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**Response of the Swedish Government
to the report of the European Committee
for the Prevention of torture and inhuman
or degrading treatment or punishment (CPT)
on its visit to Sweden
from 23 to 26 August 1994**

The Swedish authorities have agreed to
the publication of this document.
(The CPT's report on its 1994 visit to Sweden
(CPT/Inf (95) 5) has already been made public).

Strasbourg, 2 October 1995

**RESPONSE OF THE SWEDISH GOVERNMENT
TO THE REPORT OF THE EUROPEAN COMMITTEE
FOR THE PREVENTION OF TORTURE AND INHUMAN
OR DEGRADING TREATMENT OR PUNISHMENT (CPT)
ON ITS VISIT TO SWEDEN FROM 23 TO 26 AUGUST 1994**

**STATEMENT CONCERNING THE REPORT OF THE EUROPEAN
COMMITTEE FOR THE PREVENTION OF TORTURE AND INHUMAN OR
DEGRADING TREATMENT OR PUNISHMENT**

Introduction

The Committee has criticized conditions in Swedish remand prisons in connection with its visits to Sweden in 1991 and 1994. Amongst other things, the Committee has commented on insufficient opportunities for social contacts and meaningful employment for prisoners. The Swedish Government shares the Committee's view that there are deficiencies in remand prison facilities in these respects.

Most remand prisons in Sweden are located on the upper floors of a police station. The premises are often small and cramped and there are either no facilities for common activities or only limited facilities. Exercise areas are normally located on the roof of the building. The location of remand prisons makes it difficult to rebuild them in order to improve facilities. On the other hand, when new remand prisons are established, the aim is to design them in such a way as to ensure, inter alia, that the Committee's recommendations are met. However, due to financial restrictions, it is not currently possible to transfer existing remand prisons to new premises to any great extent.

In accordance with the Government's 1995 Budget Bill, the Government's official directions for the use of appropriations for fiscal year 1995/96 state that the

Prison and Probation Service is to work for more humane forms for detention in remand prisons. Efforts to improve the social amenities for prisoners are to continue. Special measures should also be taken to prevent harmful effects on prisoners subject to restrictions as a result of detention.

The Government considers that it is important that comprehensive improvements in the situation in Swedish remand prisons should be initiated as soon as possible. As a result, on 29 June 1995, the Government assigned the National Prison and Probation Administration to report on the measures which the Administration intends to take within the Prison and Probation Service's current regulatory and overall resource frameworks to improve the content of remand prison activities. The Administration must indicate, in particular, how the measures which it proposes will provide greater opportunities for social contacts and meaningful activities for prisoners and how visiting procedures at remand prisons can be improved. In addition, the Administration is required to analyse the need for further long-term changes to promote more humane routines in remand prisons, to make proposals and to draw up a plan for the achievement of these objectives. The Administration is to complete its assignment by 1 June 1996.

The Ministry of Justice is currently reviewing the provisions regarding prisoners subject to restrictions (see also Item 27).

B. Kronoberg Remand Prison

1. Material conditions of detention

11. The CPT recommends that the planned changes to the rooftop exercise areas at Kronoberg be revised in order to ensure that all prisoners are offered exercise in

areas which are large enough to enable them to engage in strenuous physical exercise.

All the available roof space is being utilized in the current renovation of the exercise facilities, thus considerably improving opportunities for physical activity. Due to lack of space, it is not possible to construct exercise facilities at ground level which are linked to the remand prison.

12. The Committee recommends that serious effort be made to ensure that the target date for the completion of the renovation work is respected.

It is estimated that the remaining renovation measures will be completed by 1 December 1995.

2. Regime activities

20. The Committee recommends that a very high priority continue to be given to improving the regime activities at Kronoberg Remand Prison - those improvements to include measures designed to increase substantially the out-of-cell time offered to prisoners, together with additional efforts to provide inmates with access to purposeful group association activities, education, sport and work with vocational value.

There are now common facilities for educational purposes, group meetings and work activities on floors 7, 8, and 9. Extension of the gymnasium on floor 10 will be completed in the autumn of 1995, and a gymnasium for prisoners subject to restrictions will also be opened on floor 7 in the course of the autumn.

Renovation work to establish facilities for out-of-cell activities will continue in the autumn. In two units on floor 9 which can accommodate 40 prisoners, inmates who

are not subject to restrictions will be able to participate in out-of-cell activities for approximately four hours per day. About 10 places will be reserved on floor 8 for female prisoners not subject to restrictions. In this case too, it is intended that there will be around four hours of out-of-cell activities.

