



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

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**Committee against Torture  
Forty-eighth session**

**Summary record (partial)\* of the 1068th meeting**

Held at the Palais Wilson, Geneva, on Monday, 14 May 2012, at 10 a.m.

*Chairperson:* Mr. Grossman

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Consideration of reports submitted by States parties under article 19 of the Convention  
(*continued*)

*Combined fourth and fifth periodic reports of the Czech Republic*

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\* No summary record was prepared for the rest of the meeting.

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*The meeting was called to order at 10 a.m.*

**Consideration of reports submitted by States parties under article 19 of the Convention** *(continued)*

*Combined fourth and fifth periodic reports of the Czech Republic (CAT/C/CZE/4-5; CAT/C/CZE/Q/4-5 and Add.1)*

1. *At the invitation of the Chairperson, the delegation of the Czech Republic took places at the Committee table.*
2. **Ms. Baršová** (Czech Republic) said that a new Criminal Code had entered into force in 2010. The Code included specific crimes of torture and inhuman treatment entailing penalties of up to 5 years' imprisonment or up to 18 years' imprisonment in the event of aggravating circumstances, such as racially motivated offences or offences committed against a pregnant woman or child or resulting in the death of the victim. The definition of torture used by courts, prosecutors, police officers and other public bodies was that set forth in article 1 of the Convention because, according to the Constitution of the Czech Republic, ratified international treaties were directly applicable as an integral part of the Czech legal system and had primacy over domestic legislation. The Code also punished the crimes of human trafficking, rape, forced termination of pregnancy, restriction of personal liberty, ill-treatment of a person in custody and other offences that corresponded to specific violations of the Convention. The new Code also reflected Convention requirements pertaining to various stages of offences, forms of participation in offences and general criminal jurisdiction.
3. The establishment of the General Inspection of Security Forces at the beginning of 2012 constituted a major step forward. The Inspection was a completely independent body entrusted with the detection and prosecution of crimes committed by members of the Czech Police, the Prison Service and the Customs Service, which were the main bodies empowered to restrict personal liberty. The Inspection was not attached to any ministry or public body but reported to the Government and to a special parliamentary commission that controlled its work. It could also issue methodological guidelines and recommendations aimed at preventing criminal and illegal activities by members of the security forces. In addition, regional employment offices inspected social service providers, while the Ministry of Health and other bodies inspected health service providers, and the school inspectorate oversaw educational facilities for children. All the aforementioned bodies were independent from the inspected facilities and their operators.
4. In 2008 the Czech Republic had adopted a new Police Act, which laid down principles of proportionality, respect and courtesy and general obligations. It contained specific rules governing detention in police cells, including a time limit of 24 hours, and required officials to state the grounds for detention, to inform family members and to provide access to legal and medical assistance. The Act also strictly regulated the use of weapons and instruments of restraint and contained rules governing the disclosure of information, warning requirements and specific conduct with respect to children and pregnant women. All restraint and detention measures were recorded and all forms of torture and cruel, inhuman or degrading treatment were strictly prohibited and investigated. Perpetrators of domestic violence were removed from the dwelling shared with the victim for up to 10 days. That injunction could be followed by a court order for up to one year and a subsequent court procedure.
5. The Czech Republic was also improving its standards in the area of prevention of torture and compensation and rehabilitation of victims. An amendment to the Code of Criminal Procedure adopted in 2011 allowed victims of any crime, including torture, to claim damages as the injured party in criminal proceedings for both material harm and

harm resulting from mental suffering and attacks on human dignity and personality. Victims could also sue for damages in civil proceedings.

6. A bill on victims of crime currently before Parliament provided for a comprehensive system of State assistance for victims, including legal, medical, psychological, social and any other assistance required. Vulnerable victims such as children, persons with disabilities or victims of human trafficking and sexual or other forms of violence would be entitled to obtain assistance free of charge. Public officials such as police officers or prosecutors would be required to provide victims with all necessary information on their rights and to take all necessary measures to protect them from any danger, invasion of privacy or revictimization during the proceedings. The providers of assistance would be listed in a public register and supported with subsidies from the State, which would guarantee and control the quality of their services.

