CPT/Inf (2009) 19

Response of the Finnish Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Finland

from 20 to 30 April 2008

The Finnish Government has requested the publication of this response. The report of the CPT on its visit to Finland was published on 20 January 2009 (CPT/Inf (2009) 5).

Strasbourg, 17 June 2009

PREAMBLE

The following comprises the response of the Finnish Government to the recommendations, comments and requests for information included in the Report on the visit to Finland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 20 to 30 April 2008. The Report was published on 20 January 2009.

The detailed responses of the Government are provided in the order laid down in Appendix 1 to the CPT's Report (List of the CPT's Recommendations, Comments and Requests for Information). The same headings are also used for the sake of clarity.

The Government of Finland values highly all the useful recommendations and comments of the CPT, which will further the Finnish authorities in the development of the conditions of the detained.

The Government of Finland wishes to thank the CPT for the good and smooth co-operation regarding all issues relating to the visit.

LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION

Co-operation encountered

comments

- **the Committee trusts that the Finnish authorities will take steps to ensure that delays in access to police establishments as described in paragraph 5 are not encountered during future visits. This should involve the dissemination of relevant information on the CPT's mandate and working methods to all the staff concerned (paragraph 5).**

The Police Department of the Ministry of the Interior provided all police establishments with due advance notification of the impending visit of the CPT delegation via the Provincial Police Commands on 9 April 2008. According to information received by the Police Department, a delay of some 15 minutes was experienced at the Seinäjoki police establishment as the duty officer verified the visitors' status. Information received gives the reason for the delay as an internal communications breakdown at the relevant police establishment.

Owing to heightened security risks, particular attention has been paid in recent years to structural and personal safety at police establishments in Finland. According to the statement of the Ministry of the Interior, the police will do their utmost to ensure that any future delegations will have immediate access to any sites they may wish to visit.

Police establishments

Safeguards against ill-treatment

recommendations

- **the period during which an apprehended/arrested person can be denied the right to notify his next-of-kin or another appropriate person of his situation to be shortened substantially (e.g. to 48 hours) (paragraph 12);**

- **the types of situation in which the exercise of the right of notification of custody may be delayed to be spelt out more clearly and any delay in the exercise of a person's right to notify someone of his situation to be always subject to the approval of a senior police officer with the right to arrest (paragraph 12);**

- **Chapter 2, Section 2 of the Act on the Treatment of Persons in Police Custody (ATPPC), restricting the right of notification of custody in certain cases, to be rescinded (paragraph 12);**

Under the Act on the Treatment of Persons in Police Custody (Act 841/2006, hereinafter the ATPCC), remand prisoners and detained persons shall be afforded an opportunity to notify next of kin or another appropriate person of their situation. However, apprehended persons need not be afforded an opportunity to notify if they are released within 12 hours of being apprehended and there are no compelling reasons for affording such opportunity.

The detention of an arrested person shall be communicated to the next of kin or another appropriate person indicated by the arrested person. If notification gives rise to particular detriment to clearing up the offence, it may be postponed until such time at the latest that the request for the detention of the arrested person is heard by a court. Without compelling reasons, notification may not be made against the wishes of the arrested person. The wishes of the arrested person with regard to non-notification shall be taken into consideration unless the relevant person is a juvenile, in which case the threshold of notifying shall be lowered.

The next of kin may be suspected of the same offence or set of offences as the arrested person. In such a case, notification of the next of kin may give rise to the particular detriment to clearing up the offence as referred to in the aforementioned section. An arrested person is nonetheless always entitled to apprise his counsel of his situation.

As a rule, notification of deprivation of liberty has been made to the person indicated by the person deprived of liberty within a reasonable period of time and no later than before the end of the period of custody. No hard and fast hour limits are imposed in the instructions, as the reasonable period of time is determined on a case by case basis, depending especially on the degree of difficulty involved in clearing up the offence at hand. Non- notification is an extremely rare occurrence. Under current legislation, non-notification is restricted to apprehensions of short duration and postponement of notification to situations in which notification would give rise to particular detriment to clearing up the offence. The grounds for particular detriment must always, where necessary, be stated and thus non-notification is restricted to situations where it is absolutely vital to a criminal investigation. Ultimately, the decision is taken by the head of the investigation.

The Committee appointed by the Ministry of Justice to reform legislation on criminal investigations, coercive measures and the police (journal entry OM 021/2006) has completed its work. The Committee proposes amendment of Chapter 2, section 2 of the APTCC in the manner proposed by the CPT, viz. that notification could be postponed for no more than 48 hours from apprehension by decision of a senior police officer. Under the proposed section:

Remand prisoners shall be afforded an opportunity to notify their next of kin or another person of their deprivation of liberty.

The deprivation of liberty of arrested and apprehended persons shall be communicated to their next of kin or another person as indicated by the person arrested or apprehended. If such notification gives rise to a particular detriment to clearing up the offence, notification of arrest may be postponed by no more than ***48 hours from apprehension*** *and notification of apprehension may be postponed or waived by decision of a senior police officer. Notification may not be made against the wishes of the person arrested or apprehended without compelling reason.*

- **steps to be taken to ensure that persons detained by the police enjoy effectively the right of access to a lawyer as from the very outset of custody (paragraph 13);**

Under section 10(1) of the Criminal Investigations Act (449/1987), a party shall have the right to the services of counsel in a criminal investigation. The guideline issued by the Ministry of the Interior which entered into force on 1 October 2008 (Guideline on the treatment of persons held by the police, SMDno-2008/767) underscores, among other things, the duty already earlier in effect of informing without delay persons apprehended for a crime of all their lawful rights, including the right to counsel in a criminal investigation. Police establishments have also been issued a bulletin from the Police Department of the Ministry of the Interior, for distribution to all persons deprived of liberty, concerning the rights of persons deprived of their liberty which shall be communicated to the said persons. The Ministry of the Interior is of the understanding that the guideline has been observed.

It should be noted that an apprehended person is interviewed immediately or as soon as possible following apprehension, with the exception of apprehension taking place at night. If the apprehended person wishes to have access to counsel during the interview, he will not factually have a possibility to use the counsel, with the exception of a possible telephone call, before the first questioning until the counsel has arrived.

If an apprehended person is not questioned immediately after his apprehension, the guideline states that attention shall be paid to the fact that the apprehended person is notified of his right of access to a counsel during pre-trial investigation prior to placing him in the detention facilities. In such a case, the apprehended person shall determine individually whether he requires counsel during the interview.

If a detained person has not, despite his request, been given the possibility to meet his counsel prior to the court handling the imprisonment, the police have clearly acted against the law. However, the Ministry of the Interior has not become aware of situations where the police in pre-trial investigation had wholly denied a detained person the possibility to meet with counsel despite the request of the detained person.

- **steps to be taken, if necessary through amendment of the ATPPC, to ensure that persons in police custody have an effective right to be examined, if they so wish, by a doctor of their own choice (in addition to any medical examination carried out by a doctor called by the police), it being understood that an examination by a doctor of the detained person's own choice may be carried out at his/her own expense (paragraph 16);**

Provisions on health care for persons in police custody are laid down in Chapter 5, section 5 of the APTCC. Health care shall be provided by the municipality or inter-municipal health district in whose unit the health care is most appropriately provided. The police and the municipality of residence of the person deprived of liberty shall act in cooperation in the arrangements required for the care.

In Finland, the police primarily rely on general health-centre services for medical examinations of apprehended persons. A person deprived of liberty is taken to a health centre where he is examined by the doctor on call. The police can thus not choose the doctor. In some exceptional cases, the doctor on call at the health centre may be invited to the facilities of the police to carry out the examination, but this procedure is fairly rare. Even in this case, the police do not choose the doctor; the doctor who arrives is one who is on call and who is able to arrive.

It is purposeless to have a medical examination of a remand prisoner carried out by a doctor indicated by the remand prisoner in addition to the examination carried out by the health-centre doctor. Health-centre doctors are licensed and they act on civil-servant responsibility. Obviously the examining health-centre doctor, having observed the need of the person deprived of liberty for specialised medical attention, can refer the said person to a specialist.

A person deprived of liberty has the right, at his own expense, to obtain medication, examination and other health care in or, where necessary, outside the detainment facilities, by referral of a doctor arranged by the police based on medical evaluation. If the licensed health-centre doctor called by the police – who is not on the police payroll – in his medical assessment arrives at the conclusion that the person is not in need of medical assistance, the conclusion may be drawn based on general life experience that the right to the medical opinion of another doctor may be used for the purpose of obstructing investigation, thus jeopardising the purpose of the measure concerning liberty. In such a case, it is ultimately the decision of the head of the investigation to disallow a medical examination by a second doctor.

The need for further clarification of the statute in this respect will be determined in conjunction with monitoring the realisation of legislation concerning persons in police custody.

- **the Finnish authorities to take steps to ensure that complete and accurate verbal information on rights is given systematically to all persons apprehended by the police, at the very outset of their deprivation of liberty (i.e. as from the moment the persons concerned are first obliged to remain with the police). As regards the information form on rights, it should set out in a straightforward manner all the rights of persons deprived of their liberty by the police (including the right of access to a doctor of one's own choice), and should be given systematically to all detained persons as soon as they are brought into a police station. Particular care should be taken to ensure that detained persons are actually able to understand their rights; it is incumbent on police officers to ascertain that this is the case, to verify that these rights have been respected in practice and to take appropriate action if this is not the case. Further, detained persons should be requested to confirm with their signature that they have been provided with information on their rights, with an indication of the precise time when it occurred (paragraph 18);**

The police have custody of persons of very different backgrounds and characteristics, with varying ability to conceive matters communicated to them by the police. The Police Department of the Ministry of the Interior has therefore in its aforementioned guideline (SMDno-2008-767) underscored the right of the person deprived of liberty to be informed of all his rights. Police establishments have been issued a bulletin from the Police Department of the Ministry of the Interior, for distribution to all detained persons, concerning the rights of persons deprived of liberty that shall be communicated to the said persons.

The said guideline furthermore underscores the great importance to the legal protection of both the person deprived of liberty and the staff of detention facilities of documenting and recording all procedures taken on the person deprived of liberty at various stages.