Approximately 10 places will be reserved on floor 7 for prisoners under the age of 18. It is intended that this group should be able to spend more time outside their cells, irrespective of restrictions.

When the current extensions have been completed it will not be technically feasible to create further premises for out-of-cell activities in the present remand prison.

In addition to the range of activities currently offered at the remand prison - studies, exercise and work - study programme and information activities are also being developed. For example, representatives of treatment centres and various voluntary organization will be visiting the remand prison to talk about their work. Reading circles in which the participants discuss books they have read are also planned. The teachers engaged by the remand prison will also be teaching current affairs, etc. Lack of continuity in participation will be taken into account in planning such activities.

There are now gym facilities on every floor for prisoners subject to restrictions. In addition, the various units in the remand prison have started to be equipped with computers, although so far on a small scale. The idea is that prisoners subject to restrictions should be able to leave their cells to use the computers for word processing or to play computer games with the staff.

3. Restrictions

27. The CPT recommends that urgent steps be taken to ensure that:

(1) - public prosecutors are reminded that permission to impose restrictions should only be requested when this is strictly necessary in the interest of the criminal investigation;

(2) - in requesting the permission of the court to impose restrictions, public prosecutors are obliged to specify the particular restrictions which they intend to apply;

(3) - on every occasion when the question of whether to impose, continue or vary restrictions is raised, the reasoned grounds for the decision which results are recorded in writing and, unless the requirements of the investigation dictate otherwise, the prisoner is informed of those reasons;

(4) - in considering whether restrictions ought to be applied, courts take due account of whether the particular restrictions requested by a public prosecutor are proportional to the needs of the criminal investigation concerned;

(5) - prisoners have an effective right of appeal to a Court or another independent body in respect of particular restrictions applied by a public prosecutor;

(6) - in the context of each fortnightly review of the necessity to continue remand in custody, the question of the necessity to continue to impose restrictions is considered as a separate issue.

The Government shares the Committee's view that it is important to implement measures which lead to conditions

for inmates which are as humane as possible. In view of this, the Ministry of Justice has initiated efforts which will, amongst other things, involve the review of provisions regarding restrictions on persons subject to remand, taking into account the Committee's recommendations. One basis for the application of restrictions is that such measures should be confined to cases where they are absolutely essential. There will be analysis of the question of whether the current regulations provide the optimum prerequisites for achieving a reasonable balance between the need to protect the individual's personal integrity and the possibilities of investigating a crime. It is estimated that this task will be completed in April 1996. However, the Government wishes to make the following statement at the present stage:

1. In accordance with Chapter 24, Section 5a of the Code of Judicial Procedure, permission for restrictions may only be granted if there is a risk that the suspect would suppress evidence or obstruct investigation of the case in other ways. Prosecutors should only request such restrictions if they consider that the legal prerequisites have been fulfilled. The courts must then make an independent assessment of the matter.

In Swedish criminal cases, the information supplied by the accused and others in the main hearing (and in other courts) is of decisive importance, irrespective of what may have been said in the course of a preliminary investigation. Satisfactory prerequisites for such hearings are therefore important from the point of establishing proof. Hence, in this context, it is therefore reasonable to assume that the number of persons who are deprived of their liberty and subject to restrictions - even with moderate application of such restrictions - may be expected to be greater in Sweden

than in countries with different procedural rules.

In a statement of opinion to the Government dated 29 May 1995, the Prosecutor-General considered that, in his opinion, prosecutors' decisions regarding restrictions were taken fully in accordance with the framework of the current legislation. The same view has been expressed by the Director of the Stockholm Public Prosecution Authority and the Director of the Regional Prosecution Authority in Stockholm. The Prosecutor-General also states that this is confirmed by the results of a questionnaire survey carried out under the Prosecutor-General's auspices in 1992 regarding the application of restrictions.

- According to the Prosecutor-General, the fact that it is unusual for the courts to refuse a prosecutor's request for permission to impose restrictions and that there are very few appeals against decisions of the county courts is due to the sound basis of requests by the prosecution and decisions taken by county courts.

As the result of a statutory amendment which entered into force on 1 January 1994, the courts are to decide whether a person who has been detained shall be subject to restrictions. At the moment, it is not possible to say whether this amendment has meant a change in the situation, since the reform has not yet been evaluated. The assignment currently being undertaken by the Ministry of Justice to review restrictions on persons who have been remanded will, however, include an evaluation of this nature.

