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## **Report to the Swedish Government**

**on the visit to Sweden  
carried out by the European Committee  
for the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment (CPT)**

**from 9 to 18 June 2009**

The Swedish Government has requested the publication of this report.

Strasbourg, 11 December 2009



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**Copy of the letter transmitting the CPT's report**

Ministry for Foreign Affairs  
B.P. 161 21  
103 23 STOCKHOLM  
SWEDEN

Strasbourg, 27 November 2009

Dear Sir/Madam

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Swedish Government drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) after its visit to Sweden from 9 to 18 June 2009. The report was adopted by the CPT at its 70<sup>th</sup> meeting, held from 2 to 5 November 2009.

The various recommendations, comments and requests for information formulated by the CPT are listed in Appendix I. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the Swedish authorities to provide **within six months** a response giving a full account of action taken to implement them. The CPT trusts that it will also be possible for the Swedish authorities to provide in that response reactions to the comments formulated in the report as well as replies to the requests for information.

The CPT would ask, in the event of the response being forwarded in the Swedish language, that it be accompanied by an English or French translation. It would also be most helpful if the Swedish authorities could provide a copy of the response in a computer-readable form.

I am at your entire disposal if you have any questions concerning either the CPT's visit report or the future procedure.

Yours faithfully

Mauro PALMA  
President of the European Committee for  
the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment





## I. INTRODUCTION

### A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT carried out a visit to Sweden from 9 to 18 June 2009. The visit formed part of the Committee’s programme of periodic visits for 2009. It was the CPT’s fourth periodic visit to Sweden<sup>1</sup>.

2. The visit was carried out by the following members of the CPT:

- Pétur HAUSSON (2<sup>nd</sup> Vice President of the CPT), Head of delegation
- Ömer ATALAR
- Tim DALTON
- Isolde KIEBER
- Jørgen Worsaae RASMUSSEN.

They were supported by the following members of the CPT’s Secretariat:

- Petya NESTOROVA (Head of Division)
- Isabelle SERVOZ-GALLUCCI
- Victor MUNTEANU

and assisted by:

- Peter GREEN, forensic physician, Metropolitan Police Service and St. George’s Hospital, London, United Kingdom (expert)
- Rod MORGAN, Professor of criminal justice, University of Bristol, United Kingdom, former Chairman of the Youth Justice Board of England and Wales (expert)
- Maria GUSTAFSSON (interpreter)
- Maria HEMPH MORAN (interpreter)
- Annette LOOFT SYKES (interpreter)

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<sup>1</sup> The previous periodic visits took place in May 1991, February 1998 and January/February 2003. The CPT also carried out an ad hoc visit to Stockholm Remand Prison in August 1994.

- Louise RATFORD (interpreter)
- Yvonne TIZARD (interpreter).

**B. Establishments visited**

3. The delegation visited the following places:

**Police establishments**

- Gävle Police Department
- Police detention facility in Mölndal, Västra Götaland
- Örebro Police Department
- City Norrmalm Police Department, Stockholm
- Klara Police Station (T-Centralen), Stockholm
- Söderort Police Department (Hägersten), Stockholm
- Sollentuna Police Department, Stockholm

**Prisons**

- Gävle Remand Prison
- Gothenburg Remand Prison
- Hall Prison
- Kronoberg Remand Prison (immigration detainees)
- Kumla Prison

**Migration Board establishments**

- Migration Board detention centre, Gävle
- Migration Board detention centre, Märsta

**Psychiatric establishments**

- Department for Forensic Psychiatric Assessment, Huddinge (Stockholm)
- Psychiatric Clinic South-West, Huddinge (departments for compulsory care and persons in need of in-patient care)

**Juvenile establishments**

- Fagareds Home for Young Persons, Lindome.

**C. Consultations held by the delegation and co-operation encountered**

4. During the visit, the CPT's delegation met Tobias BILLSTRÖM, Minister for Migration and Asylum Policy, Ragnwi MARCELIND, State Secretary at the Ministry of Health and Social Affairs, Lars NYLÉN, Director General of the National Prison and Probation Service, and Erna ZELMAN, Director General of the National Board of Forensic Medicine. It also held consultations with senior officials from the Ministry of Justice, the Ministry of Health and Social Affairs, the Ministry of Foreign Affairs, the National Police Board, the National Board of Institutional Care, the National Board of Health and Welfare, and the Swedish Migration Board. Further, the delegation met Mats MELIN, Kerstin ANDRÉ and Cecilia NORDENFELT, Parliamentary Ombudsmen.

The CPT wishes to express its appreciation for the assistance provided to its delegation before, during and after the visit by the liaison officers appointed by the Swedish authorities, and in particular by Inger KALMERBORN, Senior Legal Adviser at the Ministry for Foreign Affairs.

The delegation also held discussions with the UNHCR Regional Office for the Baltic and Nordic countries in Stockholm and with members of non-governmental organisations active in areas of concern to the CPT.

5. The co-operation provided to the CPT's delegation both from the national authorities and from staff at the establishments visited was generally excellent. In most cases, the delegation enjoyed immediate access to the places visited (including ones not notified in advance) and was able to speak in private with persons deprived of their liberty, in compliance with the provisions of the Convention. Further, it had access to all the necessary documentation.

That said, at certain police establishments (e.g. City Norrmalm Police Department in Stockholm and the Police detention facility in Mölndal, Västra Götaland), police officers appeared to be unaware of the importance of granting the CPT's delegation immediate access to the facilities, which resulted in some delays. In this connection, it appeared that information on the CPT's mandate and the possibility of a visit by the Committee had not been circulated in advance to all the police officers concerned. **The CPT trusts that measures will be taken by the Swedish authorities to ensure that there are no undue delays in granting access to police facilities during future visits by the Committee.**

6. More generally, the Committee must stress that the principle of co-operation between States Parties and the CPT, as set out in the Convention, is not limited to steps taken to facilitate the task of a visiting delegation. It also requires that decisive action be taken to improve the situation in the light of the Committee's recommendations. In this respect, despite certain improvements made since the previous CPT visit in 2003, the findings from this visit indicate that the action taken in respect of a number of long-standing recommendations of the CPT still fails to meet the Committee's concerns (in particular, in the areas of legal safeguards against ill-treatment of persons in police custody, the imposition of restrictions on remand prisoners, the isolation of certain categories of sentenced prisoners, and the holding of immigration detainees in prisons).

**The CPT calls upon the Swedish authorities to take decisive steps to improve the situation in the light of the Committee's recommendations, in accordance with the principle of co-operation which lies at the heart of the Convention.**

7. By letters of 15 and 25 September 2009, the Swedish authorities provided information on certain measures taken in the light of the observations made by the delegation at the end of the visit. This information has been taken into account in the relevant sections of the present report.

## II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

### A. Police establishments

#### 1. Preliminary remarks

8. It should be recalled that, pursuant to the Code of Judicial Procedure (CJP), the maximum period during which criminal suspects may be held in police custody before being transferred to a remand prison is 96 hours. The public prosecutor must be notified promptly when someone is apprehended (*gripen*) by the police, and the apprehended person must be interrogated as soon as possible. Immediately after this interrogation, the public prosecutor must decide whether the person shall be arrested (*anhållen*) or released. A request by the public prosecutor for an arrested person to be remanded in custody (*häktad*) by a court must normally be made on the same day as the decision to arrest, and in any case not later than on the third day after arrest<sup>2</sup>.

Further, in the context of the preliminary investigation, the police may oblige a person not under arrest to stay with them for questioning for up to 6 hours, a period which may exceptionally be extended to 12 hours<sup>3</sup>. This provision concerns persons who are not yet reasonably suspected (*skäligen misstänkta*) of having committed a crime, but who may become suspects, as well as witnesses. As regards persons under 15 years of age, the period of questioning is limited to a maximum of 6 hours.

The Police Act provides for other situations when the police may decide, on their own authority, to take persons into temporary custody (*omhändertagits*), such as minors found in circumstances which pose a serious and imminent threat to their health or development, persons who disturb public order, and persons whose identity is unknown<sup>4</sup>. The length of temporary custody is limited to 6 hours, but may be prolonged to 12 hours if it is particularly important that a person be identified. In addition, intoxicated persons may be taken into care (*förvar*) and held on police premises for up to 8 hours<sup>5</sup>.

#### 2. Ill-treatment

9. The overwhelming majority of the persons met by the CPT's delegation during the 2009 visit who were, or had recently been, detained by the police, indicated that they had been correctly treated. Nevertheless, the delegation heard a few isolated allegations of physical ill-treatment by police officers. For example, two persons alleged that, in the context of their apprehension, they had been thrown to the ground and handcuffed, after which police officers had proceeded to punch and kick them. Another person alleged that following his apprehension the preceding day, a police officer had thrust his head against the concrete cell floor, as a result of which one of his front teeth had been damaged; he had apparently lodged a complaint. On examination by a medical member of the delegation, the person concerned displayed a chipped left upper first tooth.

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<sup>2</sup> See Chapter 24, Sections 8, 12 and 13 of the CJP.

<sup>3</sup> See Chapter 23, Section 9, of the CJP.

<sup>4</sup> See Sections 11 to 16 of the Police Act.

<sup>5</sup> See Section 7 of the Law on the taking into care of intoxicated persons (1976:511).

Although the information gathered during the 2009 visit suggests that persons detained by the police run relatively little risk of being physically ill-treated, the Swedish authorities should remain vigilant. **The CPT recommends that the Swedish authorities continue to deliver a firm message, including through ongoing training activities, that all forms of ill-treatment of detained persons are not acceptable and will be the subject of severe sanctions. As part of this message, it should be made clear once again that no more force than is strictly necessary should be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can never be any justification for striking them.**

10. At the time of the 2009 visit, the delegation was also provided with statistics concerning the work of the Internal Investigation units. In 2007, there had been 4,728 complaints/reports concerning police misconduct; preliminary investigations were carried out on 1,165 of them, 51 resulted in indictment, there were 25 convictions, 33 orders of summary punishment (*stafförelägganden*) and 48 disciplinary proceedings<sup>6</sup>.

**The CPT would like to receive similar statistics in respect of 2008, with details concerning the types of convictions and disciplinary sanctions.**

11. In the report on the 2003 visit, the CPT recommended that the Swedish authorities seek to integrate human rights concepts into operational professional training for high-risk policing situations, such as the arrest and questioning of suspects. In response to that report, the authorities indicated that professional ethics and human rights formed an integral part of the basic police training (equivalent to four semesters over two years). Human rights issues were considered from different perspectives such as legal, psychological, self-protection and the use of force and coercive measures. Further, at the outset of the 2009 visit, the CPT's delegation was informed that there was an ongoing debate about professional training for police officers. The number of police officers was planned to increase from 17,000 to 20,000, several new Police Academies had been set up, and the goal was to have all police officers re-trained by 2011.

**The CPT would like to receive information on developments in the area of police training and the integration of human rights concepts in that training, in particular as regards high-risk policing situations (e.g. crowd control, the use of force and firearms).**

12. The delegation was informed that when drawing up a certificate in respect of persons displaying injuries in police custody, doctors called in by the police were expected to record what the police had told them but not what the detained person had offered as an explanation for the injuries. The CPT considers that certificates drawn up following the medical examination of detained persons should contain: (i) a full account of statements made by the person concerned which are relevant to the examination (including his description of his state of health and any allegations of ill-treatment), (ii) a full account of objective medical findings based on a thorough examination, and (iii) the doctor's conclusions in the light of (i) and (ii), indicating the degree of consistency between any allegations made and the objective medical findings. **The Committee would like to know whether the regulations and practice followed in Sweden in this area are in compliance with these precepts.**

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<sup>6</sup> The figures for 2006 and 2005 are respectively: 4,125 and 4,291 complaints; 686 and 884 preliminary investigations; 60 and 61 indictments; 40 and 25 convictions; 19 and 16 orders of summary punishment; 19 and 27 disciplinary proceedings.

13. It also appeared during the visit that doctors called in by the police may be asked to take blood samples from detained persons without the latter's consent.

The non-consensual taking of blood or other samples conflicts with medical ethics and can lead to high-risk situations from the standpoint of ill-treatment. In this connection, the CPT notes that, in some other jurisdictions, adverse legal consequences, with concomitant legal safeguards, attach to a refusal to give a sample, rather than proceeding to take the sample by force in the event of a refusal to provide it. **The CPT recommends that the practice of taking blood or other samples from detained persons without the latter's consent be stopped.**

### **3. Investigation of complaints of police ill-treatment**

14. The effectiveness of the mechanisms to tackle police misconduct has constituted an important element of the CPT's dialogue with the Swedish authorities over the years. In its report on the visit in 2003, the Committee examined in detail the police complaints procedures<sup>7</sup>. It noted as a positive feature that all complaints against the police had to be submitted to a public prosecutor, and that it was a public prosecutor – and not a police officer – who determined whether or not a preliminary investigation should be opened into the complaints. However, from the moment a public prosecutor instructed that a preliminary investigation be opened, the day-to-day responsibility for the operational conduct of investigation reverted to serving police officers. On the basis of a number of preliminary investigations examined during the 2003 visit, the CPT concluded that the practice of investigating police officers and public prosecutors was not always in accordance with the principles of independence, effectiveness, promptness and expeditiousness.

The Committee therefore recommended that the Swedish authorities urgently reconsider the need for the investigation of complaints against the police to be entrusted to an agency which is demonstrably independent of the police, and that for as long as the current system remains in place, certain measures be adopted to ensure that public prosecutors effectively discharge their duty to supervise the investigation of preliminary investigations involving complaints against police officers<sup>8</sup>.

15. In their response to the 2003 visit report, the Swedish authorities argued that the existing units for investigations of complaints against the police were to a large extent independent of other activities within the police service. It was pointed out by the authorities that, in practice, internal investigations were often carried out by units and prosecutors in counties other than the county where the alleged ill-treatment or offence had taken place. On the other hand, the response contained a separate opinion by the Parliamentary Ombudsman, who subscribed to the CPT's recommendation to establish a specific agency for the investigation of complaints against the police and underlined the importance of re-examining this issue.

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<sup>7</sup> See paragraphs 13 to 24 of CPT/Inf (2004) 32.

<sup>8</sup> See paragraph 23 of CPT/Inf (2004) 32.

Subsequently, in December 2004, the Government appointed a “special investigator” to analyse the regulations and routines for handling complaints. The key issue for the investigator was to make a proposal to establish a freestanding agency, independent of the police and prosecution authorities, called Special Investigation Agency<sup>9</sup> (SUM), with a view to boosting public confidence in the way in which investigations are carried out. The outcome of this work was a report issued in January 2007 and entitled “Summa Summarum - an independent agency for the investigation of criminal allegations against police officers and prosecutors?”. The report outlines a possible organisation of the SUM, as an agency subordinated directly to the Government, with Board members nominated by Parliament and appointed by the Government for a specific period, and with specially recruited investigators who have the same powers as police officers to use means of enforcement. According to the report, this agency should investigate all types of misconduct by police officers rather than only criminal acts committed while on duty.

Apart from the confidence-building effect of such a freestanding agency, the report sees no other benefits. On the contrary, several disadvantages are highlighted (e.g. because of the variety of crimes that the SUM will have to investigate, it will occasionally need expert assistance from ordinary police units, which might jeopardise its independence and undermine public confidence; it would be difficult to secure both the competence and independence of staff; there is a risk of the police shielding itself against the SUM which would reduce the latter’s chances of detecting crimes). The report therefore does not recommend the setting up of an independent agency, but rather favours further reforms within the existing system (i.e. a more clear separation of the internal investigations body from other investigating activities) with a view to increasing transparency and public control. A mandatory inquiry procedure is also proposed for cases where a person has died or has been seriously injured in connection with an action taken by the police.

16. During the 2009 visit, the delegation was provided with a copy of another report, by the National Police Board, dated 15 May 2009 and entitled “Special organisation for internal investigation”. It follows up on the recommendations made in the “Summa Summarum” report and proposes a new organisational structure according to which the existing six internal investigation units<sup>10</sup> are to be incorporated into a national agency subordinated to the National Police Board. With a view to promoting the independence of this agency and strengthening public confidence, it is envisaged that its head will report directly to the Steering Board of the National Police Board<sup>11</sup> (which involves MPs) rather than to the National Police Commissioner. The Steering Board will be authorised to supervise investigations but cannot interfere in the handling of cases. Administratively, staff working in the agency’s central unit and investigation units will be employed by the National Police Board rather than by the local police authorities.

All investigative activities will continue to take place under the direction and control of a specialised prosecution service, the National Unit for police cases<sup>12</sup>, which employs senior-rank prosecutors dealing exclusively with reports of police misconduct<sup>13</sup>. Because of the investigators’ administrative independence from the local police authorities and the independence of the prosecutors, this modified system is seen by the Swedish authorities as offering sufficient guarantees of independence and impartiality.

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<sup>9</sup> *Särlig Utrednings Myndighet.*

<sup>10</sup> *Internutredningen.*

<sup>11</sup> *Rikspolisstyrelsens Styrelse.*

<sup>12</sup> *Riksenheten för polismål.*

<sup>13</sup> At the time of the visit, there were 11 prosecutors in five locations: Stockholm, Gothenburg, Malmö, Eksjö and Umeå.



The report also highlights various shortcomings of the current system for internal investigations. According to prosecutors, the most serious shortcoming is the failure to take immediate measures in the case of allegations of police violence, such as securing medical evidence. Another problem is that in the case of a complaint, the police authority does not always contact an internal unit investigator who can give advice and if necessary go to the place of the incident to take the necessary measures. A number of recommendations and proposals for amendments of the Ordinance on the Police (1998:1558) are put forward. Particular reference should be made to the recommendation that in cases of allegations of excessive use of violence by the police, the police authority must immediately arrange for a medical examination of the complainant and documentation of possible injuries. Further, the interrogation of a police officer should be conducted by a prosecutor or officer from the special investigation unit; exceptionally, if such an interrogation cannot be postponed, a prosecutor may decide that it be conducted by a senior officer from the same police district.