- **steps to be taken to ensure that, whenever a person is deprived of his liberty by the police, for whatever reason, this fact is duly recorded without delay (paragraph 19);**

- **standard-format and comprehensive custody registers to be kept at each police establishment, containing information on all aspects of the person's custody (including movements between establishments) and all the action taken in connection with it (paragraph 19);**

  The aforementioned new set of norms at the level of Decree (Decrees of the Government and the Ministry of the Interior, 645/2008 and 646/2008) as well as the administrative police prison guideline specifically underscores the recording and registering relating to the various stages of the custody of a person deprived of liberty, from the beginning to the end of the deprivation of liberty. Without exception, persons deprived of their liberty taken into police custody are recorded in the KIP register of apprehended and arrested persons, which is a part of the police affairs information system PATJA.

  Once realisation of the new legislation is being monitored and the reform of the police affairs information system PATJA begins, the appropriateness and up-to-datedness of the contents of the various forms can also be evaluated. The amendment of legislation will also result in police staff being provided with appropriate on-the-job training

- **the Finnish authorities to take steps to develop a specific system for independent monitoring of police detention facilities. To be fully effective, monitoring visits should be both frequent and unannounced. Further, the monitoring bodies should be empowered to interview detained persons in private and examine all issues related to their treatment (material conditions of detention; custody records and other documentation; the exercise of detained persons' rights, etc.) (paragraph 20).**

  Finland has in place an effective and independent monitoring system. The legality of the activities of Finnish authorities is comprehensively monitored. The Parliamentary Ombudsman is the independent legality supervisory body monitoring the legality of the activities of the authorities and conducts regular inspections of police prisons, among other facilities.

  The internal legality monitoring system of the police has also been under intense development in the past few years. The Supreme Police Command in the Ministry of the Interior comprises a dedicated legality supervision unit monitoring the legality of policing. The National Police Board to be established as a part of the police organisation reform is also planned to comprise a legality supervision unit. Moreover, the monitoring by supervisors at police establishments also extends to detention facilities and detention conditions.

  The police organisation is currently being reformed and the National Police Board is due to begin operations on 1 January 2010. The National Police Board will act as the Supreme Police Command and will head and direct the operative policing in Finland.

The National Police Board will be staffed by the current Supreme Police Command and the Provincial Police Commands. It will be headed by the National Police Commissioner and according to current plans, it will be divided into seven areas of responsibility, each headed by a Head of Unit. Units reporting directly to the National Police Board will include the district police departments and the national police units of the Central Bureau of Investigation, the Security Police and the National Traffic Police as well as the Police College of Finland and the Police Technical Centre. The Ministry of the Interior will be responsible for the performance guidance of the National Police Board which in turn will have responsibility for the performance guidance of the units reporting to it.

Current plans envision the establishment of a dedicated legality supervision unit in the National Police Board. The unit will be tasked with the national legality supervision of policing. No considerable increase in staffing is, however, envisioned for the planned unit. Moreover, the monitoring by supervisors at police establishments will continue to extend to detention facilities and detention conditions.

comments

- **if the current legislation restricts the rights of persons suspected of having committed "minor offences" to have access to a lawyer and to be informed of their rights, such restrictions should be abolished (paragraphs 15 and 17).**

Under section 44 of the Criminal Investigations Act, a simplified criminal investigation may be carried out in clear and straightforward cases if the offence, under general sentencing guidelines, is not punishable by more than a fine. There is no head of investigation in a simplified criminal investigation. Only the main contents of the statement of the person being questioned are entered in the investigation report, and these main contents may be entered also in a document other than the investigation record. A simplified criminal investigation may be conducted without informing the suspect of the right to counsel. Simple and clear-cut cases handled in this manner include traffic fines, where the speeding ticket is served on the offender by a police officer. Speeding tickets are commonly issued "on the road", in a police vehicle. The person fined is not transported to a detention facility but is instead allowed to leave in his own vehicle after being issued the fine. Instructions for appeal relating to the issue of the fine and to the legal protection of the person fined are provided on the same occasion as the ticket.

The Committee appointed by the Ministry of Justice referred to above in respect of paragraph 12 has considered this issue and proposes that the provisions concerning the contents of the simplified criminal investigation currently enshrined as section 44, subsections 2 and 3 of the Criminal Investigations Act be included in Chapter 11, section 2 of the new Pre-Trial Investigation Act, which would contain the provisions concerning the prerequisites to applying a simplified pre-trial investigation.

The Committee referred to above in respect of paragraph 12 did not propose amendment of the duty to notify in this respect. However, persons apprehended, arrested or detained shall always be informed in writing of their right to counsel of their choice. Although the duty to notify does not apply to simplified criminal investigation, the person questioned would also then be entitled to counsel of his choice.

requests for information

- **remarks of the Finnish authorities on complaints from detained persons that the police had prevented them from choosing their lawyer freely and imposed on them *ex officio* lawyers who were said by the persons concerned to be "working with the police" (paragraph 14);**

Under Chapter 2, section 1(1) of the Criminal Procedure Act (689/1997), a person suspected of an offence has the right to self take care of his/her defence in criminal investigations and in a trial. Under section 45(1) of the Criminal Investigations Act, an advocate, a public legal counsel or another person competent to serve as a trial attorney under Chapter 15, section 2(1) of the Code of Judicial Procedure may serve as the counsel of a party in a criminal investigation.

The following shall not serve as counsel in a criminal investigation:

1) a person who has served as counsel to the suspect in the offence under investigation or an offence directly related thereto;
2) a person who serves as counsel to another suspect in a matter involving the offence under investigation or an offence directly related thereto if the person acting as counsel to the party will presumably considerably hamper clearing up the matter;
3) a person who serves or has served as the advocate-general referred to in Chapter 5a, section 6a of the Coercive Measures Act in a matter involving the offence under investigation or an offence directly related thereto;
4) a person who carries out legal assignments together with a person who is barred from serving as counsel to the party on the grounds referred to in paragraphs 1–3;
5) a person who is a suspect or a witness in a matter involving the offence under investigation or an offence directly related thereto; or
6) a person who as a civil servant or in other exercise of public authority has taken part in measures in the offence under investigation or an offence directly related thereto or in a matter involving such an offence.

Under subsection 3 of the said section, the head of investigation shall decide whether or not a person is competent as counsel. If a person has been refused the right to serve as counsel in a criminal investigation, the party shall be provided the opportunity to obtain the services of counsel who fulfils the requirements. However, the investigation need not be postponed because of this.

Under Chapter 2, section 1(3) of the Criminal Procedure Act, a defence counsel is to be appointed to a suspect *ex officio* when:

1) the suspect is incapable of defending himself/herself;
2) the suspect, who has not retained a defence counsel, is under 18 years of age, unless it is obvious that he/she has no need of a defence counsel;
3) the defence counsel retained by the suspect does not meet the qualifications required of a defence counsel or is incapable of properly defending the suspect; or
4) there is another special reason for the same.

Under section 4(1) of the said Chapter, the defence counsel is appointed by the court where the criminal case is pending or where a charge for the offence may be brought.

In other words, the police shall *ex officio* afford the suspect an opportunity to obtain counsel. The police cannot order a certain advocate/lawyer to serve as the suspect's counsel, however. The suspect has the right to choose his counsel independently and the head of the investigation is empowered to approve counsel. At the request of the suspect, the police may also assist him in choosing counsel. In such an event, the police as a rule contact the advocates appearing on the list of advocates. The activities of advocates are monitored by the Board of the Bar Association and by the Chancellor of Justice of the Government. Advocates are wholly independent of the police.

According to the statement of the Ministry of the Interior, the Ministry's Police Department is not aware of any complaints concerning this issue. Counsel shall nonetheless meet the criteria imposed in the Criminal Investigations Act.

Under section 1 of the Legal Aid Act (257/2002), legal aid shall be given at the expense of the state to a person who needs expert assistance in a legal matter and who for lack of means cannot self pay the expenses of having the matter dealt with. Legal aid covers the provision of legal advice, the necessary measures and representation before a court of law and another authority, among others.

Under section 8(1) of the same Act, legal aid shall be given by public legal aid attorneys. However, in matters to be heard by a court of law, also a private attorney who has consented to the task may be appointed as an attorney.

Under subsection 2 of the same section, appointment as an attorney for a suspect in a criminal case may only be given to a public legal aid attorney or an advocate, or for a special reason also to another person who holds the degree of Master of Laws, if the suspect has been arrested or detained, if the suspect is charged with an offence with no statutory penalty less severe than imprisonment for four months or with an attempt of or participation in such an offence, or if the suspect is younger than 18 years of age. Subsection 3 further provides that where the person receiving legal aid has self nominated an eligible person as his or her attorney, that person shall be appointed unless there are special reasons to the contrary.

According to the statement of the Ministry of the Interior, the police in practice offer a locally practicing public legal aid attorney to persons deprived of liberty who desire legal aid. The Police Department is not aware of any cases of the police acting contrary to the request of a person deprived of liberty in wishing have counsel other than the public legal aid attorney.

- **remarks of the Finnish authorities on the issue raised in paragraph 16 (paragraph 16);**

In this respect, reference is made to that stated above regarding paragraph 16.

- **whether the "witness" to be present during police interviews of juveniles must always be someone independent from the police (paragraph 17).**

According to section 30 of the Criminal Investigations Act, at the request of the person being questioned, a credible and non-disqualified witness shall be present during the questioning. An investigator may summon a witness also on his own initiative. If the questioning cannot be delayed without compromising the investigation, it may be carried out without a witness despite the request of the person being questioned. A suspect under eighteen shall not be questioned without a witness unless his counsel or legal representative or a representative of the social services board is present.

Before questioning, the person to be questioned shall be notified of his right to request the presence of a witness to the questioning.

A witness, the questioned person's counsel or legal representative, or a representative of the social services board shall thus always be present at the questioning of a person under the age of eighteen.

