timely performance.

The investigator may refuse to fulfill the instruction of the prosecutor only if he assumes that the instruction is inconsistent with the law.

If the prosecutor insists on his instruction, he shall submit the matter to the closest superior prosecutor, who shall either cancel the instruction or refer the matter to another investigator. If the investigator considers the investigation completed and the results of such investigation is sufficient for bringing in an indictment, he shall provide the defendant and the advocate with the opportunity to inspect records and submit petitions for the amendment of the investigation.

After the completion of the investigation the investigator shall submit to the prosecutor a file with the petition asking to bring in an indictment, along with the list of suggested evidence. The investigator may also refer the matter to another body, if the results of preliminary proceedings suggest the act should not be regarded as a crime but is still an act which another competent body regards as a summary or disciplinary offense. Finally, the investigator may decide to stop the prosecution in the following circumstances: a) it is beyond doubt that an act has not been committed, b) the act is not a crime and there is no reason to refer the matter elsewhere, c) there is no proof that the act was committed by the defendant, d) the evidence is inadmissible, e) the attached punishment is insignificant in comparison with the punishment already inflicted upon the defendant or which is expected to be inflicted for another act, and f) another body, foreign court or authority has already made disciplinary decisions concerning the act and such decision is regarded as sufficient punishment.

The bodies in charge of criminal proceedings must ascertain the facts of the case. (Bodies in charge of criminal proceedings mean the court, prosecutor, investigator and police.) Criminal proceedings refer to the proceedings under the valid Code of Criminal Procedure. They must clarify the circumstances which are against and in favor of the defendant and establish evidence in both cases. Even if the defendant pleads guilty, the bodies in charge of criminal proceedings are not exempt from the obligation to review all circumstances of the case.

The bodies in charge of criminal proceedings must evaluate the evidence based upon careful consideration of all circumstances of the case, both individually and as a whole. Anything to help clarify the case can be accepted as evidence, especially defendant and witness testimony, expert opinions, objects and documents significant for criminal proceedings and inspection.

The prosecutor supervises the preliminary

proceedings, during which time the prosecutor is entitled to give binding instructions for the investigation of crimes and to demand files, documents, materials and reports from the investigator or police body in order to inspect whether the investigator starts the criminal prosecution in time and proceeds duly during the prosecution. Preliminary proceedings refer to the process from the commencement of the prosecution until the lodgement of a complaint, the referral of the matter to another body, or the suspension or abatement of the prosecution. Criminal prosecution means that part of the proceedings from the commencement of criminal prosecution to the point when a decision or order to suspend the prosecution has come into force. The prosecutor may also take part in performing of the acts of the investigator or police body, to personally perform an individual act or conduct the whole investigation. Finally, the prosecutor can issue a decision concerning any case matter, refer the matter with his instructions back to the investigator and cancel illegal or unfounded decisions and measures taken by the investigator or police and substitute his own for them.

Prosecution in court may commence on the basis of an indictment, which is referred to and represented in court by the prosecutor. In laying an indictment and representation, the prosecutor shall follow the law and his convictions based on consideration of all the circumstances of the case. An indictment may be brought in exclusively for the act for which a charge was presented. If the prosecutor intends to qualify a criminal act in a different way than the investigator, he shall disclose it to the defendant and his advocate before he brings in an indictment and find out whether they suggest the amendment of the investigation with regard to the intended change of legal qualification. The prosecutor shall notify both the defendant and the advocate of the fact that he is bringing in an indictment. After the prosecutor brings in an indictment, the court shall proceed independently. All questions are to be related to further proceedings and the court shall be bound, without awaiting other petitions to take any decisions and measures necessary for dealing with the indictment, for the closure of the matter and the enforcement of the court's decision.

The prosecutor may withdraw the indictment filed until the inferior court (court of the first degree) leaves for its final deliberation. After the commencement of a trial he may do so only if the defendant waives the continuance of the trial.