2. The Act concerning the Treatment of Persons Detained and Arrested, etc. (1976:371) regulates a prosecutor's possibilities of imposing restrictions. If required to avoid the suppression of evidence or obstruction of the investigation of a crime in some other

manner, the prosecutor may impose restrictions on the person who has been deprived of his liberty as regards spending time in the company of other detained or arrested persons, having access to TV and newspapers, receiving letters and other communications, receiving visitors and having telephone contacts with other detained or arrested persons or a person outside the detention centre.

The prosecutor may decide on restrictions in all the above cases. The normal course of events, however, is that a detained or arrested person is not allowed to "sit with" another detained or arrested person, that a suspect is only allowed to receive letters and communications which have been checked by the prosecutor or may only receive visitors and have telephone contact with closely-related persons and in the presence of remand prison personnel who monitor the conversation. A demand that the prosecutor must specify in detail the restrictions he intends to impose when he requests permission to apply restrictions and the requirement that the courts are to consider the question of achieving a proper balance between the proposed special restrictions and the requirements of the investigation would mean that the courts would be responsible for the entire examination in detail of the question of restrictions. It is doubtful if a procedure of this nature would be compatible with the current allocation of responsibilities under Swedish law in the preliminary investigation proceedings. In addition, it is doubtful whether such a procedure would really lead to a reduction in the number of restrictions imposed or to a curtailment of the period involved. Under the present arrangements, the prosecutor should continually review restrictions and cancel or amend them as the investigatory situation allows. There is a risk that detailed approval by the courts would tend to conserve the existing position as regards restrictions.

3. In a remand hearing, the prosecutor's task is to present a petition for remand and the reasons for remand. If the prosecutor requests that the suspect is to be remanded on the grounds of the risk of collusion, the prosecutor must present his views on the risk of the suspect removing evidence or otherwise obstructing investigation if he were allowed to retain his freedom. The prosecutor's decision regarding restrictions is supported by written documentation. At the remand hearing, the suspect and his defence counsel are informed of the prosecutor's reasons for asking the court to allow the prosecutor to decide on restrictions.

4. It is implicit in the existing procedure that the court makes a "proportionality" assessment of the reasonableness of restrictions in connection with the prosecutor's request for permission to impose restrictions.

5. A person who is dissatisfied with the prosecutor's decision regarding restrictions may request a review of the decision by the director of prosecutions.

6. The Committee's proposal regarding the review of restrictions in hearings concerning the extension of a remand order is, in effect, already normal practice.

4. Discipline

28. The CPT invites the competent authorities to reconsider the need for a formal disciplinary procedure for remand prisons in the light of these remarks.

According to the Committee, an unofficial disciplinary system may have been introduced at the Kronoberg remand prison. In its report, the Committee notes that the observation cells in section 7:3 were used more

frequently than the corresponding facilities in other sections. Furthermore, in contrast with other sections, no record was kept in this section of the period a prisoner was placed in an observation cell.

The reason why the observation cells in section 7:3 are used to a greater extent than other similar facilities is that this section is the reception unit for the remand prison. Approximately 7,500 persons who have been deprived of their liberty pass through the remand prison each year. In view of the fact that, on arrival, some of them behave aggressively, are under the influence of drugs or alcohol or attempt to harm themselves or the staff, it may be necessary for reasons of safety to place them in observation cells. A special incident report is prepared for each placement of this nature and the measures taken are noted in a special ledger. Following the Committee's comments, the ledger in this section now contains an indication of how long prisoners spend in an observation cell. The "normal" period is 2 - 3 hours.

The terms of reference of the Government's assignment of 29 June 1995 to the National Prison and Probation Administration state that the Administration should determine whether there is a need for changes in the Act concerning the Treatment of Persons Detained and Arrested, etc. (1976:371). Hence, due note should be taken of the question raised by the Committee.

5. Persons detained under aliens legislation

29. The CPT recommends that steps be taken as a matter of urgency to ensure that persons detained under the aliens legislation are not held on prison premises.

Under Chapter 5, Section 13 of the Aliens Ordinance (1989:547), the Act concerning the Treatment of Persons Detained and Arrested, etc.(1976:371) and the

corresponding Ordinance (1976:376) apply in relevant aspects to the treatment of aliens held in custody. An alien should, however, be allowed the facilities and privileges which can be granted, taking into account order and security aspects in the prison, remand prison or police detention facilities in which the alien is held.