Conditions of detention

recommendations

- **the Finnish authorities to take steps to remedy the deficiencies observed in police custody cells (paragraph 22);**

- **steps to be taken to remedy the deficiencies observed at the Custodial Facility for Intoxicated Persons in Töölö (paragraph 24);**

- **steps to be taken to ensure that a nurse is present at all times at the Custodial Facility for Intoxicated Persons in Töölö (paragraph 24);**

According to the statement of the Ministry of the Interior, the annual performance review is the Police Department's means of steering administration which reports to it. At the next administrative performance review with the Helsinki police chiefs, the Police Department will bring up all deficiencies observed by the delegation, including those in health-care arrangements and structural upgrades at the Custodial Facility for Intoxicated Persons in Töölö.

- **specialised training in the care of intoxicated persons, and in recognising the symptoms of conditions that could be mistaken for or complicate alcohol intoxication, to be provided to all police officers in Finland (paragraph 25);**

The vocational subject of "general police studies" included in the basic degree of police officer contains a module focusing *inter alia* on issues relating to the treatment of intoxicated persons. No specific courses on these issues are provided at police training colleges. The guideline on the treatment of persons in police custody issued by the Ministry of the Interior which entered into force on 1 October 2008 (SMDno-2008-767) and its appendix specifically provides instructions *inter alia* on identifying the symptoms of conditions that could be mistaken for intoxication.

- **arrangements to be made to ensure that there can be rapid access to a nurse whenever intoxicated persons are held at police establishments (paragraph 25);**

  As municipal health centres operate 24-hour emergency rooms, access to a nurse can be provided rapidly when necessary at police establishments where intoxicated persons are held.

  According to the statement of the Ministry of the Interior, the Police Department has been informed of no cases in which access to a nurse would not have been available when necessary at police establishments where intoxicated persons are held.

- **any non-standard issue objects to be immediately removed from all police premises where persons may be held or questioned. Any such items seized during criminal investigations should be entered in a separate register, properly labelled (identifying the case to which they refer) and kept in a dedicated store (paragraph 26).**

  All items and pieces of evidence seized in connection with criminal investigations shall be entered in the seizure record and a separate police register. No such material may be stored on police premises where persons are questioned or held. The Police Department of the Ministry of the Interior has drawn the attention of the relevant police establishment to the matter.

  comments

- **the Finnish authorities are invited to verify that the stock of suitable mattresses for intoxicated persons is sufficient at Tampere District Police Department (paragraph 23).**

  According to the statement of the Ministry of the Interior, the annual performance review is the Police Department's means of steering administration which reports to it. The Police Department will discuss the sufficient stock of mattresses with the relevant Provincial Police Command, the duty of which it is to order the Tampere District Police Department to attend to the availability of a sufficient stock of mattresses suitable for intoxicated persons.

Remand detention in police establishments

recommendations

- **steps to be taken to**

  - **ensure that all remand prisoners held in "police prisons" are offered at least one hour of genuine outdoor exercise every day;**

The Ministry of Justice appointed on 11 February 2009 a working group tasked with the following:

1) to study ways of reducing the number of remand prisoners held on police premises;

2) to consider ways of improving the conditions of remand prisoners held on police premises, such as the opportunity to take part in activities and exercise and to have access to health-care services;
3) to study ways in which the responsibility for investigating the offence of which the remand prisoner is suspected and the responsibility for holding the remand prisoner could be better differentiated from policing; and
4) to submit proposals on the requisite operational and legislative changes.

The aim of the working group is to consider the possibilities for reducing the number of remand prisoners held in police prisons by transferring remand prisoners to prisons proper. Upon achievement of this goal, remand prisoners' access to genuine outdoor and other exercise will also improve.

- **develop a regime of activities for such prisoners;**

Subsequent to the organisational reform of police administration, the number of District Police Departments will fall to 24, providing enhanced opportunities for the provision of activities at police establishments. Measures towards this end include on the one hand the centralisation of remand prisoners held in police prisons and on the other, the re-allocation of police human resources.

- **review the existing arrangements at the "police prison" of Helsinki Police Department as regards access to a doctor and access to specialist (including dental) care, and arrange for the presence of a nurse also at weekends;**

- **ensure that the isolation cells at the "police prison" of Helsinki Police Department are kept clean;**

  The Police Department of the Ministry of the Interior will bring up the deficiencies observed by the delegation in connection with its next annual administrative performance review with the highest command of the Helsinki District Police Department, on which occasion the health-care arrangements at the police prison will be reviewed and attention to the adequate cleanliness of the isolation cells will be ensured. With regard to health care, it should be mentioned that medical care of a level equal to that provided by ambulance with doctor on board can be obtained at the police prison on a few minutes' notice 24/7 from the hospital emergency room located a few kilometres away.

- **ensure that all "police prisons" without an in-house medical service are visited on a regular basis by a nurse reporting to a doctor;**

The administrative guideline issued by the Police Department of the Ministry of the Interior underscores that persons deprived of liberty shall be afforded access to medical personnel whenever necessary. Health-care services of this kind may be organised by the relevant police establishments by utilising units providing health-care services in their respective districts.

- **ensure that all newly-arrived remand prisoners are medically screened, within 24 hours of their arrival at a "police prison", by a doctor or a qualified nurse reporting to a doctor;**

The health care of persons resident in Finland, including medical screenings, comes within the scope of the district nursing activities of municipal or municipal federation health centres. The regular medical screening of all persons deprived of liberty held on police premises subject to a certain time limit and in the absence of any medical grounds is not deemed necessary. The European Prison Rules furthermore do not require medical screening to be performed when patently unnecessary.

The aforementioned working group appointed by the Ministry of Justice is considering the placement of more remand prisoners than at present directly into prisons with in-house health-care staff. Prisons are somewhat better equipped to perform medical screening.

- **set up specific registers to record placements in isolation cells in the "police prisons" which possess such cells;**

The guideline on the treatment of persons in police custody issued by the Ministry of the Interior which entered into force on 1 October 2008 (SMDno-2008-767) and its appendix specifically provide instructions on *inter alia* the recording of procedures concerning persons deprived of liberty. Placement in an isolation cell is one such procedure which must be recorded. The same guideline also imposes the duty to inform health-care staff of placing a person under observation, and health-care staff shall without delay examine the health of such a person.

- **ensure that the isolation cells at the "police prison" of Helsinki Police Department are kept clean;**

- In this respect, reference is made to the above response concerning the Helsinki police prison.

- **ensure that inmates held in isolation cells are visited by a nurse on a daily basis (paragraph 35);**

- In this respect, reference is made to that stated above about the guideline which entered into force on 1 October 2008.

- **the police to be given detailed instructions as regards recourse to prohibitions/restrictions concerning remand prisoners' correspondence, visits and access to a telephone (paragraph 36);**

- **an obligation to exist to state in writing the specific reasons for any such prohibitions/restrictions in each individual case (paragraph 36);**

- **in the context of each periodic review by a court of the necessity to continue remand in custody, the question of the necessity for the police to continue to impose particular restrictions upon a remand prisoner's visits, letters and access to a telephone to be considered as a separate issue (paragraph 36).**

Instructions concerning the above measures are included in the aforementioned guideline issued by the Ministry of the Interior, which also provides detailed guidance on topics such as examining correspondence and postal matter, reading letters, withholding letters or postal matter, correspondence with attorneys, telephone calls and their monitoring, visits, denial of visits and visits under special supervision, prohibition of visits and temporary restrictions of contact.

The topic of remand prisoners' contact has also been addressed by the aforementioned Committee, which proposes that the provision concerning contact be clarified and specified in respect of conditions and duration. Provisions on restricting contact are proposed to be laid down in the new Chapter 4 of the Coercive Measures Act. The maintenance or modification of restrictions to contact should be addressed in connection with the court hearing on imprisonment. According to the proposal, a remand prisoner could bring a restriction for consideration by the court also separately in observance with the provisions concerning the re-consideration of imprisonment (the new Chapter 3, section 15 of the Coercive Measures Act). This would mean that a restriction could be brought before a court for re-consideration no earlier than two weeks after the previous hearing.

comments

- **the Finnish authorities are invited to offer regular first-aid refresher courses to all police officers working in detention areas of "police prisons" (paragraph 35).**

Police personnel's need for first-aid courses is examined in the annual occupational health and safety programme of each police establishment based on occupational health and safety legislation. Based on the needs observed, the police establishment in its capacity of employer determines the persons in need of first-aid training.

requests for information

- **information, in due course, on the adoption of the measures referred to in paragraph 34, as well as on the proposals made by the joint working group of the Ministries of the Interior and Justice tasked with finding solutions to decrease the number of remand prisoners in police establishments (paragraph 34).**

The deadline for the report of the working group mentioned above in the section dealing with the holding of remand prisoners at police establishments is 31 December 2009. The CPT will be provided with a report on the working group's proposals and the impacts thereof on the number of remand prisoners.

Foreign nationals detained under aliens legislation

Preliminary remarks

recommendations

- **the Finnish authorities to carefully consider the possibility of opening a second detention unit for aliens, in line with Act No. 116/2002 on Detention Units and the Treatment of Foreign Nationals Placed in Detention (paragraph 39).**

The Ministry of the Interior has taken action to carry out the recommendation of the CPT Committee, and started discussions with authorities of different sectors in order to start the planning of another detention unit.

Metsälä Detention Unit for Aliens

recommendations

- **the nursing staff resources specifically devoted to the Metsälä Detention Unit to be strengthened so as to ensure a daily presence of a nurse, including on weekends (paragraph 46);**

The CPT's recommendation concerning the allocation of nursing staff resources to the detention unit has already been anticipated. The Uusimaa Employment and Economic Development Centre and the Metsälä detention unit agreed in autumn 2008 that provision be made in the budget in 2009 for a third public health nurse. The position has now been filled and the third nurse started work in Metsälä on 2 March 2009. The residents' health-related problems outside office hours are handled by summoning a doctor to the unit or by transporting the detainee to treatment outside the unit.

- **prompt and systematic medical screening to be put in place as a matter of priority (paragraph 47);**

The Metsälä detention unit will take steps to put into place an adequate medical screening policy for new detainees at the unit. New arrivals at the detention unit will be afforded an opportunity to consult a nurse as soon as possible following their arrival. Immediate screening is not possible owing to practical considerations having to do with the working hours of nursing staff, other appointments and organising any interpretation that may be required. At the said consultation, arrivals would also be asked for their consent to the disclosure of their health information to other health-care professionals in situations involving their health care. These policies will be assembled into a code of practice at the detention unit.