A withdrawal of the indictment results in the

matter being referred back to preliminary proceedings.

Initially, the court shall evaluate whether an indictment constitutes a reliable basis for further proceedings. The court shall especially consider, whether the preliminary proceeding which preceded the indictment was conducted in a manner consistent with the Code of Criminal Procedure and whether its results sufficiently justify bringing the accused before the court. To that effect, the evaluation serves as a preliminary hearing, within which the court may refer the matter back to the prosecutor for further investigation and, if necessary, for the rectification of deficiencies of preliminary proceedings or for proper clarification of the matter.

If the court refers the matter back to the prosecutor for further investigation, it must state in its justification how the preliminary proceedings must be amended, which facts must be clarified, and possibly which acts must be performed. If the prosecutor to whom the matter was referred back for further investigation decides to bring an indictment in again, he shall take into consideration the results of such further investigation.

The presiding judge shall have a copy of an indictment, along with the summons to the trial or a notification of the trial delivered to the parties of proceedings stipulated by the Code of Criminal Procedure. He shall also notify the prosecutor and the defendant's advocate that a trial will be held, as well as the injured party and the person concerned. The date of the trial shall be stipulated in such a manner to give the defendant, as of the delivery of the summons, and the prosecutor and advocate, as of the notification, a period of at least 5 working days for the preparation. This period may be shortened only with their consent.

In the initial part of the trial the prosecutor delivers an indictment, after which the presiding judge hears the defendant regarding the contents of the indictment, and if a claim for compensation has been raised, also in respect of that claim. Establishment of further evidence shall follow, including the hearing of witnesses and the defendant. The defense advocate and statutory representative may, with the consent of the presiding judge, ask the interrogated persons questions, usually after there are no more questions from the presiding judge and the jury.

After all evidence has been established, the presiding judge finds out whether the parties, including the defendant, wish to submit petitions for the amendment of evidence. If there are no such petitions relating to the evidence, the

presiding judge shall declare the establishment of evidence concluded and shall open the floor to final statements. The defendant's advocate or the defendant shall have the last word. The final statements may be interrupted by the presiding judge only if they clearly exceed the scope of the matter considered. After the end of final statements and before the judges leave for final deliberation, the presiding judge asks the defendant for his last word. During his speech, the defendant may not be asked any questions by the court nor by anyone else.

The court may only decide on an act which is expressed in the indictment petition. In adopting a decision, the court shall take into account only the facts which have been discussed in a trial and evidence established in the trial. The court is bound to discuss the evidence from preliminary proceedings related to the matter discussed and deal with such evidence in the decision. The court shall not be bound by legal qualification of the act in the indictment.

If the results of a trial indicate a substantial change of circumstances in the case and if further inquiry is needed for the clarification of the case, the court may refer the case back from the trial to the prosecutor for further investigation. The court shall follow the same procedure if the results of the trial suggest the defendant committed another act which is a crime and the prosecutor applies for a referral of the case with regard to the need of a common hearing. The defendant may lodge a complaint against a decision to refer the matter back to preliminary proceedings. The court shall also refer the matter to another body if it finds that a crime is not involved, but that the act for which the prosecution was instituted could be regarded by another body as a summary or disciplinary offense on which such a body is competent to decide. Otherwise the court shall decide on a verdict of guilty or an acquittal of the defendant.

The legal remedy against the verdict of the inferior court (court of the first degree) is an appeal. Only the prosecutor may challenge the verdict in the defendant's disfavor. If obligations to pay damages are involved, the injured party that claimed compensation shall also enjoy the same right to appeal. The verdict also can be challenged in the defendant's favor by direct relatives, brothers or sisters, adoptive parents, adoptive children, spouse and common law spouse. If the defendant has been deprived of the capacity to perform legal acts or if his capacity is restricted, his statutory representative or his advocate may also lodge an appeal in his favor.