7. A second bill before Parliament had been drafted in response to new developments in the area of international judicial cooperation, such as those reflected in the Statute of the International Criminal Court, which the Czech Republic had recently ratified. Due regard was paid to the international human rights obligations of the Czech Republic, including the non-refoulement principle in cases where there was a risk of torture, persecution or any other breach of international human rights law.

8. The Czech Republic had also adopted complex strategies and action plans to tackle domestic violence and human trafficking. The National Action Plan for the Prevention of Domestic Violence (2011–2014), adopted in 2011, focused on support for vulnerable groups, especially children, but also provided for social and therapeutic services for perpetrators and training courses for State agents, physicians, medical staff, social workers, teachers and other actors. The Plan also provided for public awareness-raising activities, research on forms of domestic violence, including stalking, and assessment of the effectiveness of existing legislation. The National Strategy for the Fight against Human Trafficking in the Czech Republic (2012–2015), adopted in 2012, focused on partnerships with national and international actors, prevention, support and protection for victims, and prosecution of perpetrators. Concrete measures targeted, in particular, inhabitants of socially excluded localities and foreigners, but also police officers, judges, candidates for judicial office, labour inspectors and others.

9. The Office of the Ombudsman constituted the national preventive mechanism under the Optional Protocol to the Convention. The Ombudsman and his highly qualified staff were making a highly effective contribution to the prevention of torture in the Czech Republic by visiting prisons, police stations, health and social service facilities, facilities for children and foreigners, and other places where personal liberty was restricted. The Ombudsman submitted highly professional and informative reports, raising awareness of the situation of detainees and proposing measures to improve their situation. Since 2010 the Ombudsman had been monitoring the procedure for the expulsion of foreigners, ensuring that their rights were respected and that standards of protection were improved.

10. **The Chairperson**, speaking as Country Rapporteur, expressed appreciation of the State party's legislative initiatives and its ratification of international treaties, including the Optional Protocol to the Convention.

11. According to the replies to the list of issues, article 1 of the Convention formed part of Czech legislation pursuant to article 10 of the Constitution. It had therefore been unnecessary to incorporate the definition of torture it contained in the Criminal Code. He asked whether the State party considered that the Convention was self-executing. According to the report, it had been used by the courts as an interpretative tool, but he wondered whether an individual could file a request with the courts for the application of a norm contained in the Convention.

12. The basic penalty for torture under the Criminal Code was imprisonment for between 6 months and 5 years. The penalty was increased to between 2 and 8 years if the offence was committed by an official on discriminatory grounds. He asked whether the penalty was also increased if torture was inflicted with the acquiescence of a public official. The requirement in the same context that the act should be committed by at least two persons or repeatedly was not consistent with the Convention.

13. The Committee would be interested to hear about cases in which the Convention had been directly applied in a court of law in either civil or criminal proceedings. He asked whether an indigent person was entitled to legal counsel as soon as he or she was taken into police custody. According to the State party's reply to question 5 of the list of issues, assistance was provided to persons at risk of domestic violence who contacted intervention centres. However, the perpetrator of harassment of a person living in "a common residence" could be prosecuted under section 199 of the Criminal Code without the approval of the injured party. He asked what steps were taken by police officers or other officials in cases where the injured party did not approve of such an investigation or prosecution, in order to ensure that the party concerned was protected against retaliation. He also wished to know whether the injured party had access to social services.

14. Consent to sterilization was deemed to be free if it was given without any form of pressure. He asked whether relevant information about sterilization was provided in different languages to ensure that linguistic minorities, including the Roma community, were able to give informed consent. The Czech Republic had undertaken to establish a committee to pay compensation to Roma women who had been sterilized. He asked whether compensation had in fact been paid and, if so, to how many people.

15. The European Roma Rights Centre claimed to have monitored 23 violent attacks resulting in three deaths during the past six months. In early 2012, for instance, a Romani woman had been stabbed and killed in Prague and three young men had admitted to their involvement in the crime. There had also been 11 arson attacks on Roma families in recent years. According to the jurisprudence of the European Court of Human Rights in the case of *Nachova and Others v. Bulgaria*, when there was a suspicion of the existence of racial attitudes, enhanced monitoring was important. He invited the delegation to comment on the information provided by the European Roma Rights Centre. Had provision been made for enhanced measures of protection and what stage had been reached in the investigation and prosecution of the reported crimes?