17. The CPT has taken note of the conclusions of the above-mentioned reports and the organisational, legal and practical changes which are to be made as a result. These changes undoubtedly go in the direction of the Committee's recommendations. Nevertheless, the CPT remains of the opinion that, in order for the investigation of complaints about police ill-treatment to enjoy public confidence and be effective, the police complaints mechanism must be, and must be seen to be, independent and impartial. An independent, freestanding agency as outlined in the "Summa Summarum" report would best meet this requirement.

The need for complete independence of the investigative process, both in perception and in reality, is at its most acute in those cases – usually representing a relatively small proportion of all police complaints – where detained persons suffer injuries at the hands of the police. In such cases, there is a greater risk that the internal police investigation will be less thorough, even if the investigators are attached to a separate unit. Particular care should therefore be taken in these cases to overcome the shortcomings highlighted in paragraph 16 (e.g. failure to secure medical evidence), and to ensure that the investigation complies with the criteria of effectiveness referred to in the 2003 visit report<sup>14</sup>.

More generally, the CPT considers that the mandate of the body investigating police complaints should be limited to the handling of reports, allegations and suspicion of ill-treatment and other misconduct by police officers while on duty. Offences committed by police officers when off duty should be handled by ordinary police and prosecution services in the same way as crimes committed by other citizens. This would, *inter alia*, eliminate the main argument against the setting up of an independent agency, which is that it would be too small to include all the expertise needed to investigate and prosecute a variety of crimes (see paragraph 15).

**The CPT invites the Swedish authorities to further develop the current system of investigating complaints of police ill-treatment, in the light of the above remarks. In this connection, the relevant standards of the Committee, as set out in its 14<sup>th</sup> General Report<sup>15</sup>, should be taken into account.**

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<sup>14</sup> See CPT/Inf (2004) 32, paragraphs 16 to 21.

<sup>15</sup> See CPT/Inf (2004) 28, paragraphs 25 to 42.

**The CPT would also like to know what steps have been taken to ensure that public prosecutors effectively discharge their duty to supervise the investigation of preliminary investigations involving complaints against police officers, and in particular to implement the measures proposed in paragraph 23 of the report on the CPT's visit in 2003<sup>16</sup>.**

#### **4. Procedural safeguards against the ill-treatment of detained persons**

18. Since the CPT's 2003 visit, the legislative framework governing the rights of persons detained by the police has undergone certain changes, with the entry into force on 1 April 2008 of amendments to the Code of Judicial Procedure (CJP)<sup>17</sup> and the Police Act (PA)<sup>18</sup>. These amendments concern in particular the rights of notification of custody and access to a lawyer. Nevertheless, the findings from the 2009 visit indicate that further action is required in order to bring the law and practice in the area of formal safeguards fully into line with the Committee's standards.

##### a. notification of custody

19. Pursuant to the new Section 21a of Chapter 24 of the CJP, notification of custody now takes place at an earlier stage, when a person is apprehended (*gripen*) by the police<sup>19</sup>. Further, the new Section 17a of the PA introduces an obligation to notify the close relatives of persons who have been taken into temporary custody (*omhändertagits*) or are otherwise obliged to remain with the police. The extension of the right of notification of custody to these categories of persons is a welcome development.

However, it appeared during the visit that the right of notification of custody is in fact often delayed until a person has been remanded in custody by a court (which may take up to 96 hours after arrival at the police station). In this connection, it should be noted that Section 21a of Chapter 24 of the CJP stipulates that notification of custody is to be provided "as soon as it may be done without harming the investigation". Due to this broadly worded exception, the police continue to enjoy a wide discretion to delay notification of custody for some considerable time. According to police officers met during the visit, notification of custody is not a right and depends on the decision of the prosecutor. In this context, a senior police officer at Örebro Police Department stated that the police are not obliged to notify the family during the first 96 hours, which are a "crucial stage" of the investigation; the same officer indicated that, if the relatives of detained persons phone to inquire about their whereabouts, the police cannot tell them that they had been detained as the information about detention becomes public only after the court hearing.

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<sup>16</sup> I.e. i) providing public prosecutors with clear guidance as to the manner in which they are expected to supervise preliminary investigations involving complaints against the police and ensuring that the work of public prosecutors supervising complaints against the police is subject to adequate managerial oversight and support; ii) specifying that, in every case where it comes to a prosecutor's attention that a complainant may have sustained injuries while in the hands of the police, the prosecutor must order immediately a forensic medical examination; such an approach should be followed whether or not the complainant concerned bears visible external injuries; iii) the introduction of strict time limits within which public prosecutors must determine whether complaints against the police which are transmitted to them are to be the subject of a preliminary investigation.

<sup>17</sup> Law 2008:67.

<sup>18</sup> Law 2008:70.

<sup>19</sup> Previously, notification to the family was provided only when a person was arrested (*anhållande*) by decision of a public prosecutor.

The CPT considers that there should be clear guidelines as regards possible delays in notification of custody; such delays should be exceptional rather than commonplace. **The Committee reiterates its long-standing recommendation that the possibility to delay the exercise of the right of notification of custody be more closely defined and made subject to appropriate safeguards (e.g. any delay to be recorded in writing with the reasons therefor, and to require the approval of a senior police officer unconnected with the case at hand or a prosecutor). The CPT also recommends that detained persons be provided with feedback on whether it has been possible to notify a close relative or other person of the fact of their detention.**

**Further, the recording of information as to whether notification of custody has been performed or not in each individual case and the compilation of national statistics on this issue can enable a proper monitoring of this important safeguard.**

b. access to a lawyer

20. The right of access to a lawyer has also evolved since the CPT's previous visit in 2003. Pursuant to the amended Section 10 of Chapter 23 of the CJP, any person heard by the police during the preliminary investigation has a right to have counsel (*biträde*) present when giving a statement to the police, provided that this is not to the detriment of the investigation. The categories of persons concerned include those who are not yet reasonably suspected (*skäligen misstänkta*) of having committed a crime, as well as witnesses<sup>20</sup>.

Despite this welcome development, a number of detained persons met during the visit indicated that they had not been expressly informed of their right of access to a lawyer. The delegation noted that, in practice, access to a lawyer in most cases became effective at the earliest from the first formal interview by the investigator. **The CPT recommends that steps be taken to ensure that the right of all detained persons to have access to a lawyer is fully effective as from the very outset of deprivation of liberty.**

In this context, the CPT acknowledges that it may exceptionally be necessary to delay for a certain period a detained person's access to a particular lawyer of his choice on the grounds that this would be detrimental to the investigation. However, this should not result in the rights to talk to a lawyer in private and have a lawyer present during interrogations being totally denied during the period in question. **The CPT recommends that in such cases, access to another, independent, lawyer be arranged.**

21. Under Section 3a of Chapter 21 of the CJP, a public defence counsel (*offentlig försvarare*) should be appointed upon request for a person who is suspected of an offence in respect of which a sentence of over 6 months is prescribed. This provision appears to apply only to suspects who are under arrest (*anhållen*) or remanded in custody (*häktad*). **The CPT would like to receive clarification as to whether a person apprehended by the police (*gripen*) has the right to a public defence counsel before he/she has been formally notified of being reasonably suspected.**

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<sup>20</sup> The right of access to a lawyer previously applied only to persons categorised as suspects.

c. access to a doctor

22. There is still no specific legal provision concerning access to a doctor for persons in police custody, despite previous recommendations made by the CPT on this issue<sup>21</sup>. In their response to the 2003 visit report, the Swedish authorities stated that, in their view, the existing system worked well and that there were no plans to amend the legislation.

It became clear during the 2009 visit that access to a doctor continues to be left to the discretion of the police. This is reflected in the wording of the information sheet on rights<sup>22</sup>. The delegation was told that it was up to the officer admitting a person to a police station to assess his/her general state, and that the police would not call a doctor if the person appeared to be healthy.

In the CPT's view, access to a doctor should be unfettered; police officers are not qualified to assess whether a detained person's request to see a doctor is justified. Consequently, there should be a clearly established right of persons deprived of their liberty by the police to have access to a doctor. **The CPT reiterates its recommendation that the right of persons deprived of their liberty by the police to have access to a doctor be made the subject of a specific legal provision.**

23. Detainees with longstanding histories of drug or alcohol abuse are particularly vulnerable in custodial settings. Detention for up to 96 hours of such persons is very likely to be long enough for significant clinical problems (e.g. withdrawal) to develop. However, there did not appear to be sufficient awareness of this amongst the police officers with whom the delegation spoke. **The CPT recommends that steps be taken to ensure that medical intervention is always sought in these circumstances.**

d. juveniles in police custody

24. It became apparent during the visit that juveniles apprehended and taken to Klara Police Station (T-Centralen) in Stockholm were not informed of their rights and could be questioned without the presence of their parents, a social welfare representative or a lawyer. The delegation was informed that police officers had a duty to inform the parents and social services when a juvenile was apprehended, but did not have to delay the questioning until either could attend.

**The CPT recommends that steps be taken to ensure that juveniles deprived of their liberty are not subjected to police questioning without the benefit of a trusted person and/or a lawyer being present.**

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<sup>21</sup> See paragraph 24 of CPT/Inf (99) 4 and paragraph 30 of CPT/Inf (2004) 28.

<sup>22</sup> "You have the right to receive health and medical care as needed or by your own request be examined by a doctor, unless it is apparent that a medical examination is unnecessary".

e. information on rights

25. Concerning the provision of information on rights, the CPT welcomes the introduction of a sheet setting out the rights of persons detained by the police, which is available in a variety of languages<sup>23</sup>. However, from interviews with persons met in police custody, the delegation gained the impression that information had not always been provided to them orally at the very outset of their deprivation of liberty, and that the information sheet in question was not systematically given to all persons brought into police stations. In this context, it should be noted that the information sheet was not available at Klara Police Station (T-Centralen) in Stockholm.

**The CPT recommends that steps be taken to ensure that all persons apprehended by the police – for whatever reason – are fully informed of their fundamental rights as from the very outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with the police). This should be ensured by the provision of clear oral information at the very outset, supplemented at the earliest opportunity (that is, immediately upon their arrival on police premises) by the provision of the above-mentioned information sheet on the rights of detained persons. The persons concerned should be asked to sign a statement attesting that they have been informed of their rights, and they should also be given a copy of the information sheet.**

f. custody records

26. The delegation observed that the custody records at the police establishments visited were generally well kept and comprehensive.

However, at Klara Police Station (T-Centralen) in Stockholm, no custody records were kept. The establishment did not possess any cells, but it became clear that large numbers of persons (including many juveniles) were taken to it in order to be searched and questioned about their identity, age and circumstances. This initial period of being obliged to remain with the police was not recorded, and if the person was subsequently released without being placed in a cell, no record was made of the fact that he/she had been in police custody.

No legal safeguard against ill-treatment is more fundamental than the requirement that the fact of a person's deprivation of liberty be properly recorded. In addition to facilitating control over the observance of the legal provisions concerning police custody, the accurate recording of all aspects of a person's period of detention can protect police officers by countering allegations made against them. Consequently, **the CPT recommends that custody records be also introduced at police stations which do not possess cells (such as Klara Police Station in Stockholm).**

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<sup>23</sup> "Information for those suspected of a crime and subsequently detained", translated into 40 languages.

## 5. Conditions of detention

27. In the report on the 2003 visit, the CPT noted that, on the whole, conditions of detention at the police stations visited met the Committee's criteria set out in previous visit reports<sup>24</sup>. This observation was confirmed by the delegation's findings from the 2009 visit. Material conditions of detention in the police establishments visited were generally of a high standard (taking into account that police custody does not exceed 96 hours).

There were two categories of cells (for criminal suspects and for intoxicated persons), all measuring some 6 - 8 m<sup>2</sup> and intended for single use. Cells had access to natural light, and artificial lighting and ventilation were generally of an adequate standard. The cells intended for criminal suspects were equipped with a bed with bedding, and cells for intoxicated persons usually had a mattress placed on the floor. All cells were fitted with a call bell. Further, detained persons had ready access to sanitary facilities at all times.

However, at Örebro Police Department, the delegation noted that criminal suspects were being held in cells with only a mattress on the floor (rather than in cells equipped with a bed). **The CPT recommends that this shortcoming be remedied.**

28. The CPT recommended in its previous visit reports that the small holding cubicles seen at certain establishments (e.g. Stockholm Police Headquarters, Västberga Police Station) be withdrawn from service in the establishments concerned as well as in any other police establishments in Sweden where facilities of a similar size exist<sup>25</sup>. During the 2009 visit, at Söderort Police Department (previously Västberga Police Station), the delegation was told that the holding cubicles (measuring a mere 1 m<sup>2</sup> each) were no longer being used. The cubicles were clean and well-maintained, which made the claims of their non-use unlikely. **The CPT recommends that the holding cubicles at Söderort Police Department be formally taken out of service for the purpose of holding people.**

29. All police detention facilities had exercise yards and detained persons confirmed that they were allowed access to them. However, at Söderort Police Department, it appeared that detained persons had not been allowed to go out into the exercise yards. Further, certain exercise yards (e.g. at the police detention facility at Kronoberg Remand Prison) did not have a shelter against inclement weather.

**The CPT recommends that persons held for 24 hours or more in police custody be offered outdoor exercise every day. Further, steps should be taken to equip exercise yards with a shelter against inclement weather.**

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<sup>24</sup> See CPT/Inf (99) 4, paragraph 12.

<sup>25</sup> See CPT/Inf (92) 4, paragraph 18 and CPT/Inf (99) 4, paragraph 14.

## **B. Prisons**

### **1. Preliminary remarks**

30. In the course of the 2009 visit, the CPT's delegation visited Sweden's two maximum-security ("class A") prisons, Hall and Kumla. It also paid a follow-up visit to Gothenburg Remand Prison and a targeted visit to Gävle Remand Prison with a view to examining the situation of remand prisoners subject to restrictions and immigration detainees. Further, the delegation interviewed immigration detainees held at Kronoberg Remand Prison in Stockholm (which had been visited by the CPT in 1991, 1994 and 1998).

31. **Hall Prison** is located some 30 km South-West of Stockholm, near Södertälje. With an official capacity of 208, at the time of the visit, it was holding 198 adult male inmates. Some 38% of them were foreign nationals subject to deportation after having served their sentences.

**Kumla Prison** had been visited by the CPT in 1991<sup>26</sup>. It is located in central Sweden, near the town of Örebro. With an official capacity of 231, it was holding 219 adult male inmates at the time of the visit. As in Hall, a considerable number of the prisoners were foreign nationals subject to deportation after having served their sentences (some 30% of all inmates).

**Gothenburg Remand Prison** had previously been visited by the CPT in 2003<sup>27</sup>. At the time of the 2009 visit, the establishment's official capacity of 204 had temporarily been reduced to 160 due to refurbishment and reconstruction works<sup>28</sup>. The prison was accommodating 146 inmates, including 136 remand prisoners (of whom 10 were women), 7 sentenced inmates, 2 immigration detainees and one person in custody for breach of a community service sentence. Juvenile prisoners<sup>29</sup>, of whom there were 10 at the time of the visit (9 boys and 1 girl), were being held in a specific section. The delegation focused on the examination of the regime of remand prisoners, especially those subject to restrictions.

**Gävle Remand Prison** has an official capacity of 34 and, when visited by the CPT's delegation, was holding 28 prisoners (including one woman and two juveniles).

32. At the outset of the visit, the delegation was informed that the country's prison population stood at 6,352 (of whom 1,811 were on remand and 4,541 were sentenced). The total number of prison places being 7,238, the occupancy rate was accordingly 87.8%. This favourable situation is due to the greater use of non-custodial sentences. Sweden thus remains unaffected by prison overcrowding, which is a welcome state of affairs. The delegation was also told of plans to improve the prison estate involving the construction of new units, expanding existing ones and closing down obsolete facilities<sup>30</sup>.

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<sup>26</sup> See CPT/Inf (92) 4, paragraphs 71 to 98.

<sup>27</sup> See CPT/Inf (2004) 32, paragraphs 37, 47, 50 to 53, and 54 to 56.

<sup>28</sup> The works were aimed at creating a "legal centre" combining a police detention facility, a remand prison and a district court.

<sup>29</sup> Aged between 15 and 21 years.

<sup>30</sup> In the period 2009-2012, it is planned to open a total of 1,469 new prison places and to close down 420 existing places. As a result, by 2012, the prison estate's capacity is projected to reach 8,044 places.

## 2. Ill-treatment

33. The delegation heard no allegations of ill-treatment of inmates by staff in recent years in the prisons visited. Most of the inmates interviewed by the delegation considered that they were being treated correctly by prison officers, and the atmosphere and relationship between staff and prisoners seemed, on the whole, to be relaxed and quite positive.

However, the CPT continues to have serious concerns about the impact of prolonged periods of isolation/segregation on the mental health of the inmates concerned (see paragraphs 37 and 46). Prisoners with no or few opportunities for contact with other inmates (e.g. remand prisoners subject to restrictions, prisoners segregated for security reasons or because of being disruptive) appeared to suffer from limited staff-inmate relations. For example, in the isolation units of Hall and Kumla Prisons, three prison officers had to be present every time a cell door was opened; as a result of this rule, staff tended to communicate with inmates only through the hatch in the cell door.

In the Committee's view, the development of constructive and positive relations between staff and inmates, based on the notions of dynamic security and care, would enhance control and security and render the work of prison officers more rewarding. **The CPT invites the Swedish authorities to ensure that prison officers make better use of their interpersonal skills when dealing with inmates who are either isolated or segregated, or who have little human contact for other reasons. The aim should be to build positive relations with inmates and to thereby counter the recognised deleterious psychological effects of isolation/segregation.**

34. The delegation did not gain the impression that there was a serious problem of inter-prisoner violence at the establishments visited. According to the official records, inter-prisoner violence has been on the decrease. At Hall Prison, the records showed that there had been 9 incidents of inter-prisoner violence since September 2008. At Kumla Prison, the delegation was informed that incidents of inter-prisoner violence had dropped to less than 50 cases per year (compared to some 180 cases per year in the 1990s). The reduction in the number of recorded incidents was attributed, to a significant extent, to a better management system (i.e. the setting up of smaller prison units) and improved intelligence resulting in a more sophisticated allocation of prisoners.