A sole judge may issue an order, such as a "criminal order" in a criminal case, without hearing the matter in a trial, if the facts are proved beyond all doubt by the evidence obtained. Such an order has the nature of the guilty verdict. The procedural effects related to the declaration of this verdict begins on the delivery of the criminal order to the defendant, or to his advocate, as the case may be. The defendant, persons who are entitled to lodge an appeal in his favor, and the prosecutor may raise an objection against the criminal order. If such an objection is raised, the criminal order is cancelled and the sole judge shall order a trial of the matter. The order may impose a sentence of up to one year imprisonment, the prohibition of performing an activity of up to 5 years, a fine or a forfeiture.

In proceedings concerning a criminal act for which the law imposes a sentence of imprisonment which does not exceed 5 years, the court, and in preliminary proceedings the prosecutor, may with the consent of the defendant suspend the prosecution conditionally. If the defendant pleaded guilty, the court and the prosecutor may require compensation for the loss caused by the act, or arrange an agreement with the injured party that the defendant pay such compensation.

The decision to conditionally suspend prosecution shall stipulate a probationary period from 6 months up to 2 years. A defendant who concluded an agreement to pay damages to the injured party must pay damages during the probationary period.

The defendant may be ordered to observe reasonable restrictions during the probationary period to ensure that he leads a decent life. If the defendant does not comply with the imposed conditions during the probationary period, his prosecution shall continue. Conditional suspension of prosecution is an interim decision and cannot be regarded as proving guilt.

* Official who conducts prosecution. The prosecutor is bound to prosecute all known crimes, although there are admissible exceptions under the law or a declared international treaty (for instance, persons enjoying diplomatic immunity). The prosecution may not be continued in cases (a) where a pardon or amnesty has been granted by the president of the republic, (b) where limitations have occurred in the prosecution, (c) in cases when a person is not criminally responsible because he is under age, (d) in the case of the death of an offender. Also, the prosecutor cannot begin proceedings in cases where the prosecution is dependent on the consent of the injured party and such consent has not been given or has been

withdrawn.

Unless the Code of Criminal Procedure stipulates otherwise, the bodies in charge of criminal proceedings shall act ex-officio. In some cases, the law provides that bodies in charge of criminal proceedings may not act on their own initiative, but only following an instigation or petition made by an entitled person. This procedure is followed in the case of reviews of legal decisions. Damages are also decided in criminal proceedings only on the basis of a claim presented by the injured party.

* Alternatives to trial. After prosecution against a person is started, the criminal case can be disposed of by releasing it to another authority, abating prosecution, and interrupting the prosecution. In 1993, a total of 19,212 cases were disposed of by abating prosecution and 293,306 cases were abated by interrupting prosecution. There is a new rule that a prosecutor can stop prosecution and place the offender on probation.

After a lawsuit is instituted by a prosecutor, the court can make a decision after the preliminary hearing and release the case to a certain court or other authority, stop and interrupt the prosecution, "remand" the case to the prosecutor to re-investigate it, and stop the prosecution and place the offender on probation.

If the court has not made one of the above-mentioned decisions, the case goes to trial. In 1992, a total of 31,017 persons were sentenced in the Czech Republic. As of January 1, 1994, the amendment of the Penal Code has enabled a magistrate to pronounce the penal action without hearing the case before the court, as long as the facts of the case have been reliably proven. The amendment also makes possible for a court to stop prosecution under certain conditions and place the offender on probation.

* Proportion of prosecuted cases going to trial. Information not obtained.

* Pre-trial incarceration conditions. Custody is a procedural act which ensures the detention of the accused for the purposes of criminal proceedings and the execution of punishment. Its purpose is also to prevent the accused from impeding or frustrating the establishment of evidence, and to prevent the completion of a criminal offense or the commission of a new criminal offence. The Code of Criminal Procedure does not allow for mandatory custody.