- **measures to be taken to ensure regular attendance by a psychologist and ready access to a psychiatrist at the Metsälä Detention Unit (paragraph 48).**

  The tiered treatment model observed in health care in Finland in general is also observed at the detention unit. According to the model, in acute situations detainees are referred as necessary by a general practitioner to further psychiatric care. It has been agreed with the Uusimaa Employment and Economic Development Centre that an appropriation be included in the detention unit's 2009 budget for providing consultation by a psychologist. Metsälä detention unit will start looking into a possible operational model and suitable service provider to remedy the situation.

  comments

- **the Finnish authorities are invited to provide the exercise yard at the Metsälä Detention Unit with an area protected against inclement weather (paragraph 43);**

  A fixed shelter might pose a security risk, as it could be used for climbing due to the small size of the exercise yard. The Metsälä detention unit will look into the possibility of putting up a canvas awning or another similar lightweight structure to protect against inclement weather.

- **the Finnish authorities are invited to reflect upon possibilities of developing further the range of activities offered to detainees at the Metsälä Detention Unit for Aliens, paying particular attention to the educational needs of young children and juveniles (paragraph 44);**

  There is no need for any instruction substituting comprehensive school at the detention unit owing to the shortness of the period of detention of minors. The average period spent in detention in 2008 was 7.6 days for all minors. The detention unit will consider the possibility, within the framework of ordinary operations, of further developing the range of activities offered to detainees in general as well as the possibilities of organising tailored age-appropriate activities for young children and juveniles.

- **the Finnish authorities are invited to establish a written policy which makes it clear who can gain access to the clinical records in the absence of nursing staff, and under what circumstances. Further, a system should be introduced whereby any access by non-medical staff to medical documentation is recorded and reported to medical staff at the first opportunity (paragraph 49);**

  The said policy will be established at the Metsälä detention unit to bring the matter in line with the recommendation of the CPT. The consent asked from detainees for the disclosure of personal health information mentioned above is also related to this issue.

- **to be fully effective, inspection and monitoring visits should be both frequent and unannounced. Further, the inspecting and monitoring bodies should be empowered to interview detained persons in private and examine all issues related to their treatment (material conditions of detention; custody records and other documentation; the exercise of detained persons' rights, etc.) (paragraph 52);**

  The national authorities and international organisations monitoring detention may freely visit the Metsälä detention unit within the limits of their authority. Detainees may contact their representative or attorney, or a UNHCR representative whenever they so desire. No problems with this issue have arisen at the detention unit, which favours transparent operations and policies and also acknowledges their importance as an element of legal protection in activities of the said kind.

- **a nurse should visit persons held in isolation on a daily basis (paragraph 53).**

  The working hours of the nurses at the Metsälä detention unit will be reorganised so as to allow the systematic implementation of such visits.

  requests for information

- **whether the private security guards employed at the Metsälä Detention Unit have received any specialised training on the use of truncheons, tear gas and handcuffs (paragraph 51).**

  The security guards working at the Metsälä detention unit are trained professionals who have received training of this kind. The director of the detention unit and persons under civil service contract at the unit and trained for the purpose have the right to use force when performing their duties at the detention unit, subject to the conditions laid down in section 35 of the Act on Detention Units and the Treatment of Foreign Nationals Placed in Detention (116/2002).

  The security guards have been given the minimum training in the use of force required under law (Act No. 282/2002 on Private Security Services,) as a part of their training. The use-of-force module in the training comprises the use of handcuffs and the vinyl truncheon. In addition, the security guards have specialised use of force training in the use of gas and telescopic truncheon. Each guard attends the statutory refresher training in the use of force each year. This training is provided by instructors trained and approved by the police. The security guards' courses are organised by educational institutions approved by the authorities.

  The Parliamentary Ombudsman issued on 10 February 2009 a decision concerning guard operations at the detention unit. In this decision, the Ombudsman held the current situation of guarding duties contracted to security firm Palmia to be problematic. Under section 36 of the Act on the Treatment of Foreign Nationals Placed in Detention, persons performing guard duties should be under civil service contract.

To solve the problem, the city of Helsinki proposes that Palmia will change the employment relationships of the security stewards working at the Metsälä Reception Centre and Detention Unit to public-service relationships. At the same time, the aim is to give a new definition of the leadership relations, the content of duties and the use of forcible means.

Safeguards

recommendations

- **steps to be taken to ensure that foreign nationals detained pursuant to the Aliens Act enjoy effectively the right of access to a lawyer as from the outset of their deprivation of liberty (i.e. as from the moment the persons concerned are first obliged to remain with the police or the Border Guard) (paragraph 55);**

The procedure proposed in the recommendation is already observed by the Ministry of the Interior. Upon service of the detention decision, the detainee is notified of his right to have contact with his attorney. The placement of the person in a detention unit, police holding facilities or exceptionally, for a short term only (no more than 48 hours) in the holding facilities of the Border Guard, makes no difference as to the notification of rights.

It should be noted that contact and visits between a detainee and his attorney are also conditional upon the attorney's willingness and opportunity to attend. The fact that in cases where the detainee would wish to meet with his attorney immediately, even before his case is heard by a court, attorneys may for one reason or another be unwilling to meet with their client or deem this unnecessary, cannot by any means be taken as a deficiency in the activities and procedures of the authorities.

The police arrange meetings between the persons detained in their facilities and their attorneys. This is also the policy already observed by the Border Guard. The recommendation made has furthermore been communicated to the administrative units of the Border Guard.

- **the Finnish authorities to take steps to ensure that all foreign nationals apprehended by the police or the Border Guard pursuant to the Aliens Act are systematically provided with a form setting out in a straightforward manner all their rights as soon as they are brought into a police station. The form should be made available in an appropriate range of languages (paragraph 56).**

The form referred to in the recommendation (U6t) already exists and is used by both the police and the Border Guard. The following mention concerning rights is a standard element of this form: *The provisions on the right of contact of the detainee are laid down in section 6 of the Act on Detention Units and the Treatment of Foreign Nationals Placed in Detention.* Since the form is currently only available in Finnish, English and Russian, the approach has also been adopted of explaining persons their rights when they are served with the detention decision.

Since the availability of the said form in a wider range of languages can be deemed appropriate to the activities of the police and the Border Guard, the Headquarters of the Border Guard have already started to establish the requisite key languages into which the form will be translated. The recommendation made has furthermore been communicated to the administrative units of the Border Guard.

Deportation of foreign nationals by air

comments

- **prior to and in the course of a deportation operation, any medication should only be administered with the consent of the foreign national concerned (or, if the person is treated against his/her will pursuant to the Mental Health Act, in accordance with all the relevant safeguards) (paragraph 57);**

The police do not administer medication to deportees. Any medication to be administered to deportees is administered by medical staff only. In the event that medications prescribed to the deportee need to be held by the police en route owing to considerations of transport security, these are dispensed to the deportee for personal administration in accordance with the instructions given by the doctor.

- **an independent external monitoring procedure of deportation operations might usefully be introduced, and the recording of deportation operations by audiovisual means (in particular for deportations expected to be problematic) should be considered (paragraph 57).**

Internal and external legality supervision attend to the legality of the activities of the police. Various means of monitoring the enforcement of deportation are constantly being developed. There is no way of knowing in advance which cases will prove problematic.

Prisons

Preliminary remarks

recommendations

- **a considerably earlier date than 2015 to be set up for the completion of the work aimed at equipping prison cells with sanitary annexes (paragraph 61);**

At the beginning of 2009, there were still 508 cells without proper toilet facilities ("slopping-out cells") being used. One of the goals of the framework agreement for 2001–2010 between the Prison Service and Senate Properties is to modernise all prison wards with slopping-out cells.

Some 40 places in slopping-out cells were decommissioned at Konnunsuo Prison in March 2009. The closure of Konnunsuo Prison in 2011 will further reduce the number of places in cells without toilets by approximately 80. The boys' ward at Kerava Prison was converted into an open ward on 1 April 2009, thus eliminating 77 places in slopping-out cells. The modernisation of the Kuopio and Mikkeli Prisons will be completed in spring 2011, spelling the decommissioning of a total of 55 slopping-out cells.

The only two prisons where cells without proper toilets remain will thereafter be Hämeenlinna Prison and Helsinki Prison. Studies on the modernisation of these prisons and the potential for eliminating the practice of slopping out by other means are currently underway. It has been proposed that the residential use of the northern cell block at Helsinki Prison be discontinued and that the premises be allocated to prisoner activities. Future trends in prisoner numbers will be taken into account in taking the decisions concerning Helsinki Prison. The plan is to modernise the western cell block at Helsinki Prison, where 73 prison places which are located in cells without toilets, in the years 2011–2012.

No decision has been taken as yet on the commencement of the modernisation of Hämeenlinna Prison, which has a total of 126 places in slopping-out cells; 42 for men and 84 for women.

- **action to be taken in all prisons in Finland to ensure that inmates accommodated in cells without a toilet are granted access to a proper toilet facility at any time of day or night. Such action must involve the provision of an adequate staff presence at night (through the allocation of additional posts or re-deployment of prison officers) (paragraph 61).**

At Kuopio, Konnunsuo and Kerava Prisons, the inmates are granted access to toilet facilities at any time of the day or night. The Criminal Sanctions Agency will oblige in 2009 the directors of Hämeenlinna and Helsinki Prisons as well to ensure that inmates have access to toilet facilities round the clock. Konnunsuo Prison will close down in 2011. The modernisation of Mikkeli Prison will be completed in 2011.

<u>comments</u>

- **the Finnish authorities are invited to pursue their efforts to fully implement the new prison legislation, in particular as regards the provision of adequate activity and rehabilitation programmes to prisoners (paragraph 59);**

The prison service is currently poorly resourced, which has hampered achievement of the aims of prison legislation. Despite this, every attempt is made to adhere to the inmate rehabilitation goals.

In 2008, an individual sentence plan was prepared for 88 percent of all sentenced prisoners who started serving their sentence in the year and for two thirds of all prisoners (including those serving time for unpaid fines, "fine defaulters"). The sentence plan sets the prisoner's objectives for the period of incarceration and the participation of an individual prisoner in activities is planned in accordance with these objectives. An average of 59% of sentenced prisoners attended activities daily. The figure is calculated from available working hours and thus does not indicate the number of individuals who attend activities e.g. on a part-time basis. The total number of prisoners attending activities is thus higher. Rehabilitation and substance abuse programmes accounted for 5.4% of the working hours of prisoners serving sentences.