The CPT welcomes the steps taken by the Swedish authorities to prevent inter-prisoner violence. **The Committee wishes to stress that, while pursuing their goal of ensuring that all prisoners can serve their sentences under safe conditions, the Swedish authorities should seek to surround the segregation of disruptive/dangerous prisoners and inmates isolated for their own protection with appropriate safeguards, and should strive to minimise the deleterious effects of such segregation.**



### 3. Imposition of restrictions on remand prisoners

35. The issue of restrictions imposed on remand prisoners has been central to the dialogue between the CPT and the Swedish authorities ever since the Committee's first visit to Sweden in 1991. Particular attention was also paid to this issue by the United Nations Subcommittee on Prevention of Torture (SPT), which visited Sweden in March 2008 and subsequently published a report on that visit<sup>31</sup>.

Since the CPT's last visit to Sweden in 2003, practically no legislative or regulatory changes have been introduced in the area of restrictions, and the Committee's concerns about the procedure for the application of restrictions to remand prisoners, and the impact of such measures on their mental health, remain valid<sup>32</sup>. It should be recalled that the types of restrictions which can be applied concern visits, phone calls, correspondence, contacts with other inmates, and access to newspapers, radio and television. Pursuant to Chapter 24, Section 5.a of the Code of Judicial Procedure, when the court decides to remand a person in custody or to extend such detention, it shall simultaneously, at the request of the prosecutor, consider whether the remand prisoner's contact with the outside world may be restricted. Such restrictions may only be permitted if there is a risk that the suspect will remove evidence or in other ways impede the investigation. The court must periodically review the decision concerning restrictions at the same time as it holds a new hearing on continuation of the remand custody. At the court hearing concerning remand in custody, prosecutors do not have to present concrete evidence in support of the request for the imposition of restrictions (as distinct from the grounds which justify remand custody), and the choice of specific restrictions is left to the discretion of prosecutors.

36. At the time of the 2009 visit to Gothenburg Remand Prison, 62 of the 136 remand prisoners present (i.e. some 46 %) were subject to restrictions, some being subject to long periods of isolation (ranging from 6 to 18 months). The proportion of remand prisoners with restrictions had been higher in the recent past (e.g. 70% in March 2008)<sup>33</sup>. According to a senior prosecutor met during the visit, on average, some two-thirds of remand prisoners at Gothenburg Prison were subject to restrictions at any given time. In fact, the imposition of restrictions was virtually automatic from the moment of admission to the remand prison to the judgement by the first instance court. However, efforts were being made at Gothenburg Remand Prison to have restrictions partially or totally lifted after a period of two to three months. This improvement compared to the situation observed in 2003<sup>34</sup> appears to be due to the joint work of the establishment's management and health-care staff who regularly alerted the prosecutors' office to the adverse consequences of prolonged isolation on prisoners.

As regards Gävle Remand Prison, 13 of the 28 prisoners present (i.e. 46%) had restrictions imposed on them at the time of the visit. None of these inmates had been subject to restrictions for more than 2 months. However, one prisoner who was no longer subject to restrictions indicated to the delegation that he had had restrictions imposed on him for 3½ months, until the first instance court judgement.

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<sup>31</sup> See document CAT/OP/SWE/1.

<sup>32</sup> See paragraphs 41 to 46, 49 and 60 of CPT/Inf (2004) 32.

<sup>33</sup> According to statistics provided by the Swedish authorities, in 2008, 65 % of the country's remand prisoners were subject to restrictions.

<sup>34</sup> When 63% of remand prisoners were subject to restrictions and all newly arrived prisoners were systematically subject to restrictions.

37. The overwhelming majority of the remand prisoners met by the delegation had been given no explanation of the reasons the restrictions imposed on them. Many considered that the only reason why they were being prohibited contact with their family members was to “break” them.

The delegation was particularly concerned by the fact that all juvenile prisoners interviewed at Gothenburg Remand Prison had been subject to restrictions (in particular, no association with other prisoners and no visits) for two to three months. Placing persons as young as 15 in conditions akin to isolation is a draconian measure.

Staff, and especially health-care staff, expressed their concern to the delegation about the deleterious effects of restrictions over lengthy periods of time on the health of the inmates concerned. And the delegation gathered direct evidence of the damaging effects of isolation due to restrictions imposed on inmates. Significant periods of isolation induce disorientation in time, lack of concentration, memory disturbance, impaired communication skills, as well as various somatic ailments. Further, symptoms of anxiety disorder are commonly seen, post-traumatic stress disorder and depression develop, and there is agitation, self-harm and a risk of suicide. The younger the prisoners are, the worse the effects of restrictions can be on their health.

38. The findings from the 2009 visit indicate that much remains to be done to ensure that the imposition of restrictions on remand prisoners is an exceptional measure rather than the rule. A proper balance should be struck between the needs of a criminal investigation and the rights of prisoners; further, restrictions should never be applied for the purpose of bringing pressure to bear on persons remanded in custody.

After the visit, the Swedish authorities informed the CPT that, with a view to partly addressing the CPT’s criticism and ensuring that restrictions are used only when necessary, in 2005 the Government had called upon a commission to propose a new Act on the treatment of persons arrested or remanded in custody. In March 2006, the commission presented a proposal including a possibility to appeal against the court’s decision regarding specific restrictions. That proposal is currently under consideration by the Ministry of Justice, and the Government plans to present a bill on the right to appeal against specific restrictions during 2010.

The CPT welcomes this development which will meet one of the points raised by the Committee in the past. However, unless reasons for decisions to impose restrictions are given in full, the possibility to appeal has little value in practice. **The CPT recommends that the envisaged legislation also ensures that:**

- **in every case where a court is called upon to authorise a prosecutor to impose/prolong restrictions, the prosecutor is formally required to provide the judge with (i) an account of the specific restrictions which he/she intends to impose upon a person remanded in custody, (ii) the reasoned grounds which justify those restrictions in the circumstances of the case, and (iii) the period of time for which the restrictions are requested;**
- **court decisions regarding the initial imposition and, subsequently, the prolongation of restrictions are individualised and fully reasoned;**
- **persons remanded in custody are informed in writing of the grounds for the imposition of restrictions and the possibility to appeal against specific restrictions;**

- **the necessity to continue to impose restrictions is periodically reviewed by a court as a separate issue, rather than as part and parcel of the consideration of continuation of remand custody. Restrictions should be lifted immediately when the grounds for their imposition no longer exist.**

In the report on its visit to Sweden, the SPT has made several other recommendations on the issue of imposition of restrictions on remand prisoners (in particular, concerning the issuing of guidelines to judges and prosecutors on the application of restrictions, the provision of training on the rules and good practice, and the introduction of systematic gathering and analysing of statistics concerning the use of restrictions). **The CPT fully supports these recommendations and trusts that the Swedish authorities will take steps to implement them.**

#### **4. Prisoners held in conditions of high security or control**

39. At the time of the visit, Hall and Kumla Prisons each had a unit for prisoners considered to represent a particularly high security risk. These high-security units (referred to as the “bunker”), each with a capacity of 6 cells, were holding respectively 3 and 5 inmates. In terms of material conditions, the units did not differ significantly from the rest of the prisoner accommodation<sup>35</sup> and were, on the whole, adequate. Inmates could spend up to 5 hours a day out of their cells. This time included one hour of outdoor exercise (which some of them took together), association with another inmate, time spent in the unit’s gymnasium, and cooking in the unit’s kitchen. No work was available, but some inmates followed distance-learning courses and had computers. Further, meetings with representatives of religions were available upon request.

40. Placement in a high-security unit is made pursuant to Section 20a of the Prison Treatment Act and is decided at national level by the Head Office of the Prison and Probation Service. The initial placement decision is reviewed by the Prison and Probation Service at least once a month. Further, every three months, a treatment team reviews the prisoner’s progress and, if necessary, adapts his treatment plan, and every six months, a meeting is held between representatives of the Prison and Probation Service, staff of the high-security unit and the prisoner concerned. Periodically, an individual risk assessment is performed with the involvement of a forensic psychiatrist. Prisoners receive copies of the decisions concerning them and have the right to appeal these decisions to the county administrative court<sup>36</sup>.

Upon examination of the relevant documentation, the delegation noted that reviews of placement were to a large extent a formality since the initial security factors which had led to the placement of a prisoner in a high-security unit tended to prevail over any other considerations related to the evolution of the inmate’s attitude and behaviour or his individual needs. In most cases, the justification for continuing placement was unspecified “intelligence information”. Some of the prisoners in the high-security units had spent several years there (e.g. since 2004), but were not aware whether they had any chance of being moved to an ordinary prison location. In the case of two prisoners, the delegation was informed that their transfer to an ordinary unit had been recommended by the local prison management, but the transfer was being blocked by the Prison and Probation Service. Prisoners held in the high-security units believed that appealing the placement decisions was pointless, administrative courts being concerned with the propriety of the decision rather than examining the actual basis for it.

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<sup>35</sup> Cells in the high-security unit at Hall measured some 8 m<sup>2</sup>, and those at Kumla, some 6 m<sup>2</sup>.

<sup>36</sup> It is also possible to lodge complaints with the Parliamentary Ombudsman and the Chancellor of Justice.

41. It is axiomatic that prisoners should not be subject to a high-security regime for any longer than the risk they present makes necessary. Reviews of placement should be objective and meaningful, and form part of a positive process designed to address the prisoner's attitude and behaviour and permit his reintegration into the mainstream prison population. Prisoners should as far as possible be kept fully informed in writing of the reasons for their placement and, if necessary, its renewal (it being understood that there might be reasonable justification for withholding from the prisoner specific details related to security). This will, *inter alia*, enable them to make effective use of avenues for challenging that measure.

**The CPT recommends that the Swedish authorities review the procedure for placement in a high-security unit, in the light of the above remarks. In this context, the CPT considers that the six-monthly review of continued placement in such a unit should also involve participation by an independent authority outside the Prison and Probation Service (e.g. a judge). In order for it to be meaningful, this review should involve a thorough assessment of whether there are still grounds for the measure. During placement reviews, the prisoners concerned should always be offered the opportunity to express their views on the matter.**

42. As part of a national plan launched in 2004 after a series of escapes from prisons, new high-security buildings have been under construction at both Hall and Kumla Prisons<sup>37</sup>. At the time of the 2009 visit, the work was almost completed and it was expected that prisoners would be moved to these units in the course of 2009. The delegation noted that these buildings (each with 24 places, divided into four largely autonomous 6-bedded units) would provide material conditions of a high standard. Individual cells measured some 12 m<sup>2</sup> and had plenty of light, modern furniture and a partitioned sanitary annexe. Further, each unit had spacious facilities for cooking, leisure-time activities, sports and work. The delegation was informed that there would be enhanced possibilities for inmates to engage in collective activities and increased interaction with staff. As regards the latter, officers selected to work in the new units were undergoing special training and it was indicated that the staff-inmate ratio would be higher than in ordinary units. The delegation was also told that regulations for the functioning of the new high-security units (including rules on correspondence, visits and telephone calls) were in the process of being drafted. **The CPT would like to receive a copy of these regulations.**

**Further, the Committee requests confirmation that the exercise yards in the new high-security buildings have been equipped with shelters against inclement weather.**

43. In terms of material conditions and programmes of activities, the new high-security units are undoubtedly an improvement on the units functioning during the visit. However, many prisoners expressed anxiety and frustration about increased security requirements and, in particular, about the possibility that their own security rating may be increased once more secure places become available. It is part of normal experience that when new prison places become available, they tend, very soon, to be fully occupied, particularly if, as in this case, their construction has necessitated significant public expenditure. Senior officials at the prisons visited were themselves not clear as to how the additional places would be used. At the end of the visit, the delegation stressed that a move towards a more intensive security provision in prisons – unless it is justified on the basis of an objective, case-by-case assessment – can render the complex task of safely managing prisons more rather than less difficult, and would be corrosive rather than protective of human rights.

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<sup>37</sup> A third high-security building was being constructed at Saltvik Prison.

**The CPT trusts that the Swedish authorities will be mindful of these considerations when the new high-security units are put to use. Further, the Committee would like to be provided with information on the number and categories of inmates placed in these units.**

44. Hall and Kumla Prisons each had a unit for prisoners segregated for administrative reasons pursuant to Section 20 of the Prison Treatment Act<sup>38</sup>. The isolation unit at Hall Prison had 20 cells, six of which were assigned to the holding of the so-called “SKI” prisoners<sup>39</sup> (i.e. inmates difficult to control and requiring more staff supervision); at the time of the visit, it was holding 13 inmates, including three “SKI” prisoners. At Kumla Prison, there were 12 inmates in the isolation unit (none of whom was of the “SKI” category).

Segregation pursuant to Section 20 of the Prison Treatment Act is made upon decision by the prison’s Deputy Director and is reviewed at least once every 10 days. Prisoners placed in the isolation units were held under conditions akin to solitary confinement, sometimes for prolonged periods of time (e.g. over a year at Kumla Prison). Out-of-cell time was limited to one hour of outdoor exercise per day, which was taken alone. No association with other prisoners was allowed.

45. As regards “SKI” prisoners, their segregation follows a programme introduced in 2002 aimed at influencing the behaviour of disruptive prisoners, through a progression of rewards, with a view to making them function in association or under a normal regime. The decision to place a prisoner under the “SKI” regime is taken by the Head Office of the Prison and Probation Service following a proposal by the local prison management. The decision is reviewed every 10 days, with a re-evaluation of behaviour every 6 months. There is no maximum time-limit for placing an inmate under the “SKI” regime.

After an initial observation period of 3 to 4 months, “SKI” prisoners are allowed limited association with one other prisoner. At Hall Prison, such inmates were allowed to cook for themselves, twice a week, in a specially equipped kitchen, and could go to the gym for one hour a day, in addition to having one hour of daily outdoor exercise. That said, their regime remained very restrictive. At Kumla Prison, the delegation was informed that the “SKI” programme was in the process of being phased out. **The CPT would like to receive information on the future of the “SKI” programme.**

46. In the 2003 visit report, the CPT noted that, although segregation for administrative reasons pursuant to Section 20 of the Prison Treatment Act was not construed as a disciplinary punishment, placement in the isolation unit was perceived as a punitive and often arbitrary measure by the majority of inmates interviewed on this subject. This remained the case during the 2009 visit. Although placements in segregation were regularly reviewed, it was not clear to what extent the prisoner concerned was involved in the process and could challenge the decision on its merits. Inmates interviewed by the delegation believed that the reviews were basically a paper exercise and that, in practice, it was extremely difficult to get out of segregation. It should be noted that health-care staff at Hall and Kumla Prisons expressed concerns about the deleterious mental health consequences of prolonged isolation on the prisoners concerned.

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<sup>38</sup> With a view to preventing danger to life or health, serious damage to property, serious disturbances, inter-prisoner violence and the spread of intoxicating substances.

<sup>39</sup> *Särskilt Krävande Intagne*, or “specially demanding prisoners”.

Every prison system needs to have a mechanism for administrative segregation, in order to cope with prisoners who persistently refuse to comply with the rules. That said, there must be a clear distinction between administrative segregation and segregation/isolation on disciplinary grounds. In particular, the conditions of administrative segregation must be less strict and, save for the most exceptional of circumstances, should not amount to solitary confinement. Special efforts should be made to develop positive relations between staff and prisoners. Throughout the period of administrative segregation, the objective should be to persuade the prisoner to re-engage with the normal regime. Accordingly, it is essential that there is a plan for all such prisoners and that all staff involved with them work to that plan to maximise its effect.

It is also essential for the management of prisoners whose personality or behaviour is likely to mean that they will spend considerable periods of time in conditions of segregation that decisions reached about their management are not only fair but can be seen to be fair. The absence of such an approach is likely to result in an increased sense of grievance and descent into a vortex of deteriorating behaviour.

**The CPT recommends that the Swedish authorities take steps to establish a clear distinction between segregation for administrative reasons and segregation on disciplinary grounds, and to review the regime for prisoners placed in administrative segregation, in the light of the above remarks. The Committee would also like to be informed of the avenues open to prisoners for the purpose of challenging a decision for placement or extension of placement in an isolation unit or under the “SKI” regime.**

## 5. Conditions of detention for prisoners in general

### a. remand prisoners

#### *i. material conditions*

47. Material conditions in the cells at Gothenburg Remand Prison remained unchanged compared to what had been observed by the CPT in 2003 and were generally of a good standard<sup>40</sup>. The establishment was in the throes of construction and refurbishment works. It was envisaged that the new facilities would become operational by the end of 2010 and, as a result, the prison's capacity would increase to 350.

At Gävle Remand Prison, single-occupancy cells measured some 7-8 m<sup>2</sup> and were appropriately furnished. However, some of the cells were dilapidated and dirty. The delegation was informed that the establishment would be closed on 1 September 2009 in order to undergo a total renovation.

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<sup>40</sup> See paragraphs 50 to 53 of CPT/Inf (2004) 32.

48. Inmates at Gothenburg Remand Prison continued to take outdoor exercise in cage-like rooftop exercise areas measuring some 25 m<sup>2</sup>, which were not large enough to allow them to exert themselves physically. Several inmates met by the delegation indicated that they refused to take outdoor exercise because they found it humiliating and degrading, “like being a dog in a cage”. It is regrettable that the construction plans replicated the same outdoor exercise arrangements.

The five exercise yards at Gävle Remand Prison were also of an oppressive design (narrow, high-walled enclosures). As in Gothenburg, it was planned to locate the exercise yards on the roof as part of the renovation.