Only the person who is charged can be remanded into custody. In court proceedings

custody is decided by a single judge, who only decides criminal matters of guilt and punishment within his jurisdiction. A judge decides on matters of custody in preliminary proceedings, upon a suggestion of the prosecutor.

In addition, a complaint against a decision of custody is admissible as a regular legal remedy. A tribunal of a superior court decides on any complaint against the decision of the lower court. If criminal proceedings are conducted against the accused serving a sentence of imprisonment and if a statutory reason for custody is given, the court, or the judge upon the suggestion of the prosecutor in preliminary proceedings, decides on the reasons, specifications, and duration of restriction.

The custody may only last for the period which is absolutely necessary. Should the custody in preliminary proceedings exceed 6 months and should there be danger that discharge of the accused could frustrate or impede the accomplishment of the purpose of criminal proceedings, the judge may, upon the suggestion of the prosecutor, extend the custody for a maximum period of 1 year. The period may be further extended only by a tribunal, but cannot exceed a maximum period of 2 years. The custody in court proceedings, combined with the custody in preliminary proceedings may not exceed 2 years.

If it is impossible to complete the prosecution within the mentioned period and if discharge of the accused could frustrate or impede the prosecution's purpose, due to the difficulty of the matter or other serious reasons, the Supreme Court may extend the custody. The custody can only last for as long as absolutely necessary. Also, the time served in custody and the period by which it was extended cannot exceed 3 years, or 4 years in case of especially grave criminal offenses.

All bodies in charge of criminal proceedings are obliged to examine whether the reasons for custody still exist, in each stage of the prosecution. The judge shall do so in preliminary proceedings when deciding on the suggestion of the prosecutor to extend custody and deciding on the request of the accused to be discharged from custody.

In preliminary proceedings, the prosecutor can also make such decisions concerning custody. If the prosecutor agrees to the discharge of the accused, the presiding judge may decide on the discharge from custody in court proceedings.

If there is an alternative measure which serves the same purpose as custody, the accused shall not be remanded into custody. For instance, instead of imposing custody on a person for

suspicion of escape or continuing criminal activity, a surety given by a citizens' common interest association for the further conduct of the accused can be substituted. The term, citizens' common interest organization, involves mainly trade union and other social organizations, working groups and churches, with the exception of political parties and political movements. The surety would also concern the accused's appearance in court, or before the prosecutor or investigator when summoned. The accused would also have to consistently report absences from his or her place of residence and give a written promise that he or she will lead a decent life, will not commit another criminal act, and will fulfil the obligations and observe the restrictions imposed upon him or her.

The court and the judge in preliminary proceedings must regard this substitution to custody to be sufficient, considering the character of the accused and the nature of the case, in order for the substitution to be a legally viable alternative.

* Bail Procedure. Another measure which can be substituted for custody, if the accused is suspected of escape or continuing criminal activity, is a financial surety (bail). However, if the accused is prosecuted for terror(ism) (93 and 93a), exposure of the public to danger under Section 2,3 (179), illegally producing and holding drugs, psychotropic substances and poisons under Section 3 (1987), murder (219), bodily harm (222), robbery (Sect.3, subsect.234), rape (Sect.2,3, subsect.241), and sexual abuse (Sect.3,4, subsect. 242) under the Criminal Law Act, bail may not be accepted. Also, if the reason of the custody is a suspicion that criminal activity might continue, bail might not be accepted.

With consent of the accused, bail may be furnished by another person. Prior to the acceptance of the bail, such person must be informed of the basis of the accusation and the reasons for custody. The amount and manner of bail deposition is decided by court, and in the case of preliminary proceedings, by the judge.

The bail must have the minimum value of 10,000 Czech crowns, with an undetermined upper limit. In determining the specific amount of the bail, the character and financial resources of the accused or the person who stands bail for the accused is taken into consideration.