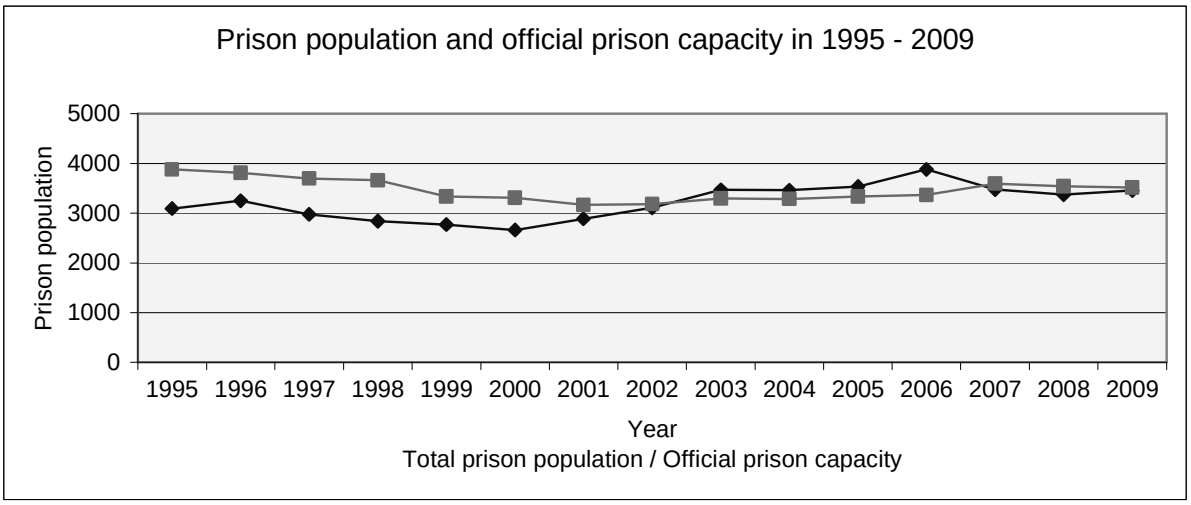
The Criminal Sanctions Agency currently has underway a project to merge the Prison Service and the Probation Service. The central administrations were already merged at the beginning of 2009 and operations as well as the district and local level will merge in 2010. The number of districts will be cut to three. The reorganisation will further enhance client processes, improve the reintegartion into society of inmates released from prison and increase productivity.

- **the CPT trusts that the Finnish authorities will pursue their efforts to combat prison overcrowding and, in so doing, be guided by Recommendation Rec(99)22 of the Committee of Ministers of the Council of Europe concerning prison overcrowding and prison population inflation, as well as Recommendation Rec(2003)22 on conditional release (parole) (paragraph 60).**

The prison population in Finland started to rise in 1999, having until then been in decline. In 2006, the prison population again started to decline and this trend persisted until late 2008. The decline in the prison population starting in 2006 was mainly due to the new provisions on conditional release which entered into force as a part of a reform of the enforcement of prison sentences. Changes to legislation governing conversion sentences for the non-payment of fines have also served to reduce the prison population.

The decline in the prison population seemed to have come to a standstill in late 2008 and early 2009. In early 2009 (1.6.2009), there were an average of 3,634 prisoners registered and 3,434 present in prisons, compared to an official prison capacity of 3,455.

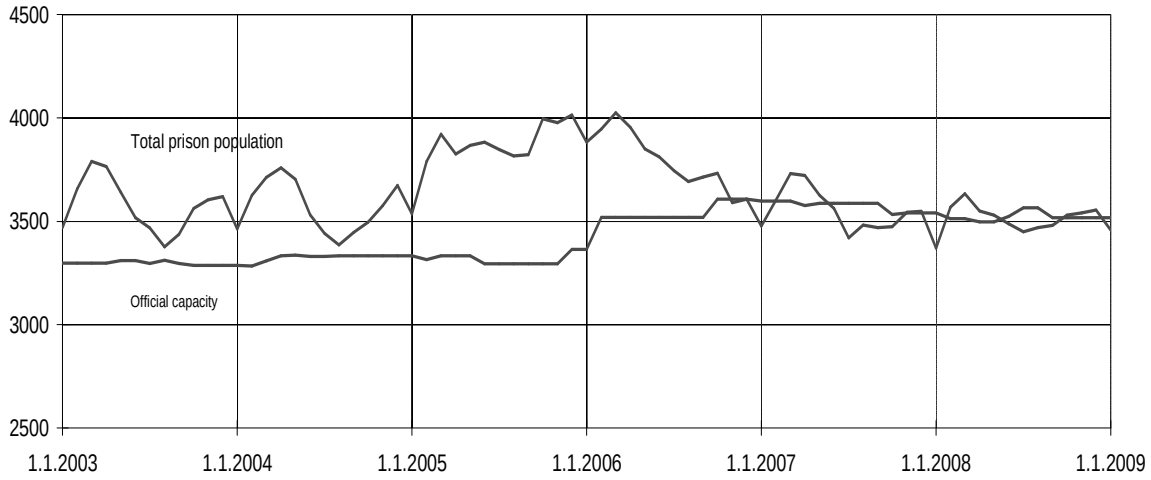
The seasonal variation and development of the prison population from 1995 to 2008 relative to official prison capacity at the first day of each year is shown in the diagram below:



As the diagram indicates, official prison capacity exceeded the prison population until 2002. The fairly severe prison overcrowding experienced between 2003 and 2006 evened out in 2007.

Fairly high annual seasonal variation can also be observed in the prison population. The average population in prisons peaks in winter and stands at its lowest in summer.

Seasonal variation i prison population and places for prisoners according to official capacity 2003-2008



The prison capacity utilisation rate was high in March 2009, nearly 100 percent at all five District (Regional) Prisons.

Despite the increase in recent months, the prison population in Finland remains among the lowest in Europe. It is explained at least in part by the key aim in criminal policy for quite some time having been to manage the number of prisoners. There are no plans to build new prisons; instead, the aim of managing the number of prisoners is pursued by increasing the use of community sanctions enforced at liberty and by seeking to reduce the risk of recidivism. In other words, Finland observes in full the principles enshrined in recommendation R(99)2 concerning prison overcrowding and prison population inflation.

The Ministry of Justice is currently preparing a Government Bill for a new electronically monitored sentence (monitoring sentence) to be enforced at liberty, designed to replace short sentences (no more than 4/8 months) of unconditional imprisonment. In terms of severity, the supervision sentence would fall between unconditional imprisonment and community service, and it could be imposed in the event of there being a special obstacle to the imposition of community service. The aim is to introduce the monitoring sentence at latest 2011. It has been estimated that the supervision sentence would reduce the prison population by an average of 100–150 (4/8 months) prisoners daily.

The new provisions governing conditional release which entered into force in 2006 are also based on the principles enshrined in the recommendation on conditional release (parole) (R(2003)22). In Finland, all prisoners are eligible for parole, prisoners serving life sentences included. As a rule, sentenced prisoners are released after serving half (first-time offenders) or two thirds (recidivists) of their prison sentence. Persons who were under the age of 21 when committing their offence may be released after serving one third (first-time offenders) or half (recidivist) of their prison sentence. Conditional release is the rule rather than the exception, and it is extremely rare for conditional release to be postponed.

Prisoners serving a life sentence may also apply for parole once they have served 12 years of their sentence (ten years in the case of persons who were under the age of 21 when they committed their offence). The decision of release is taken by Helsinki Court of Appeal based on the statements of the prison and the Criminal Sanctions Agency. The prerequisites to release from a life sentence are laid down in Chapter 2c, section 10 of the Penal Code. Key elements when considering release include the nature of the offence, behaviour while incarcerated and achievement of the individual sentence plan.

If a prisoner has been sentenced to serve his entire sentence in prison for a serious offence against the life or health of another, the prisoner may even then be granted discretionary conditional release after serving five sixths of his sentence, providing that he is no longer considered a threat to the life or health of another. The number of prisoners serving their full sentence is extremely low and currently stands at thirty, i.e. 0.8% of all prisoners.

The prison sentence reform carried out in 2006 also created a new form of release, the system of supervised probationary freedom. This refers to the systematic and controlled release of a prisoner no more than six months before ordinary conditional release. One of the conditions of supervised probationary freedom is the prisoner's observance of the individual sentence plan. A prisoner may be supervised by GSM monitoring. If a prisoner serving his full sentence is not granted conditional release upon having served five sixths of his sentence, he shall be granted mandatory supervised probationary freedom three months before the end of his sentence. In 2008, there were an average 50 prisoners per day under supervised probationary freedom.

Ill-treatment and inter-prisoner violence

recommendations

- **a major investment to be made, through initial and ongoing staff training, in the building of positive staff-inmate relations in prison. Such an approach will depend to a great extent on staff possessing and making use of interpersonal communication skills. In this context, action should be taken to ensure that prison officers assigned to high security and closed units, or having in their custody inmates with little human contact with other prisoners, have a genuine commitment to the exercise of such skills in a proactive manner (paragraph 63).**

The Criminal Sanctions Agency Training Institute provides basic training to prison officers and continuing education to all prison staff. The provisions on the basic training of prison officers are laid down in the Government Decree on the Criminal Sanctions Agency Training Institute (1448/2006).

The Imprisonment Act which entered into force in 2006 contains several reforms concerning the standing of prisoners designed to promote face-to-face work during the term of the sentence based on a risk and need assessment of prisoners as a part of systematic prison administration. The principles and obligations enshrined in the Act form the foundation for the training provided by the Criminal Sanctions Agency Training Institute.

The overriding aim of prison officer training is to generate expertise in support of the results-oriented and safe, individually and socially effective enforcement of sentences that is respectful of the prisoner's rights and human dignity.

The practical training, which accounts for five months of the 12-month studies, has the particular aim of moulding the students into prison administration professionals capable of systematically and in a results-oriented manner supervising and rehabilitating persons sentenced to punishment and combining these elements in their face-to-face work.