**In the context of the construction/renovation work at Gothenburg and Gävle Remand Prisons, the CPT recommends that steps be taken to ensure that outdoor exercise yards are not of an oppressive design and are sufficiently large to enable inmates to exert themselves physically. More generally, the Committee recommends that the Swedish authorities rethink the design of outdoor exercise yards in all newly built (or renovated) prisons in the country. Outdoor exercise facilities should be sufficiently large to allow prisoners to exert themselves physically (as opposed to pacing around an enclosed space) and, as far as possible, should be located at ground level.**

49. Many inmates met by the delegation at Gothenburg Remand Prison complained about delays (up to 2½ hours) in gaining access to the toilet at night. It should be noted in this context that there were only four officers on duty on the night shift. Complaints about access to the toilet at night were also heard at Gävle Remand Prison; an inmate at that establishment showed the delegation an internal regulations book which stated that “toilet visits must be completed by 10.30 p.m.”

The delegation was informed that, after the refurbishment of Gothenburg Remand Prison, all cells would have integral sanitation. **The CPT would like to know if similar steps are envisaged at Gävle Remand Prison.**

**For as long as cells have no integral sanitation, the Committee recommends that steps be taken to ensure that inmates at Gothenburg and Gävle Remand Prisons have ready access to a toilet at night.**

50. At Gothenburg Remand Prison, the delegation received complaints about the lack of variety in the food provided (typically mashed or boiled potatoes with a sausage/meat or fish) and the times at which it was distributed (breakfast was served at 8-8.30 a.m., lunch at around 11 a.m., and dinner between 3.30 and 4 p.m.)<sup>41</sup>. Meals should ideally be served at times which are conventional in the country concerned. **The CPT recommends that steps be taken to improve the variety of food at Gothenburg Remand Prison and to review the hours at which food is distributed, in particular as regards dinner.**

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<sup>41</sup> For the period after dinner, inmates were allowed to fill a thermos flask with hot water and take a slice of bread and cheese.

51. The waiting cells at Gothenburg Remand Prison criticised in the report on the 2003 visit<sup>42</sup> had been taken out of service. However, there were three other waiting cells, measuring some 1.6 m<sup>2</sup> and totally empty, which were reportedly used for periods not exceeding one hour. These cells were said to be a temporary arrangement pending the construction of new facilities. **The CPT recommends that the Swedish authorities reconsider the design of waiting cells with a view to ensuring that they are larger, equipped with a seat and allow visual contact with staff. In the meantime, the current temporary waiting cells at Gothenburg Remand Prison should be equipped with seats.**

*ii. programme of activities*

52. The regime for inmates subject to restrictions remained impoverished. They were allowed daily outdoor exercise which they took alone, and had access to an exercise room once a week, also alone. Only one of the remand prisoners interviewed by the delegation at Gothenburg Remand Prison had work in his cell (assembling plastic parts). No work was available at Gävle Remand Prison.

At Gothenburg, the delegation was informed of a “youth project” involving two teachers and consisting of distance learning via the internet as well as some other activities (e.g. music, cooking). However, none of the seven juvenile prisoners interviewed by the delegation made any reference to such activities or had heard of them.

Since September 2008, the management of Gothenburg Remand Prison had introduced an association time target of 7 hours per week for inmates subject to restrictions (this includes time spent with visitors, workshop activities, education and vocational training)<sup>43</sup>. While commending these efforts, on-site observations and interviews carried out with inmates subject to restrictions suggested that this target was far from being met and, in any case, it appeared far too low to counter the effects of isolation. Most of the prisoners interviewed by the delegation spent only one hour a month with a representative of the Swedish Red Cross or with representatives of religions or beliefs. The delegation understood that an assessment of the system of association time was to be conducted. **The CPT would like to receive a copy of this assessment.**

53. At both remand prisons visited, inmates not subject to restrictions could spend several hours a day together with other inmates in a cell (at Gothenburg) or in an association room (at Gävle). They also had access to a fitness room and, at Gothenburg, to a larger indoor gym once a week. Further, at Gothenburg Remand Prison, the management informed the delegation that about 40 inmates had work (cleaning, laundry, kitchen, workshop, etc.).

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<sup>42</sup> See paragraph 52 of CPT/Inf (2004) 32.

<sup>43</sup> The target for inmates not subject to restrictions was at least 14 hours per week.



54. **The CPT calls upon the Swedish authorities to redouble their efforts to develop activities for remand prisoners with a view to ensuring that all prisoners, including those under restrictions, are able to spend a reasonable part of the day outside their cells, engaged in purposeful activities of a varied nature. The target of association time should be reviewed accordingly.**

The Committee would like to stress that a lack of physical activity and intellectual stimulation can be especially harmful for young prisoners. **The CPT recommends that the Swedish authorities develop programmes of activities designed specifically to meet the needs of young prisoners.**

b. sentenced prisoners

i. *material conditions*

55. Material conditions at Hall and Kumla Prisons were generally of a good standard.

At *Hall Prison*, inmates held on normal location were allocated to two cell blocks (Houses A and C)<sup>44</sup>, each with 56 cells subdivided into four sections. Further, House B (also with 56 cells) accommodated new arrivals and inmates segregated for their own protection. A standard single-occupancy cell measured 7-8 m<sup>2</sup>. The cells had adequate access to natural light, artificial lighting and ventilation, and were suitably furnished.

56. At the time of the visit, parts of *Kumla Prison* were undergoing refurbishment (House G) and there was new construction work underway (a cell block with 120 places and a high-security building with 24 places). Prisoners held on normal location<sup>45</sup> were accommodated in cell blocks dating back to the 1960s and seen by the CPT during the 1991 visit. A standard single-occupancy cell measured 6 m<sup>2</sup>. As noted in the 1991 visit report, such cells are not particularly spacious, but given that prisoners spend a significant proportion of the day outside their cells, they offer adequate accommodation. The cells were adequately equipped and had satisfactory ventilation and lighting.

A National Assessment Unit had opened on the site of Kumla Prison some two years previously. Prisoners with sentences of 4 years or more spent 4 to 6 weeks in that unit at the outset of their sentences. Material conditions in the Assessment Unit were of a high standard. It comprised three wings, with two floors to each wing, which were used to separate inmates who should not be held together. The cells were spacious (some 11 m<sup>2</sup>) and well-equipped.

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<sup>44</sup> House A was accommodating prisoners working in the laundry, most of whom were subject to deportation after the end of their sentences. House C contained inmates employed in the assembly, packaging and carpentry workshops, inmates attending the school and those following drug-prevention programmes.

<sup>45</sup> House C (with 56 cells) was used for foreign nationals subject to deportation after the end of their sentences, House E (with 32 cells) was accommodating prisoners serving life or long-term sentences, and a part of House H was used for prisoners following treatment programmes.

57. At both prisons, because of the policy of allowing prisoners to prepare their own meals (ingredients being purchased by the prisoners, on a contract basis), a number of prisoners were engaged daily in cooking and had access to cookery classes. The possibility for self-catering was highly valued by inmates.

58. During the day, prisoners at Hall and Kumla had ready access to toilet and shower facilities. However, access to the toilet at night after locking-up time was allegedly problematic, due to the low number of staff; consequently, washbasins were often used as urinals. Prison staff themselves admitted that there were difficulties in this area.

Ready access at all times to toilet facilities is of fundamental importance. **The CPT recommends that appropriate steps be taken to improve access at night to toilet facilities for prisoners at Hall and Kumla Prisons.**

*ii. programme of activities*

59. Genuine efforts were being made at Hall and Kumla Prisons to engage prisoners in a range of purposeful activities (work, education, sports and leisure). All inmates subject to an ordinary regime benefited from generous out-of-cell time (upwards of 10 hours daily) and had access to spacious exercise yards and well-equipped workshops, classrooms, libraries, gyms, fitness rooms and other leisure-time facilities. Religious services were also available.

60. At *Hall Prison*, the delegation was informed that 100 prisoners had work (most of them were employed in an industrial laundry and a carpentry workshop) and another 48 inmates studied in the prison school or on their own, using the internet under staff supervision. Some 25% of inmates had no occupation (i.e. prisoners placed in the high-security and isolation units and inmates segregated for their own protection).

61. *Kumla Prison* had 6 workshops (carpentry, paintwork and assembly, furniture production, metalwork, etc.), each employing up to 15 inmates. The delegation was informed of plans to construct a new building with an additional metal workshop and a laundry. As regards education, some 90 inmates followed various courses, including 15-20 inmates who attended the prison school on a full-time basis.

The delegation was particularly impressed by the regime and positive atmosphere in the establishment's "treatment unit" (House H) and the unit for prisoners serving life and long-term sentences (House E). Inmates in these units were offered a challenging programme of offence-related interventions (anger management, cognitive skills, social skills, treatment for drug addiction).

62. **The CPT encourages the management of Hall and Kumla Prisons to make full use of the available facilities for prisoners' activities and to seek to engage more prisoners in them.**

## 6. Persons detained under aliens legislation

63. During the 2009 visit, the delegation noted with concern that persons deprived of their liberty under aliens legislation were still sometimes held in remand prisons, on occasion for lengthy periods of time. The persons concerned had been removed from centres run by the Swedish Migration Board on account of the heightened security risk which they represented to themselves and others<sup>46</sup>. At Kronoberg Remand Prison in Stockholm, there were nine such persons on 12 June 2009. Their daily routine was very limited: one hour of outdoor exercise and several hours of association with another immigration detainee in a cell. The one immigration detainee met at Gävle Remand Prison at the time of the visit was allowed some association with other inmates, in addition to daily outdoor exercise.

The Director of Kronoberg Remand Prison expressed his concern about the practice of holding immigration detainees in remand prisons which, in his opinion, did not offer conditions suitable for this category of person. Similar concerns were voiced by staff at Gävle Remand Prison, where an immigration detainee had recently committed suicide (see paragraph 69).

64. The CPT has already made its position on this matter clear in the past. In the Committee's view, a prison is by definition not an appropriate place in which to detain someone who is neither suspected nor convicted of a criminal offence. This is all the more so when the prison in question is not in a position to provide them with a suitable regime. In those cases where it is considered necessary to deprive persons of their liberty under aliens legislation, they should be accommodated in centres specifically designed for that purpose, which offer material conditions of detention and a regime appropriate to their legal status. **The CPT recommends that urgent steps be taken to ensure that persons detained under aliens legislation are not held on prison premises.**

In response to the statement made at the end of the 2009 visit, the Swedish Migration Board informed the CPT that the ongoing Commission of Inquiry on Detention is analysing the regulations and practice in respect of the detention of foreign nationals in order to identify possible needs for legislative changes or other measures. One of the tasks of this Commission is to review the part of the Aliens Act regulating the treatment of detained foreign nationals and the possibility to place them in a prison. **The CPT would like to be informed of the outcome of the work of the Commission of Inquiry on Detention.**

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<sup>46</sup> Pursuant to Chapter 10, Section 2, and Chapter 11, Section 7, of the Aliens Act.

## 7. Health care

65. At *Gothenburg Remand Prison*, the delegation noted that the health-care resources had considerably improved in comparison with 2003. The establishment employed a doctor (25 hours per week) and two full-time psychologists. Further, a psychiatrist attended the prison 8 hours a week and a dentist was also present 8 hours per week. The number of full-time nursing posts had decreased from 7 in 2003 to 5½ at the time of the visit, which could be considered as acceptable considering the establishment's reduced capacity.

All newly admitted inmates were seen shortly after arrival by a nurse and could ask to be seen by a doctor.

66. At *Hall and Kumla Prisons*, a doctor was present one day a week on site (and was reportedly available for emergency telephone consultation with nursing staff during working hours). There were two full-time nurses at Hall and three nurses at Kumla. Each prison also had a visiting psychiatrist (once a fortnight at Hall, once a week at Kumla). Dental care was provided twice a week. Further, consultations with other medical specialists were arranged as needed.

Attendance by doctors at Hall and Kumla Prisons was far from generous and, not surprising, the delegation heard numerous complaints from inmates concerning delays in having access to a doctor. As regards nursing resources, the cover available at Hall and Kumla Prisons is insufficient, given the size and structure of the inmate population. **The CPT recommends that steps be taken at Hall and Kumla Prisons to:**

- **increase the attendance hours of the doctors;**
- **reinforce the nursing staff resources.**

67. At Hall and Kumla Prisons, inmates indicated that on occasion prison officers asked for clinical reasons before allowing appointment request forms to be forwarded. Submission in writing of a request to see a doctor was slow and there was no system to keep necessary clinical information confidential. **The CPT recommends that steps be taken to ensure that prison officers do not seek to screen requests to consult a doctor and that prisoners can approach the health-care service on a confidential basis, for example, by means of a message in a sealed envelope.**

The delegation also saw evidence at Hall and Kumla Prisons that medication was being administered by non-qualified staff. This was compounded by the fact that only one prison officer was required to sign out the medication for the inmate, which carries a risk of abuse. In the CPT's view, it is not within the competence of prison officers to dispense prescribed medication; dispensing medication can only fall to a nurse or a trained pharmaceutical dispenser. **The Committee recommends that steps be taken to ensure that there is appropriate supervision of the distribution of medicines to prisoners.**

Further, the delegation was informed that two deaths of inmates had occurred at night, one at Hall and one at Kumla Prison. **The CPT would like to be informed of the conclusions of the autopsy reports and of any inquiries carried out into these deaths.**

68. Regarding the provision of psychiatric and psychological care, as mentioned in paragraph 66, the attendance of a psychiatrist was once a fortnight at Hall Prison and once a week at Kumla. Further, each establishment employed one full-time psychologist. The delegation noted that there were difficulties in looking after mentally ill inmates (particularly psychotic patients); transferring such prisoners to expert units was said to be time-consuming and not always successful. **The CPT recommends that the Swedish authorities reinforce the provision of psychiatric and psychological care for prisoners at Hall and Kumla Prisons. As a first step, the attendance of a psychiatrist at Hall Prison should be increased to one day a week. Further, the transfer of mentally ill inmates to an appropriate psychiatric facility should be treated as a matter of the highest priority.**

At Gothenburg Remand Prison, efforts were being made to improve the provision of psychiatric and psychological care to inmates. The establishment's management, health-care personnel and custodial staff regularly met with a view to assessing the situation of remand prisoners with restrictions. Further, a coordinator with responsibility for suicide prevention had been recently appointed, due to the increase in the past few years of suicides and suicide attempts in prisons<sup>47</sup>. Suicide screening upon arrival had been put in place and all staff had been trained in emergency care and suicide prevention. The prison had a "security section" with 22 cells, including two observation rooms for prisoners requiring constant monitoring (such as those presenting a suicide risk)<sup>48</sup>. The delegation was also informed that a psychiatrist held meetings with the establishment's management every other month. The CPT welcomes these measures. However, **sustained efforts need to be made with a view to combating the negative effects of isolation on remand prisoners subject to restrictions**, as demonstrated by the number of suicide attempts (113 in 2008, 21 in the first half of 2009).

69. As noted above (see paragraph 63), remand prisons are sometimes used to house inmates transferred from Migration Board centres because they present a high security – including suicide – risk. However, remand prisons often have no more expertise or capacity to deal with such hazards than Migration Board centres. The recent suicide of an immigration detainee at Gävle Remand Prison is of particular concern to the CPT. In contrast to Gothenburg Remand Prison, there appeared to be no awareness of suicide prevention. As far as the delegation could ascertain, the person in question had not been psychiatrically assessed. Prison staff had felt concerned about the inmate, but there were difficulties with interpretation and no overnight suicide watch. The CPT understands that an internal inquiry was carried out into the suicide and **would like to be informed of its conclusions and any follow-up action taken.**

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<sup>47</sup> In 2007, there were 4 suicides at Gothenburg Remand Prison, out of a total of 12 in all Swedish prisons.

<sup>48</sup> Nineteen people were placed there at the time of the visit.

## 8. Other issues of relevance to the CPT's mandate

### a. staff

70. The staff presence at night at Hall, Kumla and Gothenburg Prisons was very low<sup>49</sup>. This resulted in failure to provide access to toilets at night (see paragraphs 49 and 58) and affected the provision of assistance to prisoners.

Low staff cover at night can have serious consequences for the overall security of prisoners and the personal security of both staff and inmates. **The CPT recommends that the Swedish authorities reconsider the issue of prison staffing levels at night as a matter of urgency, with a view to increasing substantially the level of staffing in the prisons visited and in other prisons where similar low levels of staffing occur.**

### b. contact with the outside world

71. At Hall and Kumla Prisons, the delegation was generally impressed by the arrangements for prisoners' visits. Inmates in these establishments were normally allowed at least one visit per week and could apply to receive extended unsupervised visits, to enable them to maintain family and personal relations.

The visiting facilities were of a very good – even excellent (at Kumla) – standard. Most prisoners received private, unsupervised visits in individual rooms containing a table, chairs, bed and sanitary annexe. Supervised visits were the exception (typically applied to inmates held in the high-security and isolation units) and took place in rooms equipped with a long table with a low partition in the middle. Each prison also had family apartments for overnight visits.

72. However, the delegation received some complaints from prisoners concerning strip searches to which their family members were subjected before visits. It was indicated that certain visitors, in particular young women and children, found this practice intimidating and were discouraged from visiting.

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<sup>49</sup> At Hall Prison, the night shift included 7 officers (of whom 3 were based in the central control office). At Kumla Prison, there were 8 officers at night (of whom 3 were based centrally). At Gothenburg Remand Prison, 6 officers were on duty from 11 p.m. to 7 a.m.

Staff at Kumla Prison informed the delegation that, in the event of concerns or specific information that a breach of security may occur, the visitor was informed that he/she had to undergo either a dog search<sup>50</sup> or a strip search. If the visitor refused, the visit did not take place<sup>51</sup>. Strip searches take place in a special room where the person undresses and his/her clothes are searched by two prison officers (only women in case of female visitors); according to the regulations, the visitor's body is not touched and there is no examination of body orifices. Children aged 3 to 12 are not searched unless there are major suspicions that they are being used to bring in contraband. An examination of the documentation revealed that strip searches of visitors were performed rather infrequently at Kumla Prison (e.g. 7 times between 1 and 12 June 2009, out of a total of 109 visits during the same period). The same applied to dog searches, of which there had been 5 in the period from 1 to 12 June 2009.