Bail is accepted by a court decision and in preliminary proceedings by a judge's decision. A complaint can be brought against a bail decision. Initially, the court or judge must decide whether they accept the bail. Following their decision,

they decide whether to discharge the accused or keep him or her in custody.

The custody of juveniles, or persons between 15 and 18 years old when they committed the offense, is governed by special regulations. The custody of a juvenile is admissible only in cases where the purpose of the custody cannot be attained in any other way. Other means of securing a juvenile, which have priority over custody, include the surety of a citizens' common-interest association, a financial surety, and means not expressly stated in the law, such as parental measures or placing the juvenile in a reformatory institution.

* Proportion of pre-trial offenders incarcerated. As of December 31, 1992, there were 66,565 prosecutions conducted against persons; 5,965 of them in custody. Also, as of January 1, 1994, there were 7,810 accused, nonconvicted persons in prison, of which 261 were women.

JUDICIAL SYSTEM

1. Administration.

The Constitutional Court sits at the top of the judicial hierarchy, under which sit the Supreme Court and Supreme Administrative Court, the High Courts, Regional Courts and Regional Courts of Commerce, and District (Local) Courts.

In the capital territory of the Czech Republic, the Municipal Court and Local Courts substitute for the Regional Court and Local Courts, respectively. In the town of Brno, the Municipal Court substitutes for the corresponding District Court.

The Supreme Administrative Court has not yet been established. Its constitution is linked with the institution of a new administrative order that should establish a new system of state administration and supervision.

2. Special Courts.

The only special courts in the Czech Republic are the Regional Courts of Commerce that decide business affairs within the range of their district.

Criminal courts deal with offenses. However, courts specialized in transport, youth, and army cases can be established if the district court chooses to do so.

3. Judges.

* Number of judges. As of January 1, 1994, there were a total number of 1,903 practicing judges in the courts of the Czech Republic, of which 1,168

were women (61%) and 735 were men (39%).

According to Article 84, paragraph 1, of the Constitution of the Czech Republic, the Constitutional Court consists of 15 judges.

As of January 1, 1994, the Supreme Court has a total of 26 judges of which 3 (12%) are women and 23 (88%) are men. The High Court has a total number of 98 judges, of which 47 (48%) are women and 51 (52%) are men. The Regional Courts have a total number of 452 judges, of which 237 (52%) are women and 215 (48%) are men. The Regional courts of Commerce have a total number of 101 judges in which 68 (67%) are women and 33 (33%) are men. The District (local) courts have a total of 1,226 judges, of which 813 (66%) are women and 413 (34%) are men.

Also as of January 1, 1994, 373 probationers, of which 246 (66%) were women, were being prepared for working as judges at criminal courts. 41 probationers, of which 28 (68%) were women, were working at regional courts of commerce.

* Appointment and qualifications. Under Article 84, paragraph 2 of the Constitution of the Czech Republic, the President of the Czech Republic appoints the Constitutional Court judges, in accordance with the opinion of the Senate. Judges are also appointed in accordance with the opinion of the Parliament. Members of the Constitutional Court are nominated for a period of 10 years.

A candidate for the Constitutional Court must be an unimpeachable citizen, who can be elected to become a senator, thereby having the right to vote and being at least 40 years old. The candidate must also be a graduate of the Faculty of Law and must have worked as an attorney or judge for at least ten years.

Other court judges are appointed by the President of the Czech Republic for an unlimited time period. Any citizen of the Czech Republic who is qualified to work in a legal profession and is unimpeachable can be appointed a judge. Candidates must have experience and moral qualities which guarantee the duties of the judge will be properly discharged, must be at least 25 years old on the day of appointment, and must agree to be appointed as judges and to serve in with the courts to which they are directed. In addition, a judge must be a graduate from a university and must have passed the special judicial examination.

During the 3-year probation period, probationers prepare for the profession of judge.

The Minister of Justice can include time spent in another profession as part of the probation period, on the condition that the previous work

included experience necessary for the work of a judge. Reduction of the probation period cannot exceed 2 years.