16. Turning to article 3 of the Convention and the question of refoulement, he asked which factors the Ministry of Interior took into account when assessing a threat to the life and freedom of persons facing expulsion and the risk of torture. Referring to Directive 2008/115/ES, the State party announced in its reply to the list of issues that it had expanded the grounds that could be invoked by a foreigner to obtain relief from a decision concerning administrative expulsion. He asked the delegation to describe the expanded grounds.

17. He said that the information provided in response to paragraph 9 of the list of issues indicated that foreigners were detained while awaiting departure from the country on the decision of the police, rather than the judicial or administrative authorities, and he asked for clarification in that regard, particularly with respect to the criteria applied by the police. Information as to which law provided the two possible remedies against detention would also be welcome. With regard to the measures for foreign families and unaccompanied minors, he wished to know how many families with children were awaiting departure and what measures were in place to meet children's specific needs when they were detained with their families. More information was requested on the new legislation regarding the entry and residence of foreign nationals, and the detention of families with children at that stage. Given the importance accorded by the new legislation to keeping detained families together, it would be useful to know how the notion of family was defined in that context.

18. He asked whether the State party intended to sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance. It was stated in the written replies that the Czech Republic was bound by the Convention on International Civil Aviation and therefore could not inspect civil aviation, including, it seemed, alleged CIA rendition flights. He asked, therefore, whether the State party considered that article 3 of the Convention against Torture superseded other international treaties, as was the case when it was suspected that a person might be subjected to torture if extradited. If another treaty was considered to take precedence over the Convention against Torture, he would like to know on what legal basis that could be, since many members of the Committee considered the treaty to be *jus cogens*. While the State party had indicated that diplomatic assurances had been provided in cases involving the receipt and extradition of individuals from its territory, information was requested as to the type of assurances and their conditions, as well as to whether they were considered acceptable in cases where there were grounds to suspect that article 3 would be violated.

19. Noting the entry into force of Act No. 198/2009 on equal treatment and legal means of protection against discrimination, he wished to know whether any of its provisions had been made available in the Roma language. Regarding the possibility of extending extradition custody by three months, it would be useful to know whether such extensions could be repeated indefinitely and whether a complaints mechanism was in place. Clarification was requested concerning the limiting of voluntary returns of foreign nationals to 15 December 2009.

20. Drawing attention to the statistics provided in the written replies regarding complaints filed against police officers for ill-treatment, he said that there appeared to be a contradiction between the stated lack of records of cases of ill-treatment or torture committed by police officers and the list of complaints provided in the same document, including complaints that had been found to be well grounded or partially well grounded. Recalling that no system was free of complaints, the delegation was invited to explain that discrepancy and provide information on the registration and independent assessment of complaints. It would also be interesting to have more information on the external supervision of the General Inspection of Security Forces, including how the supervisory body was appointed, how transparent it was and whether it had links with NGOs.

21. Although a plan on inclusive education for Roma children had been developed following the ruling of the European Court of Human Rights in the case of *D.H. and Others v. the Czech Republic*, information from Amnesty International indicated that implementation of the plan had stalled in the previous 12 months. Both the Ombudsman and the Minister of Education, Youth and Sports had raised serious concerns regarding the education provided for Roma children, particularly their above average representation in schools for children with mental disabilities; more information on the matter would be useful.

22. **Mr. Wang Xuexian** (Country Rapporteur), noting that the composition of the delegation reflected the high standards set by the Czech Republic with regard to gender equality, said that many of the State party's achievements, particularly in the area of legislation, were highly commendable. The State party had introduced the Strategy on Policing Minorities 2008–2012 to address a number of issues, including racial prejudice. He asked, given the increase in crimes with extremist overtones in recent years, whether any evaluation of the strategy had been undertaken and invited the delegation to comment on the situation.

23. Despite the national strategy to prevent violence against children, parents had the right, under Act No. 94/1963, to use adequate educational measures on their children. It would be useful to know how the term "adequate" was defined in that context and whether

it could include corporal punishment. Furthermore, he wished to know when the State party intended to enact legislation clearly prohibiting corporal punishment in all settings.