In view of the impact which they can have on the maintenance of prisoners' relationships with their family and friends, **the CPT invites the Swedish authorities to review their approach to strip searches of prisoners' visitors. Instead of being obliged to leave without meeting the prisoner if they refuse to undergo a strip search, visitors about whom there are serious security concerns based on specific information could be provided with supervised visits.**

73. In contrast to the favourable situation as regards visits, the delegation was submerged in complaints about access to the telephone. Many prisoners complained that they were prevented from calling their family members because of the VoIP (Voice over Internet Protocol) technology which made it difficult for the prison administration to identify the holders of telephone numbers, and excluded calls to mobile phones. Foreign national prisoners in particular complained about onerous and lengthy procedures for obtaining clearance for telephone numbers (e.g. being asked to provide proof of a "clear criminal record" for the relatives whom they wished to call). It should be noted that these prisoners rarely received visits from their families living abroad and the impossibility to maintain contact with their relatives by phone caused more resentment than any other aspect of life in prison.

The CPT recalls that all prisoners, including remand prisoners, should have access to a telephone. This principle is included in the European Prison Rules (Rules 24.1 and 99). The imposition of any restrictions on phone calls should be proportionate to the threat posed and should not be used as an indirect way of restricting communications.

**In the light of the above remarks, the CPT recommends that the Swedish authorities review the regulations on prisoners' phone calls and strive to ensure that prisoners (including those whose families live abroad) are in a position to maintain good contact with the outside world.**

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<sup>50</sup> I.e. being sniffed by a specially trained dog which signals with its tail the presence of drugs.

<sup>51</sup> The information and consent sheet for visitors at Kumla Prison states: "For security reasons you must undergo a protective search before you meet the prisoner. This takes place with the aid of a metal detector. In addition, it could be stipulated that a condition for a visit is that you are subjected to an examination of your clothes and an examination of the external parts of your body, what is known as a superficial physical examination. If you do not agree to the prescribed control, you will be required to leave without meeting the prisoner".

c. prisoner rehabilitation and preparation for release

74. A number of inmates met by the delegation at Kumla Prison complained about the introduction of prisoner uniforms in recent years. As a result, prisoners were prohibited from wearing their private clothes (except for socks and underwear) at all times, including during visits. This deprivation of individuality was felt by many prisoners, in particular those serving long sentences, as degrading treatment.

The above-described imposition of prisoner uniforms – regardless of their design – can hardly contribute to prisoners’ self-esteem, which is an important part of their rehabilitation, and may be seen as running contrary to the normalisation principle, according to which conditions in prisons should be arranged so that they correspond, to the extent possible, to conditions outside. **The CPT would like to receive the comments of the Swedish authorities on this issue.**

75. Some of the prisoners met by the delegation at Hall and Kumla Prisons indicated that they expected to be released directly from these establishments into the community, which gave the impression that there was no effort to provide “step down” arrangements for high-security prisoners. At the same time, the delegation was told by staff that prisoners were very rarely released from Hall and Kumla without preparation, the prisoners themselves not always wanting to accept what was on offer when it came to transfer to lower-security institutions. **The CPT would like to receive clarification of the issue of prisoners’ preparation for release, in particular as regards inmates held in maximum-security (“class A”) establishments.**

d. foreign national prisoners

76. As already pointed out (see paragraph 31), foreign national prisoners constituted a sizeable proportion of the inmate population in Hall and Kumla Prisons. Many of them complained of a lack of information concerning their legal situation and rights and of being asked to sign documents in Swedish without understanding their content. It appeared from interviews with foreign national prisoners that they had not received written information on the internal regulations in a language which they could understand<sup>52</sup>. Moreover, as noted in paragraph 72, their contact with the outside world was often problematic. All this created an impression of isolation and discrimination which can be detrimental to the general atmosphere in a prison.

**The CPT recommends that steps be taken to improve the provision of information to foreign national prisoners and to ensure that written information on the internal regulations is systematically provided to all prisoners, upon their arrival at a prison, in a language which they can understand.**

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<sup>52</sup> For example, at Hall Prison, only the daily schedule was available in some foreign languages, but not the internal regulations.



## C. Migration Board establishments

### 1. Preliminary remarks

77. The delegation visited two Migration Board detention centres<sup>53</sup>, in Märsta (Stockholm area) and Gävle, accommodating irregular migrants awaiting expulsion and asylum seekers awaiting a decision on their applications.

The **Märsta detention centre** is located near Stockholm Arlanda Airport, in a building commissioned in 2003. It consists of two fairly autonomous units, one exclusively for men and the other containing sections for men and a section reserved for women and children. At the time of the visit, Unit 1, with a capacity of 25, was holding 23 adult men, and Unit 2, with a capacity of 35, was accommodating 32 persons (of whom 8 were adult women).

The **Gävle detention centre** is a modern construction commissioned in 2004. With a capacity of 30, on the day of the visit, it was holding 21 adult men. As at the Märsta centre, a part of the building was reserved for women and children; it was empty at the time of the visit and was reportedly rarely used.

78. The 2005 Aliens Act does not fix a time limit for the detention of foreign nationals pending the execution of refusal-of-entry or expulsion orders<sup>54</sup>. At the time of the visit to the Märsta centre, the longest stay was 19 months, and in Gävle, 9 months. According to information provided by the Swedish authorities, the average length of detention in 2008 was 21 days, and there had been 37 stays exceeding two months. The delegation was informed that pursuant to a European Union directive<sup>55</sup> which should be implemented by 2010, the detention period would be limited to 18 months. **The CPT would like to receive confirmation of this.**

The Swedish Migration Board is responsible for the enforcement of detention orders. The responsibility for the enforcement of refusal-of-entry and expulsion orders falls to different authorities: the Migration Board is responsible for “voluntary returns”, which take less time to effect (up to 2 months), the police authorities deal with “forced returns”, which represent some 80% of all return cases and take more time, and the Swedish Security Service handles “security cases”<sup>56</sup>. Detention, refusal-of-entry and expulsion orders may be appealed to a migration court and subsequently to the Migration Court of Appeal.

The delegation was told that asylum seekers whose identity is unclear or whose asylum claims are manifestly unfounded can be detained at Migration Board centres for an initial period of 2 weeks, which can be extended by a further 2 weeks.

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<sup>53</sup> At the time of the visit, there were 5 closed facilities for holding foreigners, run by the Swedish Migration Board: in Flen, Gävle, Gothenburg, Märsta and Örkelljunga. Their overall capacity was 185 places.

<sup>54</sup> Pursuant to Chapter 10, Section 4 of the Aliens Act, an alien may be detained for not more than 2 months unless there are exceptional grounds for a longer detention period.

<sup>55</sup> Directive 2008/115/EC of the European Parliament and of the Council of the European Union of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals. According to it, the maximum detention period should be six months and the period of detention may be extended to 18 months only in exceptional circumstances.

<sup>56</sup> Pursuant to Chapter 14, Sections 11, 12 and 13 of the Aliens Act. The delegation was informed that there had been 5 “security cases” in 2008 and 3 so far in 2009.

## 2. Ill-treatment

79. The delegation did not hear any allegations of ill-treatment of detained foreign nationals by staff of the Migration Board detention centres in Märsta and Gävle. On the contrary, many detainees interviewed spoke positively about the staff, and the delegation observed that staff-detainee relations were generally relaxed.

80. However, the delegation received information suggesting that in the context of a recent mass expulsion by air of some 45 Iraqi nationals, means of restraint had been used in an excessive or improper manner. It was alleged that at least nine persons had been handcuffed for over 9 hours, and that some of them had worn both handcuffs and restraint belts. It was also suggested that some of the persons in question had been given sedatives in their food. An inquiry into this case was apparently carried out at the request of the UNHCR. **The CPT would like to be informed of the outcome of this inquiry.**

Further, **the CPT would like to receive a copy of the instructions on the procedure to be followed in the context of deportation operations, in particular as regards the use of force and/or means of restraint.**

81. The prohibition of torture and inhuman or degrading treatment or punishment also embraces the obligation not to send a person to a country where there are substantial grounds for believing that he/she would run a real risk of being subjected to torture or ill-treatment.

The delegation was told that the Swedish authorities continued to expel persons to Greece despite a 2008 UNHCR recommendation against this practice<sup>57</sup>. **The Committee would like to receive the comments of the Swedish authorities on this issue.**

**The CPT would also like to receive information on any monitoring or follow-up carried out by the Swedish authorities as regards the situation of persons following their expulsion from Sweden.**

Further, **the Committee would like to receive information on the practical measures taken by the Swedish authorities to ensure compliance with Guideline 12 (4) of the Council of Europe's Guidelines on forced return adopted by the Committee of Ministers on 4 May 2005<sup>58</sup>.**

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<sup>57</sup> See UNHCR Position of the return of asylum-seekers to Greece under the "Dublin Regulation", 15 April 2008.  
<sup>58</sup> Guideline 12 (4): "The host state shall exercise due diligence to ensure that the exchange of information between its authorities and the authorities of the state of return will not put the returnee, or his/her relatives, in danger upon return. In particular, the host state should not share information relating to the asylum application."

### 3. Conditions of detention

82. Material conditions at the two centres visited were of a very high standard. The rooms in which detained foreign nationals were accommodated were spacious (e.g. three beds in a room measuring some 16 m<sup>2</sup>) and well-appointed. The sanitary facilities were also very good. Detained foreign nationals benefited from an open-door regime and enjoyed a considerable degree of freedom within the centres (they had keys to their rooms).

Food was served four times a day and, throughout the day, detained foreign nationals could help themselves to fruit, coffee and tea.

83. As regards activities, each unit contained a number of leisure-time facilities (computers with internet access, TV sets with many foreign channels, table tennis and pool tables, coffee/tea-making facilities). Further, detained foreign nationals had access to spacious outdoor exercise yards containing some sports equipment and to indoor fitness rooms/gyms. Efforts were also being made to provide them with other motivating activities, such as art and language classes. There were also rooms for prayers.

### 4. Staff

84. The staff working in the two detention centres were sufficient in number<sup>59</sup>, had different cultural backgrounds and possessed a range of language skills (e.g. at the Märsta centre, 37 languages were reportedly spoken amongst the staff). A staff member in charge of organised activities for foreign nationals was employed at each of the two units of the Märsta centre and at the Gävle centre, and it was planned to increase the number of such staff.

### 5. Health care

85. In contrast to the above overall positive assessment of the situation in the two centres visited, the CPT has a number of concerns as regards the provision of health care to detained foreign nationals.

As regards health-care staff, the company which had previously provides health care at the Märsta centre had had its contract terminated on the eve of the delegation's visit, and it was still unclear what new arrangements would be put in place. Under the old contract, a nurse had attended the centre twice a week and a doctor once a week for half a day. **The CPT would like to be informed of the new arrangements put in place for the provision of health care at the Märsta centre.**

At the Gävle centre, a nurse was present twice a week for 2 hours each time. Access to a doctor was on the advice of the nurse.

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<sup>59</sup> For example, the Märsta centre employed 60 staff members (30 per unit).

There was no systematic medical screening of detained foreign nationals upon arrival at either centre. Further, access to health-care staff was controlled by custodial staff who questioned inmates about the reasons why they wished to see a doctor/nurse. At the Gävle centre in particular, the delegation received reports of the nurse limiting her hours of access to less than those she was contracted to provide and telling custodial staff that she did not want to see “lighter cases”. Whilst it may be appropriate for nurses to take the lead in health-care management and therefore deal with the majority of the clinical problems, this additional authority brings with it the responsibility to be easily accessible.

86. Medication was given to foreign nationals held at the Gävle centre by non-qualified staff, breaching the Migration Board’s own reported requirements. Further, the delegation saw evidence that medical records were made freely available to non-medical staff; this is entirely unacceptable. Other means to solve problems regarding emergency care must be found.

87. As regards psychiatric care, the delegation was informed that foreign nationals in need of examination or treatment were transferred to a hospital. However, the delegation was concerned by the lack of arrangements for regular visits by a psychiatrist and a psychologist. As already mentioned in paragraph 63, detained foreign nationals considered to present a risk of suicide were transferred to remand prisons. Further, hunger-strike policy was undeveloped and did not appear to have any informed psychiatric input. The CPT must stress the need for particular attention to be paid to the mental health and psychological state of foreign nationals in custody, some of whom are asylum seekers and may have experienced difficult situations – including torture and other forms of ill-treatment – in their home countries.

**The CPT recommends that arrangements be made for improving the provision of health care to foreign nationals detained at the Migration Board centres in Märsta and Gävle. This should involve:**

- **systematic medical screening of all foreign nationals as soon as possible after their admission;**
- **increasing the nurse’s attendance hours at the Gävle centre and ensuring regular attendance by a doctor;**
- **ensuring that custodial staff do not seek to screen requests to consult a doctor/nurse and that detained foreign nationals can approach health-care staff on a confidential basis;**
- **ensuring the confidentiality of medical data;**
- **appropriate supervision of the distribution of medicines to detained foreign nationals, using only trained or qualified staff, and introducing formal record-keeping for dispensing medication;**
- **ensuring appropriate psychological and psychiatric assistance and stepping up psycho-social interventions;**

- **development of suicide risk assessment and management programmes, as an alternative to removal to a remand centre;**
- **development of appropriate hunger strike assessment and management programmes.**

## **6. Safeguards for persons detained under aliens legislation**

88. Persons held under aliens legislation should enjoy certain fundamental rights as from the outset of their deprivation of liberty, i.e. the right to inform a person of their choice of their situation, and to have access to a lawyer and a doctor. It is equally fundamental that foreign nationals detained under aliens legislation be informed without delay of all their rights, including those mentioned above, in a language they understand. If necessary, recourse should be had to the services of an interpreter.

89. As regards the right of detained foreign nationals to promptly inform a relative or a third party of their deprivation of liberty, all persons spoken to indicated that they had been able to do so in practice.

Moreover, detained foreign nationals had excellent possibilities for maintaining contact with the outside world. Visits could take place every day until 8 p.m., in pleasant rooms where detained persons and their visitors could sit around a table. As regards access to the telephone, detained foreign nationals could use their own mobile phones (without a camera function) or public phones installed in the centres (calls to landlines in Sweden were free and unlimited).

90. Concerning access to a lawyer, pursuant to Chapter 18, Section 1, of the Aliens Act, a public defence counsel is appointed for detained foreign nationals who are subject to an expulsion or refusal-of-entry order, but only concerning the issue of detention and if the person concerned has been held in detention for more than 3 days. A public defence counsel is not provided to persons who have been refused entry to the country and are detained by the police, unless the detention period exceeds 3 days. Further, the delegation understood that persons returned under the Dublin Regulation could not benefit from a public defence counsel.

It would appear from the above that the right of access to a lawyer for persons detained under aliens legislation is unduly limited. **The CPT would like to receive the Swedish authorities' comments on this issue.**

91. As regards the provision of information, detained foreign nationals received upon arrival at the Migration Board centres detailed leaflets, available in a variety of languages. Further, each foreign national was assigned a "case worker" who provided them with information on the relevant procedures and the progress of their case.

If necessary, interpretation was provided and paid for from public funds. No complaints were heard in this respect.

## **D. Psychiatric establishments**

### **1. Preliminary remarks**

92. The **Department for Forensic Psychiatric Assessment in Huddinge** is one of the two facilities in Sweden where persons are placed by court order for assessment in the context of criminal proceedings<sup>60</sup>. With a capacity of 17 beds, it was holding 10 persons at the time of the visit (9 men and 1 woman). The assessment can last up to four weeks<sup>61</sup>, at the end of which the person is either discharged or recommended for an involuntary hospitalisation (which constituted some 75% of all cases, according to the Head of the Department).

93. At the **Psychiatric Clinic South-West in Huddinge**, the delegation visited the four closed wards for “compulsory care and persons in need of in-patient care”. The wards received patients subject to involuntary hospitalisation under the Law on Forensic Psychiatric Care (i.e. persons detained by the police, remanded in custody or sentenced) and under the Law on Involuntary Psychiatric Care (i.e. civil commitment to a psychiatric hospital). Two of the wards (Nos. 77 and 79) were located on the fifth floor of the Karolinska University Hospital and were accommodating 14 patients each (including 4 women)<sup>62</sup>. The other two wards (Nos. 113 and 114) received patients in an acute condition and were located in the same building as the Huddinge Department for Forensic Psychiatric Assessment. At the time of the visit, these wards were accommodating 12 patients each (including 2 women)<sup>63</sup>.

94. It should be stressed at the outset that the delegation received no allegations of ill-treatment of patients by staff at the Department for Forensic Psychiatric Assessment in Huddinge and the four closed wards of the Psychiatric Clinic South-West in Huddinge. Quite to the contrary, it observed a relaxed atmosphere and positive staff-patient relations in both establishments.

### **2. Patients' living conditions**

95. Material conditions in the two psychiatric establishments visited were of a very good standard. Patients were accommodated in good-sized individual or double rooms (measuring respectively some 9 and 15 m<sup>2</sup>), with good access to natural light, artificial lighting and ventilation. The rooms were adequately equipped (including a call system) and personalised. The sanitary facilities were also satisfactory. That said, all beds on wards 77 and 79 of the Psychiatric Clinic South-West were hospital beds (equipped with bed-support on the side), despite the fact that the patients did not have specific organic conditions.

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<sup>60</sup> The other one is the Gothenburg Department for Forensic Psychiatric Assessment, visited by the CPT in 2003.

<sup>61</sup> The delegation was informed that in rare cases, it can happen that two additional weeks are ordered by the court upon request of the Department to complete the assessment.

<sup>62</sup> 20 patients had been sentenced to treatment, 4 were remand prisoners, and 4 were placed under the Law on Involuntary Psychiatric Care.