After the probation period is over, probationers must pass the special judicial examination whose aim is to find out whether they have the necessary knowledge and are adequately prepared to discharge the duties of judges.

PENALTIES AND SENTENCING

1. Sentencing Process.

* Who determines the sentence? Section 90 of the Constitution of the Czech Republic stipulates that only the court shall decide on the guilt and penalty for criminal offenses, similar to the stipulations by the Convention on Human Rights and Fundamental Freedoms in Article 40. The tribunal or sole judge decides cases by a verdict, and in defined cases a sole judge by an order (that is, a criminal order). An order can result only in the imposition of prison sentences with a maximum of 1 year. It can also result in the performance of activities for up to 5 years, a fine and forfeiture of property. Section 23 of the Criminal Law Act on the purpose of penalties determines the type and severity of the penalty.

* Is there a special sentencing hearing?
Information not obtained.

* Which persons have input into the sentencing process? The provisions of Sections 3 to 6 of the Code of Criminal Procedure regulates the cooperation between the bodies in charge of criminal proceedings and citizens' common-interest associations. Citizens' common interest associations are entitled to send their representative to the hearing before the District or Regional Court acting as an appellate court. The representative then states his opinion on the matter discussed, on the character of the offender and on the possibilities of reformation. The citizens' common-interest associations may also act as a surety for the reformation of the offender, if there are reasons to expect that the offender will be reformed. This may influence the penalty decisions.

2. Types of Penalties.

* Range of penalties. Article 39 of the Convention on Human Rights and Fundamental Freedoms stipulates that penalties may be imposed under the law only; only the law may provide the type of penalty and conditions for its imposition.

Article 7, Sect. 2 of the Convention on Human Rights and Fundamental Freedoms provides that no person may be tortured or subject to cruel, inhumane or humiliating treatment or punishment.

Only penalties stipulated by Section 27 of the Criminal Law Act may be imposed as a punishment for a criminal offense. The penalties are as follows: imprisonment, loss of honorary titles and distinctions, loss of military rank, prohibition of certain activities, forfeiture of property, fine, forfeiture of property, banishment, ban from residence. Extraordinary penalties such as 15 to 25 years imprisonment and life imprisonment may also be imposed.

The Criminal Law Act enables the majority of penalties to be imposed both separately and in combination with another penalty. However, the loss of honorary titles and distinctions, and the loss of military rank are penalties which may not be imposed separately.

For juveniles, the court may impose only a penalty of imprisonment, forfeiture of property, banishment and a fine, if the offender is gainfully employed. If it does not impede vocational training, the court may also ban the performance of certain activities, provided that the upper limit of the penalty does not exceed 5 years. The penalties of imprisonment stipulated by the Criminal Law Act are, in the case of juveniles, reduced by half. However, the upper limit may not exceed 5 years and the lower limit may not fall below 1 year.

A nonsuspended penalty of imprisonment is usually imposed upon offenders for serious criminal offenses, such as murder, robbery, and rape, in which the Criminal Law Act does not allow for any other sanction. Otherwise, there is an effort to limit prison penalties to cases where no alternative to incarceration would achieve the purpose of the penalty.

The amendment of 1990 provides that a nonsuspended penalty of imprisonment for criminal offenses where the upper limit of the penalty does not exceed 1 year may be imposed under the condition that the purpose of the penalty cannot be obtained by another purpose, considering the character of the offender.

In 1992, the courts of the Czech Republic imposed suspended sentences of imprisonment for 59.4% of the cases, imposed non-suspended sentences of imprisonment for 23.9% of the cases, and imposed fines for 11.4% of the cases.

* Death penalty. The amendment of the Criminal Law Act of 1990 abolished the death penalty, substituting life imprisonment. Life imprisonment

is imposed for the most serious criminal offenses, the majority of which involve homicide.