24. He asked why members of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment were able to access individuals' medical records without prior consent.

25. Regarding the reduction in the percentage of the costs of imprisonment paid by the prisoners themselves, he asked why the charge, a practice found in few countries, had been retained and what obstacles there were to abolishing it altogether. More information was requested on the outcome of the in-depth monitoring of Přebram Prison carried out by the Czech Helsinki Committee.

26. He wondered whether the lack of records pertaining to cases of torture and ill-treatment involving police officers, identified by the Country Rapporteur, reflected a lack of proper investigation of incidents of torture, and he noted that only a small percentage of complaints were considered well-grounded. It was stated in the written replies that only one police officer had been reprimanded following complaints of excessive use of force during demonstrations at the International Monetary Fund/World Bank meeting in September 2000, and he therefore asked whether that was commensurate with the problems found during investigation.

27. Welcoming the new law to improve the situation regarding compensation for victims of torture and other inhuman and cruel treatment, he noted that the information provided by the State party in that regard focused on the provision of financial help, which was a temporary measure, and asked for more information on the nature of that financial help and the right of the Ministry of Justice to reject requests for financial help. Furthermore, he requested, if available, information on cases in which compensation had been provided to victims of ill-treatment, including examples of the amounts awarded.

28. In light of the recommendation by the Government Council for Human Rights that the Government of the Czech Republic should compensate women who had been sterilized without consent, he asked whether the relevant data had already been collected and the necessary investigations carried out. It was understood that there was a specified period during which medical records were retained. The Committee, however, would be interested to hear the delegation's response to the allegations of illegal shredding of medical records.

29. According to the written replies, the problems found in the facility for detaining foreigners were not of a serious nature; the Committee would appreciate more information on the problems identified and the delegation's response to the allegation that asylum seekers, including children, continued to be detained. It would also be useful to know whether the State party held a central database of stateless persons.

30. **Ms. Belmir**, noting that detainees currently consulted with psychiatrists or psychologists through metal grilles, said that such physical barriers did not allow for a proper doctor-patient relationship. She asked whether the State party was taking steps to remove the barriers in order to ensure more humane treatment and contact. In addition, guards should not be present during a detainee's medical examination, as their presence violated the principle of medical confidentiality. Clarification was needed of allegations, published in the report of the European Committee for the Prevention of Torture concerning its visit to the Czech Republic in 2008, that prison staff had used pepper spray against a prisoner. She failed to understand the practice of forcing a detainee to bear part of the cost of his or her incarceration, for which there was no legal justification. Lastly, she asked whether claims by persons facing extradition that they were at risk of torture if they were returned to their country of origin were taken into consideration.

31. **Ms. Sveaass** said that she would appreciate further information on the plans to reform residential social care services, establish alternative care facilities such as community centres and improve psychiatric care. Details of the level of funding set aside and time frame for such reform would be helpful. She would welcome an update on the status of the current draft legislation on health, health services and mental health referred to in paragraphs 32 and 33 of the replies to the list of issues. She wondered whether the law prohibited the involuntary hospitalization of persons who entered hospitals voluntarily.

32. More information was needed on the means used to restrain psychiatric patients, especially the caged beds and net beds referred to in paragraph 102 of the report. Although the report claimed that caged beds were no longer used in medical facilities, Radio Praha had recently reported on a 51-year-old mental hospital patient who had hanged herself in January 2012 while confined to a caged bed. She asked whether there had been any investigations into that and similar incidents. She could not see much difference between caged beds and net beds and noted with concern that net beds were still used in medical establishments. The report also stated that such restraints must be considered as a last resort. She would like information on other measures of restraint, including the strapping down of patients, isolation and psychiatric medication. Research had shown that a large number of persons hospitalized for severe psychiatric disorders such as psychosis had been traumatized in childhood and such treatment often forced them to go through those traumas again. She therefore wished to know what efforts were being made to find alternatives to such restraints and what legal safeguards were in place or envisaged to make it very difficult for medical personnel to impose restraints.