<sup>63</sup> 14 were remand prisoners, 7 were sentenced inmates, 1 had been sentenced to treatment, and 2 were placed under the Law on Involuntary Psychiatric Care.

The association areas and other communal facilities were spacious and comfortable. The Huddinge Department for Forensic Psychiatric Assessment had an exercise room and a large indoor gym. Wards 77 and 79 of the Psychiatric Clinic South-West had an exercise area as well as a smoking cabin. However, patients in wards 113 and 114 had no access to exercise equipment.

96. Patients in the Huddinge Department for Forensic Psychiatric Assessment and in wards 113 and 114 of the Psychiatric Clinic South-West had access to outdoor exercise for one to two hours a day in courtyards adjacent to each ward. The courtyards were equipped with benches and had some sports equipment (for basketball and table tennis); that said, there was no protection against inclement weather.

In contrast, patients in wards 77 and 79 of the Psychiatric Clinic South-West did not have ready access to a secure outdoor exercise area due to the wards' location on an upper floor of a somatic hospital. A system of two staff accompanying patients (alone or in groups of two or three persons) in front of the entrance to the hospital had been put in place. That said, newly admitted patients were not offered outdoor exercise during the initial period (two weeks) with a view to assessing their adaptation. The delegation was also told that outdoor exercise for any patient had to be authorised by the court. In addition, patients remanded in custody required a member of the probation service for any move out of the wards. During the visit, it became apparent that some four patients placed in these wards could not benefit at all from access to outdoor exercise. This situation is totally unacceptable.

97. In the light of the above, **the CPT recommends that:**

- **arrangements be urgently made to enable all patients placed on wards 77 and 79 of the Psychiatric Clinic South-West to have at least one hour of outdoor exercise every day, unless there are medical reasons to the contrary. Steps should be taken to provide these wards with a secure outdoor area equipped with a means of rest and protection against inclement weather;**
- **the courtyards of the Huddinge Department for Forensic Psychiatric Assessment and wards 113 and 114 of the Psychiatric Clinic South-West be equipped with protection against inclement weather;**
- **efforts be made at wards 77 and 79 of the Psychiatric Clinic South-West to replace hospital beds with normal beds, unless medical reasons dictate otherwise.**

98. The delegation received some complaints about the manner in which food was served to patients (meals were provided by an external company in plastic boxes and eaten with plastic cutlery). A survey of patients' satisfaction with the food arrangements was about to be conducted. **The CPT would like to be informed of the results of this survey.**

### 3. Treatment of patients and staff resources

99. At the Department for Forensic Psychiatric Assessment in Huddinge, the examination of medical files showed that all patients had an individual treatment plan. Medication appeared to be kept to the minimum necessary to allow proper examination. In case of acute conditions, patients received treatment. Efforts were made to involve patients in various occupational activities. The Department had a modern, well-equipped occupational therapy unit where patients could engage in pottery, drawing, woodwork, sewing or cooking. During the assessment period, multidisciplinary meetings were organised to discuss the progress of each patient.

100. The situation was quite different at the Psychiatric Clinic South-West where treatment relied exclusively on pharmacotherapy (sometimes with high dosages). Occupational and rehabilitative activities appeared to be non-existent. Patients had access to TV, board games, books, table tennis and, for patients in wards 77 and 79, an area with exercise bicycles. The delegation was informed that patients in wards 113 and 114 had had access to occupational therapy until 2008; however, this had stopped due to the removal of the post of occupational therapist. Taking into consideration that many of the patients were admitted repeatedly and/or for long stays, they should benefit from a range of rehabilitative and therapeutic activities.

101. The Huddinge Department for Forensic Psychiatric Assessment was well staffed with 7 psychiatrists and 8 clinical psychologists. Five outside psychiatric experts could also be involved in the assessment process. There was also an occupational therapist, an educator and 8 social workers. Further, the Department employed 24 psychiatric nurses and auxiliary nurses (7 during the day and 4 at night) and 8 security staff.

The Psychiatric Clinic South-West had one psychiatrist during the day for wards 113 and 114 and one for wards 77 and 79. At night, one psychiatrist was on call for the four wards. There was no psychologist and, as mentioned above, the post of occupational therapist had been removed in 2008. One head nurse and 17 psychiatric nurses for wards 113 and 114, and one head nurse and 15 psychiatric nurses for wards 77 and 79<sup>64</sup> were also employed. Further, a total of 55 auxiliary nurses worked in the four wards.

Although the medical and nursing staff complement appeared to be sufficient, the absence of staff in charge of rehabilitative and occupational activities at the Psychiatric Clinic South-West in Huddinge is unacceptable. **The CPT recommends that the Swedish authorities take urgent steps to ensure that the individual treatment plans of patients placed at the Psychiatric Clinic South-West include a psycho-social rehabilitation component. This implies the recruitment of qualified staff in appropriate numbers, starting with a full-time psychologist and a full-time occupational therapist.**

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<sup>64</sup> There were two nurses and 5 to 7 auxiliary nurses during the day, and 1 nurse and 3 to 5 auxiliary nurses at night.



102. Further, it is clear from the observations made in the prisons visited (see paragraph 68) that there is a significant national shortage of facilities for inmates and irregular migrants who become mentally ill or suicidal and require specialist hospital treatment. As a consequence of this shortfall, seriously ill inmates do not receive the equivalence of care they are entitled to. **The CPT recommends that the Swedish authorities address the shortage of appropriate psychiatric facilities as a matter of urgency.**

#### 4. Means of restraint / seclusion

103. In psychiatric establishments, the restraint of agitated and/or violent patients may on occasion be necessary. This is an area of particular concern to the CPT, given the potential for abuse and ill-treatment. It is essential that the restraint of patients be the subject of a clearly defined policy. In this regard, the CPT welcomes the existence of precise guidelines for resort to restraint and seclusion in the two psychiatric establishments visited.

However, no specific register for recording all cases of resort to means of restraint and seclusion was kept in the establishments visited. Reports to the National Board of Health and Welfare as well as patients' individual medical files documented episodes of restraint exceeding 8 hours and seclusion exceeding 4 hours<sup>65</sup> as required by law. But restraint and seclusion episodes below these deadlines were not systematically recorded. In this context, the delegation was informed that, in the Huddinge Department for forensic psychiatric assessment, episodes of physical restraint lasting some 15 to 45 minutes were not uncommon.

It is axiomatic that the existence of a systematic recording system would allow for a proper monitoring of the restraint and seclusion procedures and would ensure the emergence of a complete picture of resort to such measures in psychiatric establishments. **The CPT recommends that a register for recording all cases of resort to means of restraint and seclusion be introduced at the Huddinge Department for Forensic Psychiatric Assessment and the Psychiatric Clinic South-West, as well as at any other psychiatric establishment in Sweden where such a register does not exist.**

104. The Huddinge Department for Forensic Psychiatric Assessment had two isolation rooms which were of the same size and with the same equipment as other patients' rooms. A patient could remain locked in such a room for some 20 hours a day.

There were also two medical seclusion rooms, of the same size as other patient rooms, with a supervision room in between from which two staff members constantly monitored the state of the patient. Each room was equipped with a restraint bed with belts and had a sanitary annexe without a door. The patient using the toilet could be seen not only from the supervision room but also by people in the yard since the rooms had large windows facing the yard, with defective blinds.

In addition, one room could be used for persons subject to restrictions imposed by prosecutors; when in use, it was locked and staff reportedly monitored it several times per hour.

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<sup>65</sup> At the Huddinge Department for Forensic Psychiatric Assessment, 6 cases combining restraint and seclusion (ranging from 3 to 10 days) had been recorded in the first six months of 2009, and 21 cases in 2008 (ranging from 3 to 16 days). At the Psychiatric Clinic South-West, there had been 48 recorded cases of restraint/seclusion to date in 2009 and 102 cases in 2008.

105. Wards 113 and 114 of the Psychiatric Clinic South-West had two medical seclusion rooms of the same design as those in the Department for Forensic Psychiatric Assessment. These rooms, referred to as “observation rooms”, were used for newly admitted patients in an acute condition.

There were no seclusion rooms in wards 77 and 79. Resort to seclusion was reportedly very rare (once or twice a year) and took place in the patient’s room.

106. In the light of the above, **the CPT recommends that the toilets of the medical seclusion rooms at the Huddinge Department for Forensic Psychiatric Assessment and on wards 113 and 114 of the Psychiatric Clinic South-West be fitted with a partition allowing, to the greatest extent possible, privacy for patients. In addition, the blinds of the previously mentioned medical seclusion rooms should be repaired.**

## 5. Safeguards in the context of involuntary hospitalisation

107. Since the 2003 visit, no changes have been made to the legislative framework in respect of forensic psychiatric assessment and psychiatric in-patient care in the context of involuntary placement<sup>66</sup>.

The Swedish legal system provides that civil commitment to a psychiatric establishment should be decided by a senior psychiatrist, on the basis of a medical report drawn up by another doctor<sup>67</sup>. The patient can immediately challenge the involuntary placement before a court and, in all cases, the placement must be reviewed by a court within four weeks.

108. Psychiatric patients should, as a matter of principle, be placed in a position to give their free and informed consent to treatment. The admission of a person to a psychiatric establishment on an involuntary basis should not preclude seeking informed consent to treatment. Every competent patient, whether voluntary or involuntary, should be fully informed about the treatment which it is intended to prescribe and given the opportunity to refuse the treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances.

In Sweden, involuntary hospitalisation of a psychiatric patient seems to have been construed as automatically authorising treatment without consent. In practice, doctors in the Psychiatric Clinic South-West sought to obtain patients’ verbal consent to treatment. A patient’s refusal of treatment resulted in the patient being treated without his/her consent, but with a note made of refusal of treatment in the patient’s file by the treating doctor, and a report sent by the doctor to the National Board of Health and Welfare.

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<sup>66</sup> However, amendments made to the legislation in 2008 concern out-patient involuntary treatment.

<sup>67</sup> In the cases found by the delegation, all patients had been referred by a senior psychiatrist from another psychiatric establishment where the patients concerned were already subject to an involuntary psychiatric care order.

Both the Law on Involuntary Psychiatric Care and the Law on Forensic Psychiatric Care provide for the patient's right to appeal against the admission order and against a refusal of a request for termination of care<sup>68</sup>. That said, the laws seem to be silent regarding the possibility for a patient to request an external, independent psychiatric review as to whether treatment can be provided against the patient's will. **The CPT would like to be informed of the existing legal possibilities for an external psychiatric opinion to be requested in any case where a patient does not agree with the treatment proposed by the establishment's doctors.**

109. As noted in the CPT's report on the 2003 visit<sup>69</sup>, from the outset of an involuntary placement for treatment, support persons are appointed for patients by the local patients' board, either at the request of the patient or at the initiative of the establishment. At the Psychiatric Clinic South-West, most patients on wards 77 and 79 had been appointed a support person. However, the management of wards 113 and 114 informed the delegation that none of the patients placed in these wards had support persons as only patients sentenced to compulsory treatment could benefit from such a mechanism. As far as the delegation could ascertain, Section 26 of the Law on Forensic Psychiatric Care, referring to Section 30 of the Law on Involuntary Psychiatric Care, does not make a distinction between civil or forensic commitment to a psychiatric facility<sup>70</sup>. **The CPT would like to receive the comments of the Swedish authorities on this matter.**

110. Persons admitted to the Huddinge Department for Forensic Psychiatric Assessment and to wards 113 and 114 of Psychiatric Clinic South-West could receive visits in a visiting area comprising eight rooms equipped with armchairs and tables. Visits for patients placed in wards 77 and 79 took place on the wards, in two rooms set aside for this purpose. Visitors had to make an appointment the day before the visit<sup>71</sup>.

Receiving and making phone calls did not seem to pose any problems at the psychiatric establishments visited. Patients were allowed one free phone call upon admission and could use the public phone on the wards. In addition, in wards 77 and 79, patients could use their mobile phones.

111. At the time of the visit, one remand prisoner under assessment was subject to restrictions<sup>72</sup>. The management of the Huddinge Department for Forensic Psychiatric Assessment considered that the restrictions were detrimental to the quality of the assessment, in particular as they did not allow the monitoring of interaction with others. The management indicated that regular contacts were maintained with the prosecutor's office to try to alleviate as much as possible the restrictions imposed. **The CPT considers that, in the interest of performing proper assessment, the imposition of restrictions on remand prisoners undergoing psychiatric assessment should be avoided as far as possible.**

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<sup>68</sup> See Sections 32 and 33 of the Law on Involuntary Psychiatric Care and Section 18 of the Law on Forensic Psychiatric Care.

<sup>69</sup> See paragraph 95 of CPT/Inf (2004) 32.

<sup>70</sup> The only restriction provided for concerns possible restrictions on visits if the patient is subject to such restrictions imposed by the prosecutor

<sup>71</sup> This did not concern lawyers.

<sup>72</sup> The person was not allowed association, correspondence, visits or phone calls.

112. At the Psychiatric Clinic South-West, patients on wards 77 and 79 were provided with information on the ward routines as well as on their rights, including the complaints procedure, support persons and local patients' board. However, the information provided to patients on wards 113 and 114 about their rights was more limited: for example, no mention was made of access to legal assistance, review of placement, complaints procedures and contact persons.

**The CPT recommends that the Swedish authorities draw up a comprehensive information brochure for involuntary psychiatric patients and ensure that it is issued to all such patients on admission, as well as to their families/representatives. Patients unable to understand this brochure should receive appropriate assistance.**

**Further, the CPT recommends that the management of the Psychiatric Clinic South-West ensure that all staff receive accurate and detailed information about patients' rights, with a view to being in a position to help patients understand their rights.**

113. Psychiatric patients can send complaints to the local patients' board, the National Board of Health and Welfare and the Ombudsman. However, the delegation was told that patients rarely used these mechanisms and that complaints were typically dealt with at the level of the wards. Considering the lack of information provided on the avenues for complaints, especially in wards 113 and 114 of the Psychiatric Clinic South-West, this state of affairs is hardly surprising. In this respect, the CPT refers to the recommendations made in the preceding paragraph.

114. The CPT has previously stressed the importance it attaches to psychiatric establishments being visited on a frequent basis by an independent outside body responsible for the inspection of patients' care. In order to be fully effective, such supervision should also include unannounced visits, and the authority concerned should be empowered to interview patients in private, have access to all the necessary documentation, receive complaints, and make recommendations. Further, the management of all psychiatric establishments should be duly informed of the results of any inspections carried out on their premises.

The delegation was informed that inspections were being carried out by the National Board of Health and Welfare and the social services. These inspections were said to focus on the implementation of hygiene standards, and contacts between inspectors and patients appeared to be very rare.

**The CPT invites the Swedish authorities to set up a mechanism for visits to psychiatric establishments by an independent outside body, meeting the above-mentioned requirements.**

## E. Fagareds Home for Young Persons

### 1. Preliminary remarks

115. The Fagareds Home for Young Persons is located in the small town of Lindome, about 20 kilometres south of Gothenburg. It consists of five units: *Backen*, a secure assessment/admission unit for persons placed there under the Law on Care for Young Persons in Closed Institutions<sup>73</sup> (LSU) or the Law on Care for Young Persons<sup>74</sup> (LVU); *Ekliden*, a secure unit for LSU placements; *Granliden*, an assessment unit for LVU placements; *Fyren*, a unit for persons with neuropsychiatric disorders; and *Sjöstugan*, a phasing-out unit.

At the time of the visit, the Home was accommodating 34 boys (20 under LVU placement and 14 under LSU placement), which corresponded to its official capacity. The residents were aged between 15 and 19 and came from all over Sweden. The average stay was reportedly one year; at the time of the visit, three boys had spent more than a year in the institution (a year and a half for the longest stay).

116. During the visit, it became apparent that juveniles could be held on remand at the Fagareds Home instead of in a remand prison. However, this happened rarely, as the cost of placement in a home for young persons was reportedly higher than that of placement in a remand prison. It should be noted that no restrictions can be applied to juveniles on remand who are being held in homes for young persons. **Considering the delegation's findings at Gothenburg Remand Prison as regards the serious effects of restrictions on young persons' mental health (see paragraph 37), it would be highly desirable that priority be given to placing juveniles on remand in homes for young persons.** In this context, **the CPT would like to receive information on the number of juveniles held in remand prisons in 2008 and 2009.**

The *Backen* unit had a wing designed for accommodating juveniles awaiting their court appearance. **Such a practice is preferable to placing juveniles in a remand prison.**

### 2. Ill-treatment

117. The atmosphere at the Fagareds Home for Young Persons was relaxed, there was a lot of positive interaction between staff and juveniles and many residents spoke highly of the staff, especially of their contact persons.

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<sup>73</sup> LSU placement is for persons below the age of 18 who have committed a criminal offence and in respect of whom a court has issued a decision for placement in an institution. Such placements can last between 14 days and 4 years.

<sup>74</sup> LVU placement is for persons aged 20 or less in respect of whom a court has ordered compulsory care because their health or development is at risk as a result of their family situation, substance abuse or criminal activity. The duration of placement is not fixed but it is reviewed by the social services every 6 months.

118. However, the delegation received two allegations of excessive use of force by staff in the context of placement in a segregation room in 2009. In the first case, the juvenile concerned alleged that a staff member had held him in a neck grip for over a minute and that afterwards he had spat blood and had had numb arms; the same staff member had allegedly also verbally insulted him. The juvenile's medical file indicated that following that incident, he had displayed "three pressure marks on his right shoulder, abrasions on the area of the collar bone and sternum, and two pressure marks on the left arm"; however, the medical records did not mention any allegations from the juvenile nor any conclusions from the doctor. In the second case, a juvenile alleged that he had been controlled by five staff members, one of whom had sat heavily on his back while the other four had held his arms and legs.