The practical training comprises daily activities involving supervision and control as well as rehabilitation, guidance and counselling with individual prisoners and groups of prisoners, and also learning tasks relating to face-to-face work. The students' performance is evaluated individually during the training in prisons. The various themes of the theory instruction furthermore include training and exercises relating to interaction skills and catering for the diverse range of inmate material encountered.

Increased interaction and investment in the training of staff are important, yet the scarcity of basic personnel and the allocation of various forms of face-to-face work among several groups of specialists may have resulted in the existing interaction skills of supervision staff not being tapped to an adequate degree in all situations arising in the work.

Inter-prisoner violence and intimidation

recommendations

- **the Finnish authorities to take appropriate measures as regards prisoners segregated for their own safety, in the light of the remarks made in paragraph 65. If necessary, the relevant legal provisions and regulations should be amended (paragraph 65);**

comments

- **the situation observed in Helsinki Prison's ISO-1 Closed Unit, where certain inmates had to completely renounce their right to one hour of daily outdoor exercise or staff had to deny it for security reasons, is totally unacceptable (paragraph 65);**

The region served by Southern Finland District Prison currently has access to several alternatives for the safe placement of prisoners in different prisons and prison wards. Prisoners to be kept segregated are transferred between prisons from time to time. The prisons strive to ensure that no incidents of violence occur and that no acts of violence go undetected.

No one at Vantaa Prison has had to be held in the disciplinary/observation ward to guarantee his safety. Prisoners fearful for their safety have been housed in normal cells in the closed unit and efforts have been made to provide them with activities and contact with the other inmates whenever possible. Contact with other inmates has in practice taken place in the form of common exercise among inmates who do not pose a threat to the health or safety of each other. In addition to outdoor exercise, the inmates have also had access to exercise equipment on the ward. At the beginning of 2009, an entire ward (15 places) was set up for prisoners who cannot interact with other inmates. The said prisoners are charged with sexual offences. The ward has been able to alleviate the prisoners' sense of isolation by offering them an opportunity to cook and bake in the ward kitchen at their request. Outdoor exercise is not denied from prisoners at Vantaa Prison; all inmates wishing to take exercise have been provided one hour of daily outdoor exercise.

Information received from Helsinki Prison gives cause to presume that the case referred to involves the placement of two inmates convicted of sexual crimes in the Eastern Cell Block, which had housed two sexual offenders and an inmate who took a particularly negative view of such crime in general. The sexual offenders had found the situation intimidating.

Attempts have been made to place sufficient staff on the first floor of the Eastern Cell Block so as to guarantee the safety of different prisoners under all circumstances. The placement of each inmate within the prison is given individual consideration, and despite several different wards, especially vexatious situations of prisoner placement arise from time to time, as was the case here. Subsequent to the preliminary observations of the CPT, prisoners requiring particular protection due to the nature of their crime or another reason who cannot be placed elsewhere will in future be placed in a separate four-person ward.

recommendation

- **a national approach to be developed to address the issue of "fearful" prisoners. In particular, these inmates should be provided with appropriate conditions and treatment; access to activities, educational courses and sport should be possible. Moreover, a proactive approach by the prison health-care service towards prisoners on protection is required, particularly as regards psychological and psychiatric care. There should be an individual assessment of their needs at regular intervals and, where appropriate, transfer to another prison should be considered (paragraph 67).**

The Prison Service has been paying ongoing attention to improving the situation of "fearful" prisoners. One of the performance targets in 2007, for example, involved generating information about the reasons underlying non-placement in activities and increasing the activity opportunities of non-placed inmates through part-time activities. However, there remain fearful prisoners especially in facilities where the issue has not been addressed through structural means. Attempts have been made to organise suitable activities for fearful prisoners, but in practice it has not been possible to extend these to all fearful prisoners. The right of fearful prisoners to outdoor exercise and religious services can be catered for, but the range of other activities varies greatly between prisons. In some prisons, separate regular activities are provided for fearful prisoners while in most, activities are mainly interest-based and thus not a daily occurrence. The inmates placed in the third-floor IYS ward (Eastern Night Cells) in Helsinki Prison, for example, who receive threats due to their ethnicity or the nature of their crime, have been provided with instruction in the Finnish language, computer skills and basic studies as well as refresher courses in comprehensive school subjects. The prisoners have also been able to study towards a degree in their cells. There are two prison officers based on the ward daily and their working hours are spent on organising the activities in the ward's daily routine and on supervision. As of the beginning of the year, one instructor has been placed on the ward to increase the range of activities available to the prisoners.

The statement of the Criminal Sanctions Agency concurs with the importance attached by the CPT to the development of a consistent approach, as individual efforts have proven incapable of resolving the issue. A question needing to be addressed is the definition of fearful prisoner. At the moment, "fearful" status is largely based on the inmate's personal perception and the prison lacks any in-depth knowledge as to why the inmate might feel this way. The expert assessment of the prisoners' situation, drawing on psychiatric and psychological expertise as required, would be important to provide the foundation for a detailed plan of action in respect of each individual. This may be accomplished at an early stage in respect of inmates called to a placement unit; for others, the issue of fearfulness may only come to light at the final placement facility. Health Care Services needs to be integrated even more closely into the prevention of inmates' psychiatric deterioration. Structural solutions also remain in demand in addressing this issue. The Criminal Sanctions Agency is building a consistent approach to the issue of fearfulness in the long term. The expertise of the psychiatrics of Health Care Services and of prison psychologists will make an important contribution to this undertaking.

comments

- **the management and staff of Vantaa and Helsinki Prisons are encouraged to exercise continuing vigilance in order to make sure that no case of inter-prisoner violence goes unnoticed and to make use of all the means at their disposal to prevent such cases. This will depend greatly on having an adequate number of staff present in detention areas and in facilities used by prisoners for activities (paragraph 66).**

Prison management and staff use every means at their disposal to make prison conditions as safe as possible and thus prevent inter-prisoner violence. Within the framework of available resources, every effort is made to keep the detention areas and facilities used by prisoners for activities adequately staffed. Staff is also reminded of constant vigilance as a part of internal staff guidance.

Security officer intelligence activities and other extensive background studies of prisoners in placing them in the various prison wards also play a vital role in the prevention of violence. Good knowledge of the prisoners is also underscored in all activities as a key contributor to preventing inter-prisoner violence.

Prisoners subject to special regimes

recommendations

- **a suitable programme of purposeful activities of a varied nature (including work, education and targeted rehabilitation programmes) to be offered to prisoners held in conditions of high security. This programme should be drawn up and reviewed on the basis of an individualised needs/risk assessment by a multi-disciplinary team (involving, for example, a psychologist and social worker), in consultation with the inmates concerned (paragraph 72).**

The sentence plans of prisoners are the responsibility of the placement unit, which draws on the extensive skills base of its staff. If necessary, a prison may ask the placement unit to re-evaluate the sentence plan in respect of prisoners placed in high-security wards. The problem comes from prisoners placed in high-security wards often being unwilling to take part in activities of any kind or to cooperate with the prison authorities. Participation in a programme of activities may thus meet with opposition, rendering any benefits of such a programme questionable. Motivation and the provision of activities of some kind as well as individualised services are nonetheless of vital importance. The prison can offer additional individualised services, such as access to a psychologist, to inmates placed in high-security wards, whereas the provision of a wider range of activities is problematic due to structural and safety-related concerns.

Riihimäki Prison will introduce its Info TV programme in the current year. The cells are equipped with television sets provided by the prison, and in addition to regular broadcasting, the prison will start broadcasting material produced by the prison on one or two channels. One channel will be set aside for communicating standing orders and bulletins to the inmates. Another channel will start to broadcast study support programming geared to inmates engaging in studies, e.g. transmitting lessons held for prisoners to those unable to attend the sessions. This will lend support to the study pursuits of inmates in high-security wards as well.

The aim is for prisoners to be reallocated to a lower-security ward as soon as possible. The Criminal Sanctions Agency will recommend to the prison that in addition to that described above, inmates could also be offered, at least on a small scale, work to be performed alone or in small groups and flexibly available whenever the inmates are so inclined.

- **the imposition of the restrictions on contact with the outside world mentioned in paragraph 73 to be based on an individual risk assessment (paragraph 73);**

Under the Imprisonment Act, the letter of a prisoner in a high-security ward may be read if necessary to prevent or clear up a crime, to avert a danger threatening the order of the prison, or to protect the safety of an inmate or another person. The use of the telephone for an inmate in a high security ward is conditional upon the inmate consenting to his calls being monitored and also recorded. The right of an inmate placed in a high security ward to have visitors besides their next of kin or attorney may be restricted if there is justified cause to suspect that this Act would be violated in such a meeting.

The monitoring of the contact with the outside world of the prisoners placed in the high security ward at Riihimäki Prison is based on individual risk assessments. The reasons for placement in the high security ward most commonly involve the prevention of criminal activity carried out from the prison or the prevention of escape, and these are the same reasons involved in the restriction of contact.

Under the Imprisonment Act (767/2005), an inmate may be placed in a high security ward also if such placement is justified to guarantee the said inmate’s personal safety. In such a case, the prison has no need to restrict the inmate’s contact with the outside world to any greater degree than is common in prison. One inmate in the high security ward at Riihimäki prison has been placed there for his own safety.

- **the placement of prisoners in the closed units at Helsinki and Riihimäki Prisons to be reviewed, in the light of the remarks made in paragraph 75 (paragraph 75);**

The sentence plans of prisoners placed in the more closed units should steer them towards more open units and as diverse a range of activities as possible. These closed units need to serve as “motivational units,” from which inmates are transferred to more rehabilitative units once motivation is found. Placement in units in prisons is in fact an administrative activity in which no decisions are issued in writing.

Placement in units is linked to placement in activities at Helsinki Prison. Factors taken into consideration in placement are place of activities, safety, prisoner wishes and suitability to the unit in the manner provided in Chapter 5, section 1 of the Imprisonment Act. Helsinki Prison has three closed units into which hard-to-place inmates relieved of activities are placed. The inmate's views are consulted in each case. The first floor of the Eastern Cell Block is set aside for inmates who may pose a risk to prison safety and order as well as inmates to be segregated in accordance with Chapter 18, section 5 of the Imprisonment Act. A written decision is always issued on segregation, the inmate is consulted before the decision is taken and the prisoner is issued the decision as well as instructions for appeal.