33. She had received reports that persons were not only restrained but also grossly neglected. One patient had reportedly been obliged to attempt to drink his own urine because his mouth was so dry. Another patient had choked to death on her own feces in 2006. She would like to hear more about the complaint mechanisms in place in the country, particularly regarding the opportunities available to persons in psychiatric hospitals to lodge complaints. She wished to know more about what was being done to raise awareness among medical personnel about the Convention, train them to use alternative means of dealing with difficult patients and identify sources of ill-treatment should it occur.

34. There was also a lack of statistics on restraints used against persons deprived of their liberty. According to the above-mentioned report of the European Committee for the Prevention of Torture, much information was available only in personal medical files, which could not be consulted without the consent of individual patients, which made it difficult for the Committee to determine whether restraints had been used.

35. **Mr. Bruni**, referring to article 3 of the Convention, asked whether the procedures for the protection against the risk of torture of foreign nationals facing extradition described in the replies to the list of issues applied to all persons. He wondered, in particular, whether exceptions were made for persons considered to pose a threat to national security.

36. He took issue with the statement in paragraph 54 of the replies to the list of issues that signs of physical and psychological injuries caused by torture were usually so specific that an experienced medical worker did not require special training. The doctors responsible for detecting signs of torture and ill-treatment with whom he had worked had all told him that determining such signs was in fact often very difficult, especially in the light of the new torture techniques that had been developed. He therefore drew attention to the Istanbul Protocol, which had been drawn up by a large group of international experts, including many doctors, to help medical personnel and other officials to better identify symptoms that could be attributed to acts of torture. He would appreciate further comment on the issue.

37. He would like to know the reasons for the increase that occurred in the prison population between 2002 and 2009 and what the current situation was with regard to

overcrowding. He also asked about the suicide rates in prison and whether any study had been made on the causes of the phenomenon.

38. It was not clear why responsibility for setting up and running detention facilities for foreigners had been transferred to the Ministry of the Interior. According to the report of the State party, aliens could be held in detention centres for up to 180 days. Were those facilities sufficiently equipped to hold persons for such a long period in decent conditions of detention? He wished to know when the Ombudsman had last informed the public of the findings of his visits to places of detention. It would be useful to have details of the places visited and the outcome of the visits.

39. Like the country rapporteurs, he had found several inconsistencies in the data on complaints. The number of complaints against members of the Prison Service referred to in the tables in paragraph 139 of the written replies amounted to more than 7,500. However, it was also stated that between 2005 and the first half of 2011 no member of the police and Prison Service had been prosecuted, charged or sentenced under the Criminal Code for offences involving torture and other inhuman and cruel treatment. He sought clarification of the grounds for the 7,500 or more complaints.

40. **Mr. Mariño Menéndez** asked about the current status of the pending legislation concerning citizenship, specifically as it pertained to the acquisition or loss of Czech nationality. He wondered whether the law would address the problem of school-age children who were not citizens of the Czech Republic or countries of the European Union, including stateless children, who faced considerable bureaucratic obstacles to enrolling in school. More information was needed on stateless persons and on the reports that they were denied travel or identity documents. He sought clarification of the sentence in paragraph 40 of the report stating that administrative expulsion decisions could not be handed down if they would adversely affect an alien's private or family life.

41. Turning to the issue of trafficking in persons, he said that the victims of trafficking for the purpose of sexual exploitation who cooperated with the authorities in anti-trafficking efforts had an easier time than others in obtaining residency permits. He would like to know what was being done for victims who did not join in such efforts. He asked about the criteria for the detention of high-security prisoners and how long detainees could be held in high-security prisons. Statistics were also needed on persons placed in solitary confinement. He would appreciate more details of the readmission agreements referred to in paragraph 33 and the employment of prisoners referred to in paragraph 67 of the State party's report, particularly as to whether the work involved was mandatory.

42. **Ms. Gaer** commended the State party on its new legislation, including the Police Act and the new Police Inspectorate. She asked whether the Anti-Discrimination Act mentioned in the replies to the list of issues provided for the prohibition of acts of torture on discriminatory grounds. She also wished to congratulate the delegation on the statistical data provided in the replies, which helped the Committee significantly. Referring to paragraph 82 of the replies, she would like to know the outcome of the complaints filed against police officers and details of the kinds of punishments handed out to offenders. Although great strides had been made in combating trafficking in persons, there had been less progress on efforts to curb trafficking for the purposes of labour exploitation.