The custody and care of juveniles deprived of their liberty is a particularly challenging task. The CPT recognises that staff may, on occasion, have to use force to control violent and/or recalcitrant residents. However, in such cases, no more force than is strictly necessary should be used and resort should always be had to safe techniques. **The Committee recommends that staff at the Fagareds Home be reminded of these precepts.**

119. It appeared that police officers were sometimes called to help in handling particularly agitated young persons, mostly at the *Fyren* unit. One resident in the *Backen* unit alleged that police officers had handcuffed him while he was being held on the ground, his lower legs crossed and forced backwards towards his back, before being removed to segregation; such a method of restraint would be unacceptable. **Even in those exceptional circumstances when the assistance of the police is necessary to handle a particularly agitated young person, the management of the situation should remain the responsibility of treatment staff with appropriate qualifications.**

120. It became clear from discussions with staff and interviews with residents that instances of inter-resident violence occurred occasionally, and the delegation itself witnessed such an incident. Nevertheless, the delegation gained the impression that inter-resident violence was being dealt with in an efficient, comprehensive and proportionate manner. The presence of staff sufficient in number and with appropriate skills to handle such situations is to be commended (see paragraph 125).

121. It is in the interest of both residents and staff that a proper procedure for reporting incidents be in place in homes for young persons. A reporting procedure to the National Board of Institutional Care (SiS) was in place at Fagareds Home; however, the delegation found that it left something to be desired. No dedicated incident/event register was kept. Some information could be found in the files of the residents concerned, but it was often recorded in a cryptic style and lacked a description of the circumstances. In two cases involving police interventions in September 2008 and March 2009, the incident reports could not be found (some information on the incidents appeared only in the residents' individual files). Finally, it also became apparent that reporting of incidents to SiS was only done in the event that staff were injured<sup>75</sup>.

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<sup>75</sup> The management of the institution informed the delegation that 23 such incident reports had been reported to SiS up until June 2009.

The CPT considers that all incidents involving residents should be carefully recorded in a specific register. Such a register can be useful in providing an overview of the situation at the institution and highlighting specific problems which may arise. The recording should include a description of the incident, the persons involved (staff, police, etc.), as well as the measures taken by the persons involved. After the visit, the Swedish authorities informed the CPT that SiS was in the process of developing a new system for reporting incidents/events. **The CPT recommends that steps be taken to improve the recording and reporting of incidents at the Fagareds Home for Young Persons, in the light of the above remarks.**

### 3. Living conditions

122. Material conditions were of a high standard and offered a positive and personalised environment, despite the specific secure arrangements in two of the five units<sup>76</sup>. Each unit occupied a separate building comprising six to eight individual bedrooms (measuring some 9 m<sup>2</sup>), which were appropriately furnished and well decorated. There was also a common area with a TV and DVD player, a dining room, classroom, library, music room and workshops.

Only the *Fyren* unit was in need of repair, but the delegation was told that a new building would soon be constructed to replace it.

### 4. Regime and staff

123. The Fagareds Home offered a wide range of educational, recreational and sports activities. In the morning, residents attended classes in small groups, the afternoon being reserved for sports activities (inside or outside the institution), arts (music, ceramics, crafts, painting), excursions, cinema, etc. The classrooms had computers with internet access (which could be used under supervision). Vocational training was also provided, thanks to contacts established between the Home, the social services and local enterprises (e.g. plumbing, vehicle maintenance, glazing, carpentry, house painting). At the time of the visit, eight residents were undergoing a traineeship.

No distinction was made as regards the treatment of residents placed under the LSU or the LVU. An individual activity programme was drawn up in respect of each resident and commendable emphasis was placed on resocialisation. The support provided to residents included individual and group therapy given by psychologists, counselling and training on aggression management training. Treatment of addiction problems was integrated into the general treatment.

During the first month following admission, residents were usually not allowed to leave the perimeter of the institution. After a month, they were gradually allowed to go out for walks to a nearby lake. After two months, residents could be transferred to less restrictive units and allowed to participate in outside excursions. Finally, they were placed in the *Sjöstugan* unit with a view to preparing them for release.

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<sup>76</sup> The *Backen* and *Ekliden* units were surrounded by a high grille fence and had CCTV cameras inside and outside the buildings. Within these units, circulation was free during the day and the bedroom doors were not closed at night, although the doors to the common areas were.

Weekly meetings gathering together the juveniles, unit managers and contact persons were in place. The delegation was also informed that in the *Sjöstugan* unit, a monthly meeting was organised gathering the residents placed in the unit, their contact persons, parents and a social worker.

124. The management of the institution told the delegation that voluntary community workers and representatives of the Young Former Offenders' Association (KIRS) and Alcoholics Anonymous visited the institution. Residents could also receive visits from representatives of religions.

125. The staff provision was fully satisfactory (60 treatment assistants/care workers, 7 coordinators, 15 teachers/vocational teachers and 9 units managers)<sup>77</sup>. Each resident was assigned one or two contact persons from the treatment staff.

Treatment assistants were recruited after having completed one year of university training in social care, and staff working in the *Sjöstugan* unit had received training in family therapy. All staff were required to sign an ethical protocol established by SiS.

Given the specificity of the *Fyren* unit (for persons with neuropsychiatric disorders, most of whom were receiving psychotropic medication), specific skills and training are needed to handle particularly challenging residents/situations. Although the unit staff were sufficient in numbers, the qualifications available were not adapted to handle severely disturbed and agitated young people. **The CPT recommends that staff in the Fyren unit be appropriately selected and trained in handling challenging residents/situations. In this context, the Swedish authorities should consider creating a full-time post of psychiatric nurse.**

## 5. Health care

126. The provision of health care did not seem to pose any particular problems. Young persons were systematically seen by a doctor and a nurse shortly after their admission. The institution employed one part-time psychiatrist, a part-time neuropsychiatrist and three psychologists. Further, a nurse was present three days a week. Residents spoke positively of the medical staff and in particular expressed gratitude for the work of the psychologists.

127. The delegation was informed that neuropsychiatric assessment was performed in the context of LVU placements at the request of the social services. The main diagnoses were personality disorders and antisocial personality. Other common disorders included attention-deficit hyperactivity disorder, anxiety and drug addiction. About 40% of the residents had sleep disturbances.

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<sup>77</sup> Each unit had 4 treatment assistants supervised by 2 coordinators during the day, and 2 staff at night.



The delegation met a 19-year old resident who was receiving anti-psychotic medication (500 mg of *Quetiapine* a day). He had apparently been seen by a psychiatrist twice; in his file, there was no indication that he had been diagnosed with a psychotic disorder. The computerised records revealed that he had escaped from the Home in November 2008 and had been brought back by the police, as well as that he had had several episodes of segregation and/or “care in isolation”. It would appear from the information available to the delegation that the resident in question was receiving psychoactive medication for behavioural control. **The CPT would like to receive the comments of the Swedish authorities on this case.**

128. Health-care staff indicated that the “SafeDoc” computerised system for recording medical data was unreliable, that it was not adapted to the population being cared for and that it did not allow the recording of information such as residents’ remarks or statements. **The CPT would like to receive the comments of the Swedish authorities on these matters.**

## 6. Segregation / “care in isolation”

129. Segregation can be applied in emergency situations to violent residents or drug users. According to instructions on segregation issued in 2008, information must be provided in writing to the resident on the reasons for placement, the right to be heard, and the possibility of appeal. This information is included in the leaflet distributed to residents and their parents upon admission.

130. Each unit had one or two segregation rooms, measuring some 7 m<sup>2</sup> and equipped with mattresses placed on the floor. Residents were observed through a window in the door and were checked every 15 minutes. The psychiatrist was systematically informed when a resident was placed in segregation. Resort to segregation did not appear to be excessive<sup>78</sup> and usually lasted a short period of time (from a couple of minutes to five hours), but occasionally continued for longer periods of time (in one recent case, up to 20 hours). In another case dating back to July 2007, the delegation noted that there had been an almost continuous use of segregation for four days, with five short releases (of 5 to 45 minutes) in-between.

The recording of instances of segregation was not always exhaustive (the start or end time were sometimes missing), and scarcely any details on the reasons for isolating could be found in the personal files of the residents concerned. In addition to the presence of a national centralised register<sup>79</sup> on segregation cases in institutions for young persons, the CPT considers that a specific record on segregation should be kept at each institution. Such a record would allow for a proper monitoring of the procedure applied while residents are placed in segregation, keeping in mind that such measures – resembling solitary confinement – can compromise the physical and/or mental integrity of young persons.

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<sup>78</sup> The segregation rooms had been used 44 times in 2007, 45 times in 2008, and 40 times in the first half of 2009. The seemingly high resort to segregation for 2009 was due to two boys in particular.

<sup>79</sup> The electronic system called “National Board of Institutional Care’s Advice and Guidelines – KIA” is accessible by the National Board of Institutional Care and the heads of institutions.

**The CPT recommends that the Swedish authorities set up a system for the systematic recording of episodes of segregation at the Fagareds Home, as well as in all other institutions for young persons in Sweden. The recording system should include the time at which the measure began and ended, the person deciding on the measure, the circumstances of the case and the reasons for resorting to the measure; it should also indicate the frequency of observation.**

**The CPT also recommends that the segregation rooms be equipped with appropriate furniture (e.g. a bed, table and chair).**

131. New legal provisions passed in 2008 have introduced the so-called “care in isolation” which may be part of a treatment plan for neuropsychiatric purposes or used for the protection of a resident. Decisions concerning the use of “care in isolation” are taken by the Head of the institution and are reviewed on a weekly basis. Such decisions can be appealed to the County Council Court for LVU placements and to the Stockholm County Court for LSU placements.

Each unit had a well-equipped and pleasantly decorated “care in isolation” area (with a sofa, table and chairs, and adjacent sanitary facilities). Residents placed in “care in isolation” had schooling and could take part in other activities.

## **7. Means of restraint**

132. At the Fagareds Home, resort to means of restraint was based on non-pain-compliant manual restraint techniques, combined with a risk assessment of young people and enhanced staffing skills. Emphasis was placed on building relationships and solving conflicts without having to resort to force. Training on restraint techniques was organised twice a year. However, resort to manual restraint was only recorded when combined with segregation.

The delegation was told that no mechanical means of restraint were supposed to be used. However, it came across cases of residents who had apparently been handcuffed while awaiting the arrival of the police. No mention of handcuffing appeared in the records on incidents. **The CPT would like to receive the comments of the Swedish authorities on this matter.**

**In addition, the Committee recommends that every instance of restraint of a resident (be it manual control, mechanical or chemical restraint) be recorded in a specific register established for this purpose. As regards in particular chemical restraint, the CPT would like to be informed of the policy followed at the Fagareds Home.**

## 8. Other issues of relevance to the CPT's mandate

133. The arrangements for residents' contact with the outside world were fully satisfactory. The Fagareds Home had excellent visiting facilities including arrangements for accommodating parents arriving from remote places. Further, residents were allowed to receive and make phone calls from the staff office in each unit.

Permission for leave was also regularly granted, and several residents could spend weekends and holidays at their parents' houses. In the case of LVU residents, authorisation was given by the Home's management. LSU residents had to apply for leave to SiS which ran a system whereby a "contract" on the terms of the leave was drawn up and signed by the resident and his parents. At the time of the visit, nine LSU residents had such "contracts" and could go on home leave unaccompanied.

134. Residents had a number of avenues of complaint (to their contact persons, the head of the establishment, the social services, the Ombudsman). Complaints against decisions such as segregation and means of restraint could be filed with the County Council Court. Information on complaints procedures was provided in writing to the residents and their parents upon admission.

135. The delegation was informed that the SiS carried out inspections at the Fagareds Home every second year and that a report had been published in 2009. **The CPT would like to receive a copy of this report.**

The delegation was also informed of a forthcoming reform which would result in a transfer of the inspection of homes for young persons from the SiS to the National Board of Health and Welfare. The new system should become operational in January 2010 and would involve a system of regular inspections (at least twice a year). **The CPT would like to receive more information on the new system for inspections, including on the qualifications and powers of the officials performing inspections.**

## **APPENDIX I**

### **List of the CPT's recommendations, comments and requests for information**

#### **Co-operation**

##### recommendations

- the CPT calls upon the Swedish authorities to take decisive steps to improve the situation in the light of the Committee's recommendations, in accordance with the principle of co-operation which lies at the heart of the Convention (paragraph 6).

##### comments

- the CPT trusts that measures will be taken by the Swedish authorities to ensure that there are no undue delays in granting access to police facilities during future visits by the Committee (paragraph 5).

#### **Police establishments**

#### **Ill-treatment**

##### recommendations

- the Swedish authorities to continue to deliver a firm message, including through ongoing training activities, that all forms of ill-treatment of detained persons are not acceptable and will be the subject of severe sanctions. As part of this message, it should be made clear once again that no more force than is strictly necessary should be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can never be any justification for striking them (paragraph 9);
- the practice of taking blood or other samples from detained persons without the latter's consent to be stopped (paragraph 13).

##### requests for information

- statistics on the work of the Internal Investigation units in respect of 2008, with details concerning the types of convictions and disciplinary sanctions (paragraph 10);
- information on developments in the area of police training and the integration of human rights concepts in that training, in particular as regards high-risk policing situations (e.g. crowd control, the use of force and firearms) (paragraph 11);
- whether the regulations and practice followed in Sweden when drawing up a certificate in respect of persons displaying injuries in police custody are in compliance with the precepts referred to in paragraph 12 (paragraph 12).

## **Investigation of complaints of police ill-treatment**

### comments

- the Swedish authorities are invited to further develop the current system of investigating complaints of police ill-treatment, in the light of the remarks in paragraph 17. In this connection, the relevant standards of the Committee, as set out in its 14<sup>th</sup> General Report, should be taken into account (paragraph 17).

### requests for information

- steps taken to ensure that public prosecutors effectively discharge their duty to supervise the investigation of preliminary investigations involving complaints against police officers, and in particular to implement the measures proposed in paragraph 23 of the report on the CPT's visit in 2003 (paragraph 17).

## **Procedural safeguards against the ill-treatment of detained persons**

### recommendations

- the possibility to delay the exercise of the right of notification of custody to be more closely defined and made subject to appropriate safeguards (e.g. any delay to be recorded in writing with the reasons therefor, and to require the approval of a senior police officer unconnected with the case at hand or a prosecutor) (paragraph 19);
- detained persons to be provided with feedback on whether it has been possible to notify a close relative or other person of the fact of their detention (paragraph 19);
- steps to be taken to ensure that the right of all detained persons to have access to a lawyer is fully effective as from the very outset of deprivation of liberty (paragraph 20);
- in cases when it is considered that a detained person's access to a particular lawyer of his choice would be detrimental to the investigation, access to another, independent, lawyer to be arranged (paragraph 20);
- the right of persons deprived of their liberty by the police to have access to a doctor to be made the subject of a specific legal provision (paragraph 22);
- steps to be taken to ensure that medical intervention is always sought when persons with longstanding histories of drug or alcohol abuse are detained (paragraph 23);
- steps to be taken to ensure that juveniles deprived of their liberty are not subjected to police questioning without the benefit of a trusted person and/or a lawyer being present (paragraph 24);

- steps to be taken to ensure that all persons apprehended by the police - for whatever reason - are fully informed of their fundamental rights as from the very outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with the police). This should be ensured by the provision of clear oral information at the very outset, supplemented at the earliest opportunity (that is, immediately upon their arrival on police premises) by the provision of the information sheet on the rights of detained persons. The persons concerned should be asked to sign a statement attesting that they have been informed of their rights, and they should also be given a copy of the information sheet (paragraph 25);
- custody records to be introduced at police stations which do not possess cells (such as Klara Police Station in Stockholm) (paragraph 26).

#### comments

- the recording of information as to whether notification of custody has been performed or not in each individual case and the compilation of national statistics on this issue can enable a proper monitoring of this important safeguard (paragraph 19).

#### requests for information

- clarification as to whether a person apprehended by the police (*gripen*) has the right to a public defence counsel before he/she has been formally notified of being reasonably suspected (paragraph 21).

### **Conditions of detention**

#### recommendations

- the shortcoming at Örebro Police Department referred to in paragraph 27 to be remedied (paragraph 27);
- the holding cubicles at Söderort Police Department to be formally taken out of service for the purpose of holding people (paragraph 28);
- persons held for 24 hours or more in police custody to be offered outdoor exercise every day. Further, steps to be taken to equip exercise yards with a shelter against inclement weather (paragraph 29).

## **Prisons**

### **Ill-treatment**

#### comments

- the Swedish authorities are invited to ensure that prison officers make better use of their interpersonal skills when dealing with inmates who are either isolated or segregated, or who have little human contact for other reasons. The aim should be to build positive relations with inmates and to thereby counter the recognised deleterious psychological effects of isolation/segregation (paragraph 33);
- while pursuing their goal of ensuring that all prisoners can serve their sentences under safe conditions, the Swedish authorities should seek to surround the segregation of disruptive/dangerous prisoners and inmates isolated for their own protection with appropriate safeguards, and should strive to minimise the deleterious effects of such segregation (paragraph 34).

### **Imposition of restrictions on remand prisoners**

#### recommendations

- the envisaged legislation on the treatment of persons arrested or remanded in custody to ensure that:
  - in every case where a court is called upon to authorise a prosecutor to impose/prolong restrictions, the prosecutor is formally required to provide the judge with (i) an account of the specific restrictions which he/she intends to impose upon a person remanded in custody, (ii) the reasoned grounds which justify those restrictions in the circumstances of the case, and (iii) the period of time for which the restrictions are requested;
  - court decisions regarding the initial imposition and, subsequently, the prolongation of restrictions are individualised and fully reasoned;
  - persons remanded in custody are informed in writing of the grounds for the imposition of restrictions and the possibility to appeal against specific restrictions;
  - the necessity to continue to impose restrictions is periodically reviewed by a court as a separate issue, rather than as part and parcel of the consideration of continuation of remand custody. Restrictions should be lifted immediately when the grounds for their imposition no longer exist (paragraph 38).

#### comments

- the CPT fully supports the recommendations made in the report on the SPT's visit to Sweden in 2008 and trusts that the Swedish authorities will take steps to implement them (paragraph 38).