PRISON

1. Description.

* Number of prisons and type. In 1993, there were a total of 28 prisons involved in custody and imprisonment.

Since 1994, a new classification of prisons has emerged under the Penal Code and regulations of General Headquarters of Prisons in the Czech Republic. (Penal Code, 1993). In accordance with these regulations, as of January 1, 1994, custody can take place in the 9 custodial prison facilities in the Czech Republic as well as in the 14 special prison sections for custody in existing prisons.

There are several types of prisons. There are 5 prisons with supervision, 3 prisons with surveillance departments, 13 prisons with guards, of which 12 have departments with surveillance and 2 have departments with supervision for women, and 4 prisons with intensive guard service, of which 2 have departments with surveillance as well as guards. There are 2 prisons for juvenile delinquents, which are structured to include departments with supervision, surveillance, and guards. There are also departments with supervision and with surveillance for adult males in these same prisons.

Separate departments for imprisonment, mostly with surveillance, exist for all custodial prisons.

Women are separated from men, although sometimes only within the framework of one independent department. Two prisons with guards and one department in the custodial prison are used for women. These prisons also have departments with supervision, surveillance, and guards.

All prisons are divided into 2 sections. One section is used for the imprisonment of convicted drug abusers. The other section is used for the imprisonment of psychopaths, in which special programs are applied.

* Number of prison beds. In 1993, the prison capacity was 16,833 persons. In 1994, the capacity is expected to increase to 18,133 persons.

* Number of annual admissions. In 1992, the number of newly imprisoned persons was 7,048, of which 277 were women.

* Average daily population/number of prisoners. As of January 1, 1994, there were 8,612 convicted persons in prisons, of which 268 were women. This figure does not include the 7,810 persons who stood as accused, not convicted, of which 261 were women.

* Actual or estimated proportions of inmates incarcerated. The following figures reflect the actual number of inmates incarcerated for certain crimes in 1992.

Drug crimes	54
Violent crimes (includes completed and attempted murder, rape, and intentional infliction of grievous bodily harm)	1,697
Property crimes	4,534
Other crimes (includes only robbery)	1,438

2. Administration.

* Administration. The prison system is a system of state institutions. It is administered by General Headquarters, which is subordinate to the Minister of Justice.

* Number of prison guards. There were a total of 7,549 prison staff, of which 30% were women. The Justice Guard, which is an autonomous body, represents a total of 500 persons subordinate to the General Headquarters of Prisons.

The administration is presently being reorganized into a civil service structure, enlarging total prison personnel to about 1,500 persons. The ethnicity of the staff is not taken into account.

* Training and qualifications. Persons working in the prison service are required to have either a secondary school education or a completed University education. Introductory courses (forms A, B, and C) are taken and supervised practical training is undergone. A long term preparatory course of about 2 years is being developed for prison staff. During their service, prison staff can participate in various re-qualification courses and other courses aimed at broad special education.

* Expenditure on prison system. In 1993, the expenses connected with the prison service represented 2,444 million Czech crowns. The

amount planned for the 1994 allocation is 3,195 million Czech crowns.

3. Prison Conditions.

* Remissions. The possibility of placing an offender on probation (parole) exists only after half of the prison term has been spent in prison or on the basis of amnesty given by the President of the Czech Republic, if other legal conditions are met. Persons who have committed serious crimes such as high treason, terrorism, murder, genocide (Penal Code, Sect. 62, par. 1), and persons sentenced to exceptional imprisonment penalties cannot apply for probation before having served two-thirds of their prison term. For persons sentenced to life imprisonment, they must have served twenty years in prison before applying for probation. If a prisoner is placed on probation, the court defines a probationary period of 1 to 7 years, beginning at the time the prisoner is set free.

* Work/education. Prisoners work if prisons have work for them to do. Currently, about half of all prisoners work. They rarely refuse to work and, due to the lack of jobs, are not compelled to work.