The decision on an inmate's activities and thus his unit placement come under regular review as a part of sentence plan updating, which takes place three times a year. In addition, the inmates' situation is subject to less formal ongoing review, which nonetheless is not systematic and is not recorded in the inmate information system. Inmates may also express their own wishes.

The prisoners placed in the closed unit (C3) at Riihimäki Prison all have a disciplinary record, have continued to pursue criminal activities in prison or are involved in organised crime. There are no secret elements in the reasons for these placements. If the reason for the placement remains unclear to the inmate, the inmate may enquire as to it from the prison administration supervisor in charge of the sentence plan. The unit has also introduced "director's office hours" in the current year. These quarterly meetings provide a forum for discussion on matters such as placement, unit activities, problems and interpersonal relationships. Every effort is made to keep the period spent in a closed unit as short as possible.

- **the regime provided to prisoners held in the closed units at Helsinki and Riihimäki Prisons to be reviewed. The objective should be to ensure that such prisoners enjoy a relatively relaxed regime within the confines of their units in order to counter the deleterious effects upon the prisoners' mental health and social skills of living in the bubble-like atmosphere of the unit, and to provide them with a variety of organised activities responding to their individual needs (including work, education and rehabilitation programmes) (paragraph 77);**

The prisons seek to cater for the recommendations of the CPT. There are no obstacles to prisoners in the closed unit at Riihimäki Prison engaging in the programme of activities. Prisoner turnover is kept intentionally high, thus minimising the time spent in the closed unit.

In the Eastern Cell Block of Helsinki Prison, the inmates are provided quite individualised opportunities for outdoor exercise and leisure in the ward, either alone or in small groups as the situation may be. The inmates may take part in activities whenever these are available and may also pursue studies in cell towards a degree. The prison is looking into the possibility of arranging small-scale work or crafts as well as providing the inmates in the unit with access to a computer. The daily routine and an increase in activities will be evaluated based on resources.

The Criminal Sanctions Agency will revisit this issue as a part of the inspection of Riihimäki Prison in March to ensure that the matter has been taken into hand.

- **remand prisoners whose judicially-imposed segregation has ended to be placed on normal location without delay at Vantaa Prison (paragraph 79);**

  An entry of the ending of judicially imposed segregation is made in the inmate information system immediately upon notification to that effect from the court. Thereafter, the prison takes immediate steps to remove the inmate from the closed unit. No inmates are unduly held in the closed unit. However, prison overcrowding may exceptionally give rise to situations preventing an immediate transfer. Vantaa Prison is not aware of any cases of months-long segregation after notification from the court.

- **the Finnish authorities to take resolute action to provide prisoners subjected to judicially-ordered segregation with access to purposeful activities, in order to counteract the negative effects of their being placed in conditions akin to solitary confinement. Further, appropriate steps should be taken to ensure that the application of judicially-ordered segregation to a female prisoner does not adversely affect the regime offered to other prisoners in the female unit at Vantaa Prison (paragraph 81).**

  Since 1 November 2008, no female remand prisoners have been placed at Vantaa Prison except in temporary accommodation in the "travelling cell" ward. Female remand prisoners in the area served by the Southern Finland District Prison are currently concentrated at Hämeenlinna Prison.

  The following activities are provided to male remand prisoners under judicially ordered segregation at Vantaa Prison:

  The prison chaplain visits segregated inmates at their request and gives Holy Communion either in the church or in inmates' cells. Inmates may borrow books from the library cart which comes round the ward once a week.

  Segregated inmates also have access to programmed activities. The prison has staff trained in the individually completed anger management course, and in 2009 two or three employees will be given training in the likewise individually completed "Five discussions about change" scheme. Segregated inmates also have access to individual consultation with a substance abuse counsellor and to acupuncture.

  In 2009, a stationary bicycle will be purchased to provide segregated inmates with an opportunity to exercise and the possibility of performing assembly work in the cells will be examined. Other action in 2009 includes reaching out to third-sector actors, among others, to meet with inmates in the said ward to present their activities.

  <u>comments</u>

- **it is essential, for the effective management of prisoners whose personality or behaviour is likely to mean that they will spend prolonged periods in conditions of high security, that decisions reached about their management are not only fair but can be seen to be fair (paragraph 70).**

  The director of Riihimäki Prison holds a quarterly placement meeting in the high security ward to discuss the placement of prisoners there. Inmates are invited to the meeting but not all inmates wish to attend.

The prison psychologist also works in the high security ward and issues an opinion on inmates in the high security ward for placement purposes.

In addition to the placement process, the same sentence plan monitoring scheme is observed in the high security ward as in respect of other inmates. The prison administration supervisor in charge of the ward updates the sentence plan of each inmate placed in the ward three times a year. The inmate concerned may attend the plan updating session and receive information on his progress. He may also contribute to the plan. These meetings furthermore offer a forum for discussing the reasons for the inmate's placement in the high security ward.

requests for information

- **confirmation that the shelters referred to in paragraph 72 have now been installed in the exercise yards concerned at Riihimäki Prison (paragraph 72);**

Shelters from inclement weather were installed in all secure exercise yards at Riihimäki Prison in late 2008.

- **information on the legal safeguards (e.g. provision of reasoned grounds in writing for any decision to impose or prolong segregation; individual, meaningful and periodic review of the imposition of the measure) established by the Finnish authorities to ensure that court-ordered segregation does not last longer than required (paragraph 79);**

Provisions on the restriction of contact for remand prisoners appear in Chapter 1, section 18b of the Coercive Measures Act:

While pre-trial investigation is pending, the contacts of a remand prisoner to another person may be restricted if there is justified reason to suspect that the contacts endanger the purpose of remand imprisonment. The contacts may be restricted also while the consideration of charges and trial are pending if there is justified reason to suspect that the contacts seriously endanger the purpose of remand imprisonment.

Contacts with the counsel referred to in chapter 8, section 4 of the Act on Remand Imprisonment may not be restricted. Contacts with a close relative, another close person or a representation referred to in chapter 9, section 7 of the Act on Remand Imprisonment may be restricted only for especially weighty reasons relating to the solving of an offence.

The restriction of contacts may contain restrictions in correspondence, use of the telephone, visits or other contacts with the outside world or in spending time with a certain remand prisoner or remand prisoners or with a certain prisoner or prisoners. The restriction of contacts may not be applied more extensively or longer than is necessary.

The restriction of contacts shall be decided on by the court deciding on the imprisonment on presentation of the party submitting the imprisonment request, the prosecutor or the prison director. A temporary restriction of contacts may, upon the request of an official authorised to make an arrest, be decided on also by the prison director or, if the remand prisoner is placed in police detention facilities, an official authorised to make an arrest. If the court, under section 17, adjourns the handling of the matter relating to the imprisonment of a person under arrest, it shall, however, decide on whether to keep in force or change a temporary restriction of contacts imposed on the person under arrest. The restriction of contacts and the basis thereof shall be taken for reconsideration in connection with the reconsideration of the imprisonment referred to in section 22.

The provisions of subsections 1 - 4 on the restriction of contacts of a remand prisoner shall correspondingly apply to the restriction of contacts of a person under arrest and an apprehended person.

The aim of the new section of the Coercive Measures Act which entered into force on 1 October 2006 was to clarify the use of restrictions of contact to be imposed on remand prisoners and the authority to impose such restrictions. In practice, the section has proven somewhat ambiguous.

The matter of remand prisoners' contact has also been addressed by the aforementioned Committee, which proposes clarification and specification of the section concerning contact in respect of the prerequisites and duration of restriction. Provisions on restricting contact are proposed for the new Chapter 4 of the Coercive Measures Act. The continuation or modification of a restriction of contact should be addressed in conjunction with the hearing on detention. According to the proposal, a remand prisoner could also bring the restriction before a court separately, in observance of the provisions concerning re-consideration of detention (the new Chapter 3, section 15 of the Coercive Measures Act). This would mean that a restriction could be brought before a court no earlier than two weeks after the previous hearing. A remand prisoner could appeal a court's decision on restricting contact to a Court of Appeal, which would be obliged to consider the appeal as an urgent matter.

- **remarks of the Finnish authorities on the allegations made by certain prisoners that staff constantly adjourned access to a telephone to a later date (paragraph 82).**

According to information received by the Criminal Sanctions Agency, inmates have not been denied access to the telephone to call their relatives, nor has the opportunity to contact the outside world by telephone been intentionally denied.

Conditions of detention for prisoners in general

recommendations

- **the necessary steps to be taken at Vantaa Prison as regards the accommodation of juveniles, in the light of the remarks made in paragraph 83 (paragraph 83);**

Vantaa Prison has one ward designated for juvenile inmates and if circumstances have forced the placement on the ward of juveniles who for some reason are incapable of interacting or associating with each other, such juveniles have been placed in other prison wards to prevent violence. In future, the prison will take focus attention on not placing a juvenile in the same cell as an adult.

- **the Finnish authorities to redouble their efforts to provide remand prisoners (in particular women and juveniles) at Vantaa Prison with a range of activities corresponding to their needs and legal status (paragraph 87);**

Under Chapter 4, section 1 of the Remand Imprisonment Act, a remand prisoner is not obliged to take part in activities arranged or approved by the prison. If a remand prisoner wishes to take part in activities, he shall be afforded an opportunity thereto inasmuch as possible. Under law, a remand prisoner shall be provided with health care and medical care, psychological services and social rehabilitation. A remand prisoner shall also be secured an opportunity to practice his religion and use the library, and engage in other leisure activities.

The following work activities are available at Vantaa Prison: 20 inmates in assembly work and 6 inmates in wood shop, in addition to which basic services employ 16 inmates in cleaning duties, three inmates in the kitchen and two inmates in the prison laundry. The prison has an activity-oriented ten-place motivational ward, in which the inmates attend activities, in accordance with a weekly programme, geared at life free of substance abuse. The prison also has an eight-place commitment ward in which the inmates, besides committing to freedom from substance abuse, may also take part in activities in accordance with a different weekly programme.