43. Noting that the State party was addressing the problem of prison overcrowding by building new facilities, she would be grateful if the delegation could identify some of the underlying causes of the steady increase in the prison population since 2002. It would also be useful if data could be provided on the number of persons who had been subjected to surgical castration. It was stated in the replies to the list of issues that persons in prison or detention centres could not be castrated. Did that mean that the State party had ended the practice altogether? It was not clear whether compensation had been awarded to victims of

the practice. Many questions had been raised by the Committee concerning Roma women, including the issue of forced sterilization. She wondered whether the State party was considering extending the length of time allowed under the law for victims to seek compensation for such wrongs.

44. **Mr. Tugushi** said that while the ill-treatment of prisoners in the State party had not been a matter of serious concern in recent years, many human rights bodies had expressed concern over violence between prisoners. The shortage of staff in high-security wings had also been the subject of concern. There had been reports of an informal hierarchy among prisoners, with some prisoners being assigned to custodial duties. He asked what had been done to increase the ratio of prison personnel to prisoners and to combat inter-prisoner violence. Despite the fact that the number of castrations had decreased, there had been no progress towards a total ban on surgical castration, which continued to be performed on sex offenders in Czech custodial settings. He would appreciate an update on any changes in the legal status of the practice in the Czech Republic in recent years.

45. **The Chairperson**, speaking in his capacity as Country Rapporteur, said that in paragraph 12 of the replies to the list of issues it was stated that foreign victims of trafficking under the protection of the Czech Republic would be subjected to a special regime. He failed to understand what was meant by "special regime". Referring to paragraph 15 of the replies, he would like to know what kinds of protection were afforded to victims of trafficking who agreed to return to their country of origin on a voluntary basis. Did they receive free legal aid? What did voluntary return entail and what were the consequences of not accepting voluntary return? It was not clear whether a person who did not wish to return voluntarily was given the opportunity to stay in the Czech Republic and, if so, under what conditions. He asked whether someone had already been appointed to head the recently established general inspectorate of prisons referred to in paragraphs 17 and 18 of the replies and what budget had been allocated for the purpose. Noting that the State party had no information on the 191 offences involving extremism mentioned in paragraph 143 of the replies, he would like to know whether such information might be made available.

46. He would welcome details of the budget for training teachers and school personnel in non-discrimination principles. It would also be good to have more information on the testing of students and efforts made to ensure that tests did not discriminate against children from minority cultural, social and linguistic backgrounds. He asked whether the State party envisaged placing a moratorium on surgical castration. Lastly, he drew attention to the case mentioned earlier of the patient who had choked to death while confined to a psychiatric hospital in Prague in 2006. She had allegedly been kept continuously in a caged bed for two months and had been found dehydrated and dirty, with her head shaven. He wished to know the results of the investigation conducted into the case and whether compensation had been awarded to surviving family members. It was not clear whether there was a monitoring mechanism to ensure compliance with the law concerning social services, which prohibited the use of caged or net beds. He would appreciate comments on allegations by non-governmental organizations that the beds continued to be used after the ban on them had taken effect.

47. **Mr. Wang Xuexian** said that compelling a detainee to bear part of the cost of his or her imprisonment was a double punishment. Regarding surgical castration, he said that every part of the human body had a reason to exist. Castration was thus inhuman and should be completely prohibited by law. He would like a fuller explanation than was provided in paragraph 65 of the replies to the list of issues regarding the obstacles to transferring health services from the Prison Service to the Ministry of Health.

48. **Mr. Gaye** said that the means of obtaining redress for victims of torture and ill-treatment described in paragraph 114 of the report of the State party, particularly the rather

narrow statute of limitations for instituting civil proceedings, appeared to contradict the spirit and letter of article 14 of the Convention. As the right to fair and adequate compensation was fundamental, it was important for the State party to provide specific information on cases heard in court and cases in which compensation had been granted, including Roma women who had been subjected to forced sterilization.

49. **Ms. Sveaass** said that she wished simply to follow up on the previous speaker's question, particularly concerning compensation to victims in medical settings, including psychiatric care facilities.

*The discussion covered in the summary record ended at noon.*