A program on how to spend free time has been established for the prisoners who do not or refuse to work. For example, introductory courses aimed at various professions are offered to prisoners. Juvenile delinquents can obtain a secondary school degree in custody with a certificate valid in the territory of the Czech Republic. However, juvenile prisoners are not obliged to attend school.

* Amenities/privileges. There are two kinds of visits allowed in prison: with and without surveillance. Visits are granted on the basis of a special regulation.

Various hobbies and training programs can be pursued, including various psychological training methods and guidance, in an educational framework and according to the possibilities allowed by the prison staff.

General medical care for prisoners is ensured by physicians and nurses employed by the prison service. There are two hospitals and one separate department in a psychiatric hospital which are owned by the prison service and are used for the hospitalization of prisoners. Special medical care is ensured by specialists on a contract basis.

EXTRADITION AND TREATIES

* Extradition. Extradition is regulated by national criminal law and public international law. Treaties have been concluded with such countries as Albania (Decree No. 87/1960 Coll. of L.), Algeria (Decree No. 17/1984 Coll. of L.), Bulgaria (Decree No. 3/1987 Coll. of L.), Cuba (Decree No. 80/1981 Coll. of L.), Hungary (Decree No. 63/1990 Coll. of L.), Poland (Decree No. 42/1989 Coll. of L.), and Greece (Decree No. 192/1993 Coll. of L.). A treaty has also been concluded with the Slovak Republic (the notification of the Ministry of Foreign Affairs No. 209/1993 Coll. of L.). Bilateral international treaties concerning the problem of offender extradition have also been entered into with, for example, France (Decree No. 11/1931 Coll. of L.), Austria (Decree No. 87/1985 Coll. of L.), the United States (Decree No. 48/1925 Coll. of L.), and Great Britain (Decree No. 211/1926 Coll. of L.).

* Exchange and transfer of prisoners. Information not available.

* Specified conditions. Detailed regulations concerning extradition is included in bilateral treaties and multilateral international conventions. Since its foundation in 1918, the Czech Republic has entered into bilateral treaties with a number of European and other countries. Such treaties have been declared in the Collection of Laws, particularly the treaties regulating legal contact with foreign countries in criminal matters like extradition proceedings.

The Criminal Law Act provides for extradition in Section 21, where, in subsection 1, a citizen of the Czech Republic may not be extradited for the purpose of prosecution, nor for the execution of punishment. The Code of Criminal Procedure regulates extradition; it stipulates that the provisions are supportive and shall apply in cases when there is no international treaty to regulate the extradition. It also regulates the extradition of an offender from abroad for the purposes of prosecution or for the execution of punishment and protective measures.

There are several multilateral conventions binding the Czech Republic. The Convention relating to the extradition of persons sentenced to imprisonment in the state of their nationality, concluded on the 19 May 1978 in Berlin, and came into force for the Czech Republic on September 23, 1980 (Decree No. 123/1980 Coll. of L.).

The Convention on the extradition of convicted persons, concluded on 21 March 1983 in Strasbourg, came into force for the Czech Republic

on the August 1, 1992 (Notification of the Ministry of Foreign Affairs, 1992b). Article 22 of the Convention explains its relation to other treaties and provides that it shall not affect other rights and obligations arising from extradition treaties or other treaties concerning international cooperation. In addition, the states are enabled to enter into bilateral or multilateral agreements on issues regulated by the Convention.

The European Convention on Extradition, concluded on December 13, 1957 in Paris, took effect for the Czech Republic on July 14, 1992 (Notification of the Ministry of Foreign Affairs, 1992a). Article 28 stipulates for states bound by the Convention, its provisions shall substitute the provisions of all bilateral treaties, conventions and agreements which regulate the extradition between any two contracting parties. The negotiation of bilateral or multilateral agreements will only occur in order to amend the provision of this Convention or to promote its application. SOURCES

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