## **Prisoners held in conditions of high security or control**

### recommendations

- the Swedish authorities to review the procedure for placement in a high-security unit, in the light of the remarks made in paragraph 41. In this context, the CPT considers that the six-monthly review of continued placement in such a unit should also involve participation by an independent authority outside the Prison and Probation Service (e.g. a judge). In order for it to be meaningful, this review should involve a thorough assessment of whether there are still grounds for the measure. During placement reviews, the prisoners concerned should always be offered the opportunity to express their views on the matter (paragraph 41);
- the Swedish authorities to take steps to establish a clear distinction between segregation for administrative reasons and segregation on disciplinary grounds, and to review the regime for prisoners placed in administrative segregation (paragraph 46).

### comments

- the CPT trusts that the Swedish authorities will be mindful of the considerations referred to in paragraph 43 when the new high-security units are put to use (paragraph 43).

### requests for information

- a copy of the regulations for the functioning of the new high-security units (paragraph 42);
- confirmation that the exercise yards in the new high-security buildings have been equipped with shelters against inclement weather (paragraph 42);
- information on the number and categories of inmates placed in the new high-security units (paragraph 43);
- information on the future of the “SKI” programme (paragraph 45);
- the avenues open to prisoners for the purpose of challenging a decision for placement or extension of placement in an isolation unit or under the “SKI” regime (paragraph 46).

## **Conditions of detention for prisoners in general**

### recommendations

- in the context of the construction/renovation work at Gothenburg and Gävle Remand Prisons, steps to be taken to ensure that outdoor exercise yards are not of an oppressive design and are sufficiently large to enable inmates to exert themselves physically (paragraph 48);
- the Swedish authorities to rethink the design of outdoor exercise yards in all newly built (or renovated) prisons in the country. Outdoor exercise facilities should be sufficiently large to allow prisoners to exert themselves physically (as opposed to pacing around an enclosed space) and, as far as possible, should be located at ground level (paragraph 48);



- for as long as cells have no integral sanitation, steps to be taken to ensure that inmates at Gothenburg and Gävle Remand Prisons have ready access to a toilet at night (paragraph 49);
- steps to be taken to improve the variety of food at Gothenburg Remand Prison and to review the hours at which food is distributed, in particular as regards dinner (paragraph 50);
- the Swedish authorities to reconsider the design of waiting cells at prisons with a view to ensuring that they are larger, equipped with a seat and allow visual contact with staff. In the meantime, the current temporary waiting cells at Gothenburg Remand Prison should be equipped with seats (paragraph 51);
- the Swedish authorities to redouble their efforts to develop activities for remand prisoners with a view to ensuring that all prisoners, including those under restrictions, are able to spend a reasonable part of the day outside their cells, engaged in purposeful activities of a varied nature. The target of association time should be reviewed accordingly (paragraph 54);
- the Swedish authorities to develop programmes of activities designed specifically to meet the needs of young prisoners (paragraph 54);
- appropriate steps to be taken to improve access at night to toilet facilities for prisoners at Hall and Kumla Prisons (paragraph 58).

#### comments

- the management of Hall and Kumla Prisons are encouraged to make full use of the available facilities for prisoners' activities and to seek to engage more prisoners in them (paragraph 62).

#### requests for information

- whether the installation of integral sanitation in the cells is envisaged at Gävle Remand Prison (paragraph 49);
- a copy of the assessment of the system of association time at Gothenburg Remand Prison (paragraph 52).

### **Persons detained under aliens legislation**

#### recommendations

- urgent steps to be taken to ensure that persons detained under aliens legislation are not held on prison premises (paragraph 64).

#### requests for information

- the outcome of the work of the Commission of Inquiry on Detention (paragraph 64).

## **Health care**

### recommendations

- steps to be taken at Hall and Kumla Prisons to:
  - increase the attendance hours of the doctors;
  - reinforce the nursing staff resources (paragraph 66);
- steps to be taken to ensure that prison officers do not seek to screen requests to consult a doctor and that prisoners can approach the health-care service on a confidential basis, for example, by means of a message in a sealed envelope (paragraph 67);
- steps to be taken to ensure that there is appropriate supervision of the distribution of medicines to prisoners at Hall and Kumla Prisons (paragraph 67);
- the Swedish authorities to reinforce the provision of psychiatric and psychological care for prisoners at Hall and Kumla Prisons. As a first step, the attendance of a psychiatrist at Hall Prison should be increased to one day a week. Further, the transfer of mentally ill inmates to an appropriate psychiatric facility should be treated as a matter of the highest priority (paragraph 68).

### comments

- sustained efforts need to be made with a view to combating the negative effects of isolation on remand prisoners subject to restrictions (paragraph 68).

### requests for information

- the conclusions of the autopsy reports and of any inquiries carried out into the two deaths of inmates at night, one at Hall and one at Kumla Prison (paragraph 67);
- the conclusions of the internal inquiry into the recent suicide of an immigration detainee at Gävle Remand Prison and any follow-up action taken (paragraph 69).

## **Other issues of relevance to the CPT's mandate**

### recommendations

- the Swedish authorities to reconsider the issue of prison staffing levels at night as a matter of urgency, with a view to increasing substantially the level of staffing in the prisons visited and in other prisons where similar low levels of staffing occur (paragraph 70);
- the Swedish authorities to review the regulations on prisoners' phone calls and strive to ensure that prisoners (including those whose families live abroad) are in a position to maintain good contact with the outside world (paragraph 73);
- steps to be taken to improve the provision of information to foreign national prisoners and to ensure that written information on the internal regulations is systematically provided to all prisoners, upon their arrival at a prison, in a language which they can understand (paragraph 76).

### comments

- the Swedish authorities are invited to review their approach to strip searches of prisoners' visitors. Instead of being obliged to leave without meeting the prisoner if they refuse to undergo a strip search, visitors about whom there are serious security concerns based on specific information could be provided with supervised visits (paragraph 72).

### requests for information

- the comments of the Swedish authorities on the issue of prisoner uniforms (paragraph 74);
- clarification of the issue of prisoners' preparation for release, in particular as regards inmates held in maximum-security ("class A") establishments (paragraph 75).

## **Migration Board establishments**

### **Preliminary remarks**

#### requests for information

- confirmation that the detention period of irregular migrants would be limited to 18 months (paragraph 78).

### **Ill-treatment**

#### requests for information

- the outcome of the inquiry carried out into allegations of excessive or improper use of means of restraint in the context of a recent mass expulsion by air of some 45 Iraqi nationals (paragraph 80);
- a copy of the instructions on the procedure to be followed in the context of deportation operations, in particular as regards the use of force and/or means of restraint (paragraph 80);
- the comments of the Swedish authorities concerning the expulsion of persons to Greece (paragraph 81);
- information on any monitoring or follow-up carried out by the Swedish authorities as regards the situation of persons following their expulsion from Sweden (paragraph 81);
- information on the practical measures taken by the Swedish authorities to ensure compliance with Guideline 12 (4) of the Council of Europe's Guidelines on forced return adopted by the Committee of Ministers on 4 May 2005 (paragraph 81).

### **Health care**

#### recommendations

- arrangements to be made for improving the provision of health care to foreign nationals detained at the Migration Board centres in Märsta and Gävle. This should involve:
  - systematic medical screening of all foreign nationals as soon as possible after their admission;
  - increasing the nurse's attendance hours at the Gävle centre and ensuring regular attendance by a doctor;
  - ensuring that custodial staff do not seek to screen requests to consult a doctor/nurse and that detained foreign nationals can approach health-care staff on a confidential basis;

- ensuring the confidentiality of medical data;
- appropriate supervision of the distribution of medicines to detained foreign nationals, using only trained or qualified staff, and introducing formal record-keeping for dispensing medication;
- ensuring appropriate psychological and psychiatric assistance and stepping up psychosocial interventions;
- development of suicide risk assessment and management programmes, as an alternative to removal to a remand centre;
- development of appropriate hunger strike assessment and management programmes (paragraph 87).

requests for information

- the new arrangements put in place for the provision of health care at the Märsta centre (paragraph 85).

**Safeguards for persons detained under aliens legislation**

requests for information

- the Swedish authorities' comments on the issue of access to a lawyer for persons detained under aliens legislation (paragraph 90).

## **Psychiatric establishments**

### **Patients' living conditions**

#### recommendations

- arrangements to be urgently made to enable all patients placed on wards 77 and 79 of the Psychiatric Clinic South-West in Huddinge to have at least one hour of outdoor exercise every day, unless there are medical reasons to the contrary. Steps should be taken to provide these wards with a secure outdoor area equipped with a means of rest and protection against inclement weather (paragraph 97);
- the courtyards of the Huddinge Department for Forensic Psychiatric Assessment and wards 113 and 114 of the Psychiatric Clinic South-West to be equipped with protection against inclement weather (paragraph 97);
- efforts to be made at wards 77 and 79 of the Psychiatric Clinic South-West to replace hospital beds with normal beds, unless medical reasons dictate otherwise (paragraph 97).

#### requests for information

- the results of the survey of patients' satisfaction with the food arrangements (paragraph 98).

### **Treatment of patients and staff resources**

#### recommendations

- the Swedish authorities to take urgent steps to ensure that the individual treatment plans of patients placed at the Psychiatric Clinic South-West include a psycho-social rehabilitation component. This implies the recruitment of qualified staff in appropriate numbers, starting with a full-time psychologist and a full-time occupational therapist (paragraph 101);
- the Swedish authorities to address as a matter of urgency the shortage of appropriate psychiatric facilities for prisoners and irregular migrants requiring specialist hospital treatment (paragraph 102).

### **Means of restraint /seclusion**

#### recommendations

- a register for recording all cases of resort to means of restraint and seclusion to be introduced at the Huddinge Department for Forensic Psychiatric Assessment and the Psychiatric Clinic South-West, as well as at any other psychiatric establishment in Sweden where such a register does not exist (paragraph 103);

- the toilets of the medical seclusion rooms at the Huddinge Department for Forensic Psychiatric Assessment and on wards 113 and 114 of the Psychiatric Clinic South-West to be fitted with a partition allowing, to the greatest extent possible, privacy for patients. In addition, the blinds of the previously-mentioned medical seclusion rooms should be repaired (paragraph 106).

### **Safeguards in the context of involuntary hospitalisation**

#### recommendations

- the Swedish authorities to draw up a comprehensive information brochure for involuntary psychiatric patients and ensure that it is issued to all such patients on admission, as well as to their families/representatives. Patients unable to understand this brochure should receive appropriate assistance (paragraph 112);
- the management of the Psychiatric Clinic South-West to ensure that all staff receive accurate and detailed information about patients' rights, with a view to being in a position to help patients understand their rights (paragraph 112).

#### comments

- in the interest of performing proper assessment, the imposition of restrictions on remand prisoners undergoing psychiatric assessment should be avoided as far as possible (paragraph 111);
- the Swedish authorities are invited to set up a mechanism for visits to psychiatric establishments by an independent outside body, meeting the requirements set out in paragraph 114 (paragraph 114).

#### requests for information

- the existing legal possibilities for an external psychiatric opinion to be requested in any case where a patient does not agree with the treatment proposed by the establishment's doctors (paragraph 108);
- the comments of the Swedish authorities on the issue of the appointment of support persons for patients in wards 113 and 114 of the Psychiatric Clinic South-West in Huddinge (paragraph 109).

## **Fagareds Home for Young Persons**

### **Preliminary remarks**

#### comments

- considering the delegation's findings at Gothenburg Remand Prison as regards the serious effects of restrictions on young persons' mental health, it would be highly desirable that priority to be given to placing juveniles on remand in homes for young persons (paragraph 116);
- the accommodation of juveniles awaiting a court appearance in a home for young persons is preferable to placing them in a remand prison (paragraph 116).

#### requests for information

- the number of juveniles held in remand prisons in 2008 and 2009 (paragraph 116).

### **Ill-treatment**

#### recommendations

- staff at the Fagareds Home to be reminded that when force has to be used to control violent and/or recalcitrant residents, no more force than is strictly necessary should be used and resort should always be had to safe techniques (paragraph 118);
- steps to be taken to improve the recording and reporting of incidents at the Fagareds Home for Young Persons, in the light of the remarks in paragraph 121 (paragraph 121).

#### comments

- even in those exceptional circumstances when the assistance of the police is necessary to handle a particularly agitated young person, the management of the situation should remain the responsibility of treatment staff with appropriate qualifications (paragraph 119).

### **Regime and staff**

#### recommendations

- staff in the Fyren unit to be appropriately selected and trained in handling challenging residents/situations. In this context, the Swedish authorities should consider creating a full-time post of psychiatric nurse (paragraph 125).



## **Health care**

### requests for information

- the comments of the Swedish authorities on the case of the resident referred to in paragraph 127 (paragraph 127);
- the comments of the Swedish authorities on the suitability of the “SafeDoc” computerised system for recording medical data (paragraph 128).

## **Segregation / “Care in isolation”**

### recommendations

- the Swedish authorities to set up a system for the systematic recording of episodes of segregation at the Fagareds Home, as well as in all other institutions for young persons in Sweden. The recording system should include the time at which the measure began and ended, the person deciding on the measure, the circumstances of the case and the reasons for resorting to the measure; it should also indicate the frequency of observation (paragraph 130);
- the segregation rooms to be equipped with appropriate furniture (e.g. a bed, table and chair) (paragraph 130).

## **Means of restraint**

### recommendations

- every instance of restraint of a resident (be it manual control, mechanical or chemical restraint) to be recorded in a specific register established for this purpose (paragraph 132).

### requests for information

- the comments of the Swedish authorities on the issue of handcuffing of residents while awaiting the arrival of the police (paragraph 132);
- information on the policy followed at the Fagareds Home as regards chemical restraint (paragraph 132).

**Other issues of relevance to the CPT's mandate**

requests for information

- a copy of the report of the National Board for Institutional Care (SiS) published in 2009 concerning the Fagareds Home (paragraph 135);
- more information on the new system for inspections, including on the qualifications and powers of the officials performing inspections (paragraph 135).

## **APPENDIX II**

### **List of the national authorities and non-governmental and international organisations with which the CPT's delegation held consultations**

#### **A. National authorities**

##### **Ministry of Justice**

Maria KELT	Director, Division for Police Issues, Public Order and Safety
Mikael GRANHOLM	Director, Division for Crime Policy
Ari SOPPELA	Director, Division for Prosecution Issues
John AHLBERK	Deputy Director, Division for Police Issues, Public Order and Safety
Anna LINDBERG	Deputy Director, Division for Crime Policy
Maria WESTMAN-CLÉMENT	Deputy Director
Alexander ROHDIN	Desk Officer, Division for Police Issues, Public Order and Safety
Gunilla BERGERÉN	Desk Officer, Division for Crime Policy
Sofie LINDBLOM	Legal Adviser, Division for Police Issues, Public Order and Safety
Ann-Therése BYSTRÖM	Legal Adviser, Division for Prosecution Issues
Erik TIBERG	Legal Adviser, Division for Prosecution Issues
Cecilia HAGER	Legal Adviser, Division for Procedural Law and Court Issues

##### **National Prison and Probation Service**

Lars NYLÉN	Director General
Inga MELLGREN	Director
Gunnar OLDFELDT	Controller
Stefan BERGIC	Head of the Transport Service

##### **National Police Board**

Per ENGSTRÖM	Superintendent
Sören CLERTON	Chief Superintendent, National Criminal Police
Lotta GUSTAVSSON	Director General for Legal Affairs
Tommy SUNDLÉN	Head of Division for Investigation and Proceedings
Per LÖWENBERG	Principal Administrative Officer
Christer DEGSELL	Human Rights Consultant

##### **National Board of Forensic Medicine**

Erna ZELMIN	Director General
Marianne KRISTIANSSON	Head of Division

### **Swedish Migration Board**

Mikael RIBBENVIK	Director for Legal Affairs
Filippa NORDFELDT	Expert

### **Ministry for Migration and Asylum Policy**

Tobias BILLSTRÖM	Minister
Ola HENRIKSON	Director General
Maria WESTMAN-CLÉMENT	Deputy Director
Johan MALKAN	Desk Officer, Division for Migration and Asylum Policy

### **Ministry for Foreign Affairs**

Carl Henrik EHRENKRONA	Director General for Legal Affairs
Elinor HAMMARSKJÖLD	Deputy Director General
Inger KALMERBORN	Senior Legal Adviser

### **Ministry of Health and Social Affairs**

Ragnwi MARCELIND	State Secretary
Göran HOLMSTRÖM	Political Adviser
Marianne JENRYD	Director General for Administrative and Legal Affairs
Gunilla MALMBORG	Director, Division for Social Services
Olivia WIGZELL	Director, Division for Health Care
Hans HAGELIN	Deputy Director, Legal Secretariat
Angela ÖST	Senior Legal Adviser, Legal Secretariat
Jonas RYDSTRÖM	Head of Section, Division for Social Services
Åsa ELFFORS	Head of Section, Division for Health Care

### **National Board of Institutional Care**

Anette SCHIERBECK	Head of Legal Division
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### **National Board of Health and Welfare**

Thomas TEGENFELDT	Head of Department of Health Care and Medical Services
Karl-Otto SVÄRD	Medical Inspector
Susanne ROLFNER SUVANTO	Senior Adviser

**Office of the Parliamentary Ombudsman**

Mats MELIN	Chief Parliamentary Ombudsman
Kerstin ANDRÉ	Parliamentary Ombudsman
Cecilia NORDENFELT	Parliamentary Ombudsman
Kjell SWANSTRÖM	Head of Staff
Jörgen BUHRE	Head of Division
Carl-Gustaf TRYBLOM	Head of Division
Åsa WIDMARK	Head of Division

**B. Non-governmental organisations**

Amnesty International (Sweden)  
Swedish Network of Asylum and Refugee Support Groups (FARR)  
Swedish Red Cross  
Swera and Exodus

**C. International organisations**

UNHCR Regional Office in Stockholm for the Baltic and Nordic countries