A special expert appointed by the Government to serve on a committee which will report on the implementation of decisions regarding extradition and refusal of entry has, amongst other things, proposed in his interim report ("Overall Responsibility for Asylum Questions" SOU 1995:55) that applicants for asylum and aliens refused entry should no longer be held in police detention facilities, remand prisons or prisons. Special premises should be arranged in the vicinity of Swedish Immigration Board asylum centres or refugee accommodation.

Preferably, such premises should take the form of normal living accommodation. In its report entitled "Swedish Refugee Policy in a Global Perspective" (Swedish official reports Series SOU:75), the Refugee Policy Commission has supported the proposals made by the Committee on the Execution of Decisions regarding Refusal of Entry and Expulsion in this connection. This report is currently being officially circulated for comment. Statutory amendments as a result of these proposals cannot enter into force earlier than 1 July 1996.

D. Medical questions

1. Staff and facilities

36. The Committee would like to receive details of any plans to carry out renovation work in the health care facilities.

The ventilation system in the medical unit on floor 6 will be overhauled. Work is expected to be completed by December 1995.

2. Psychiatric services

40. The Committee wishes to stress that mentally ill prisoners should be kept and cared for in a hospital facility which is adequately equipped and possesses appropriately trained staff. That facility could be a civil mental hospital or a specially equipped psychiatric facility within the prison system.

Whichever course is chosen, the accommodation capacity of the psychiatric facility in question should be sufficient to avoid prolonged waiting periods before necessary transfers are effected. The transfer of mentally ill prisoners to an appropriate psychiatric facility should be treated as a matter of the highest priority.

Section 4 of the Act concerning the Treatment of Persons Detained and Arrested, etc. (1976:371) states that if a person who has been detained requires hospital treatment, such treatment shall be given as soon as possible. Hospital treatment is provided by the national health service. The parliamentary committee which has reviewed the treatment of mentally disturbed persons in the prison system considered that this arrangement should continue and that a special psychiatric hospital to meet the needs of the Prison and Probation Service was not required.

Like the Committee, the Government has also noted that it is difficult to meet the need for psychiatric treatment of prisoners, particularly in the Stockholm area.

The Government has therefore decided on a more flexible application of the rules for approval of facilities for the forensic psychiatric treatment of persons who have been arrested, detained or in custody in prison and probation service facilities. This would mean that additional facilities could be approved for treatment of this nature and there would be access to a greater number

of places. Another possibility indicated by the Government to improve the prerequisites for prisoners in need of psychiatric care would be to link each prison to a specific treatment facility. The Stockholm prison and probation service region is actively working for the establishment of closer cooperation between the prison authorities and county psychiatric treatment units.

In addition, in the directions for the use of appropriations under the the Prison and Probation Service heading for fiscal year 1995/96, the Government has assigned the National Prison and Probation Administration to participate in improving cooperation with those responsible for medical services. The Prison and Probation Administration must also take steps to improve its capability in the psychiatric area. In its annual budget submission, the Administration will report on the progress made in cooperation with the medical services as regards prisoners in need of psychiatric care.

The Government will be closely following developments in this area and, where necessary, will be taking additional steps to improve access to psychiatric care for prisoners.

Special support units in prisons will be set up for prisoners who have special problems in the form of personality or mental disturbances which are not considered to be amenable to psychiatric treatment.

3. Medical records

41. The CPT recommends that the Swedish authorities seek to foster the use of a standardised medical record form by doctors working in prisons.

Provisions concerning the keeping of medical records are covered by the Patient Records Act (1985:562). Under this Act, patient records must contain the information

required in the interests of satisfactory and safe treatment of the patient. The obligation to keep medical records covers, inter alia, all those who have certification or special authorization to pursue a profession in accordance with the Act concerning Authorization to Undertake Professional Medical or Health Care Duties, etc. (1984:542). Remand prison records are maintained in accordance with the provisions of the Patient Records Act.

Prisoners have the same entitlement to medical and health care as other citizens and are treated by the public health authorities if this need cannot be met under the auspices of the Prison and Probation Service. It is therefore beneficial if the same rules apply to medical records kept by the Prison and Probation Service and by the public health authorities. In view of this, The National Prison and Probation Administration considers that there are no adequate grounds for introducing special arrangements for the Prison and Probation Service. The medical records in current use cover everything which might reasonably be expected to be included in a standardized medical record form and they satisfy the need for transferring information between remand prisons and prisons. In addition, there is an oral transfer of information in special cases.