In 2009, two anti-addiction courses (abbreviated substance abuse programmes) as well as two anger management courses will be held at the prison. Inmates may use the gym on a ward-specific basis and in accordance with the weekly programme/daily routine. Vantaa Prison is also involved in the Finnish Red Cross's prison visitor programme and inmates have regular access to parish diaconal workers. The re-launch of NA/AA is being looked into. Within the framework of available resources, the prison seeks to increase and diversify its activities and is looking into cooperation with third-sector actors.

There are no longer any female wards at Vantaa Prison. Every effort is made to provide all juvenile inmates with activities consistent with their needs; particular attention is paid to this matter. The liaison appointed for juvenile inmates focuses on their particular concerns. The deputy director in charge of prison activities monitors the legal status of juvenile inmates and works together with other staff to enhance the range of activities available to them.

The Criminal Sanctions Agency has also observed that a focus in performance targets on activating sentenced prisoners may erode the situation vis-à-vis remand prisoners especially under circumstances of poor resourcing. However, there are also some activities aiming to reduce recidivism to which remand prisoners cannot be directed owing to the presumption of innocence. The placement in activities of remand prisoners whom the warden has designated into segregated activities also presents a problem. One of the goals set by the Criminal Sanctions Agency for the District Prisons for 2008 was to provide prisoners with access to support in attending to matters of a social and critical nature at the beginning of remand. This improved the efficiency of systematic crisis work at the outset in particular. Nonetheless, the Criminal Sanctions Agency will need to pay more attention in future to the activation of remand prisoners as well both in daytime activities and through leisure activities.

- **effective steps to be taken without delay to end the practice of "slopping out" in the Western Wing of Helsinki Prison (paragraph 90).**

The Western Cell Block with 73 places in "slopping-out" cells is slated for modernisation in 2011–2012. The modernisation will also include the construction of toilet facilities in cells. The Criminal Sanctions Agency will oblige prison management to ensure that the inmates have round-the-clock access to toilet facilities already before the modernisation.

comments

- **the Finnish authorities are encouraged to pursue their efforts to ensure that Vantaa Prison operates within its official capacity (paragraph 84);**

Overcrowding at Vantaa Prison has been alleviated by reassigning all female remand prisoners to Hämeenlinna Prison. In March 2009, the prison nonetheless still had a population of 230 inmates compared to an official capacity of 166.

Changes have been made to legislation in Finland aimed at reducing the prison population. Changes have been made to reduce the number of conversion sentences for unpaid fines, and supervised probationary freedom has been introduced. Despite these changes, the prison population has not declined in the manner expected in the entire country. The aim is to further increase the number of prisoners under supervised probationary freedom. In addition, there are plans to introduce a new monitoring sentence, which is expected to further cut the inmate population. Measures geared to lower the prison population are explained in greater detail under paragraph 60.

- **the management of Helsinki and Riihimäki Prisons are invited to pursue efforts to provide more prisoners with purposeful activities tailored to their needs (including work, vocational training, education and targeted rehabilitation programmes) (paragraph 93);**

- **the management of Helsinki Prison is encouraged to further develop the programmes for long-term prisoners, including the provision of targeted rehabilitation programmes and appropriate psychological and social support to assist them to come to terms with their period of incarceration and prevent re-offending after release (paragraph 93).**

Increased prisoner participation in activities is one of the overriding aims of the Imprisonment Act. Measures towards this end include making part-time participation possible in the activities most relevant to their rehabilitation for the majority of inmates.

According to the Imprisonment Act, activities shall reinforce the inmate's readiness for a crime-free lifestyle, maintain and improve the inmate's professional skills and expertise as well as his ability and capacity to work and function, and support the inmate's substance-free lifestyle. During his work and activity period, an inmate is obliged to take part in activities, yet only approximately 59% of inmates attend activities. The figure is calculated from available working hours and thus does not indicate the number of individuals taking part in activities, meaning that the actual number of participants is higher. Most inmates work, just under ten percent study and approximately six percent are enrolled in rehabilitative activities, the target being seven percent. Studies and rehabilitative activities in particular are not offered to an extent equal to the inmates' needs. It should be noted, however, that rehabilitation is seldom a full-time undertaking, meaning that more inmates than indicated above may attend.

The Southern Finland District Prison, to which both Helsinki and Riihimäki Prison belong, will allocate resources in 2009 and thereafter especially to improving rehabilitative activities for inmates. The aim is to offer more effectiveness programmes, everyday skills training and anti-substance abuse programmes.

Helsinki Prison employs two psychologists, two social workers, a chaplain, two substance abuse counsellors and one counsellor tasked with providing the inmates with substance abuse rehabilitation, activity programmes, psychological services, guidance and counselling in social work and family work. The counsellor also engages with the inmates in individual counselling aiming at change. The aim in 2009 is to organise one activity programme aimed at violent offenders (Cognitive Change, duration 7 months), two anger management courses and one Cognitive Skills course. Staff are provided with training in structured individual working methods inasmuch as possible. The aim is also to switch to accredited and structured methods in substance abuse rehabilitation.

<u>requests for information</u>

- **remarks of the Finnish authorities on complaints made by a number of prisoners at Vantaa Prison that the last meal of the day was served as early as 2.30 p.m. (paragraph 84);**

According to the regulations of the Criminal Sanctions Agency, the Prison Service serves inmates four daily meals. On those days which are not actual working days in the prison, the inmates are served breakfast, a combined lunch/dinner and an evening snack.

Prison mealtimes are spread out evenly during the day and the time between the evening snack and breakfast may not exceed twelve hours.

The mealtimes at Vantaa Prison were not in accordance with the Criminal Sanctions Agency's regulation. The Criminal Sanctions Agency has obliged Vantaa Prison to bring its mealtime schedule in line with the regulation without delay.

- **information on decisions taken as regards envisaged action to turn the detention areas of Helsinki Prison's Northern Wing into premises for activities and/or to introduce an open door policy (day and night) within those areas (paragraph 90).**

According to the local plan of the RISEALA 2010 project dated 15 January 2009, the residential premises of Helsinki Prison's Northern Wing will be converted into premises for the inmates' activities after the years 2011–2012. When considering the usage of the premises, regard must also be had to the development of the prison population in Finland and the need for places in closed units.

Health-care services

recommendations

The Health Care Services of the Prison Service make the following specifications in their statement to the activities and staff resourcing described in paragraph 94 of the CPT's report:

> There are five (not six) full-time nurses at Vantaa Prison plus a ward nurse who mainly performs administrative work. There is no nurse present during weekends. In addition to the prison doctor, a psychiatrist is also available for consultation at Vantaa Prison once a week.
>
> Helsinki Prison has four nurses plus a ward nurse who mainly performs administrative work. A psychiatrist has office hours at the prison once a week.
>
> The contracted doctor at Riihimäki Prison is on hand two or three days a week. In addition, since the CPT's inspection, psychiatric consultation has been made available once a week starting February 2009. The prison has three full-time nurses and a ward nurse who mainly performs administrative work.

- **the attendance by a doctor to be increased in each of the prisons visited, in the light of the remarks made in paragraph 95 (paragraph 95);**

Now that a psychiatrist has also started work at Riihimäki Prison, there is a doctor in attendance 3–4 days a week in practice. Helsinki and Vantaa Prisons also have weekly psychiatrist's hours complementing the services of the prison doctors. Taking into account the excellent training and expertise of the nurses, the inmates' health is well attended to.

- **steps to be taken to ensure that someone qualified to provide first aid, preferably with a recognised nursing qualification, is always present, including at night, in the prison establishments visited (paragraph 95);**

  An officer trained in first aid is always present among supervision staff at night.

  The current health-care resources do not permit the night-time presence of a nurse. The possibility of arranging for a nurse to be on call by telephone to the prisons round the clock will be studied in 2009.

- **the Finnish authorities to establish a system of regular visits to Riihimäki Prison by a psychiatrist (paragraph 96);**

  Subsequent to the CPT's inspection, a psychiatrist started holding weekly office hours at Riihimäki Prison in February 2009.

- **steps to be taken to ensure that medical screening of newly arrived prisoners in the three establishments visited is carried out systematically on the day of arrival or the following weekday (paragraph 97);**

  Under the European Prison Rules, a doctor or a nurse reporting to a doctor shall meet with each prisoner as soon as possible after arrival and examine the prisoner unless manifestly unnecessary. Examination and screening by a nurse is considered sufficient.

  Nurses in Finland undergo thorough and lengthy training. At present, prison administration lacks the resources to have a doctor perform all examinations. Prisoners are examined by a nurse within 1–3 days of arrival and referred to a doctor whenever necessary. A thorough medical screening is performed within two weeks by a nurse.

- **the Finnish authorities to take steps to ensure the permanent presence of a nurse trained in psychiatric care at Vantaa Prison's Psychiatric Unit (paragraph 99);**

  comment

  the Finnish authorities are invited to employ staff qualified to provide therapeutic and rehabilitative activities at Vantaa Prison's Psychiatric Unit (paragraph 99);

  Vantaa Prison's Psychiatric Unit has served as a day hospital where the patients are under voluntary care from 7 a.m. to 7 p.m. Outside these hours, the unit serves as an ordinary prison ward with a dedicated prison officer. The unit's staff are highly trained, experienced and motivated. Nursing staff have also attended to duties properly belonging to a social worker, occupational therapist and sports instructor. The unit has cared for patients with multiple disorders and much more severe problems, e.g. delusional schizophrenics and mood disorder patients, than commonly treated at a day hospital (in the civilian sector). Over time, it has become increasingly obvious that the unit's operational setting no longer meets current requirements. The patient material treated at the unit has changed and become more challenging, especially with the increasing prevalence of drug use among inmate patients. The unit is unable to employ involuntary treatment methods in caring for patients.

The CPT's recommendation of converting the unit into a round-the-clock psychiatric hospital unit is the goal. This would also allow involuntary treatment in accordance with the Mental Health Act. The unit shall be staffed by an ordinary multidisciplinary staff and no supervision officers, which calls for a considerable increase in positions and possibly also a modernisation of the premises. Such a change cannot be effected in the short term.

The reorganisation of the criminal sanctions field involves questions as to whether health care in prison administration should be organised within the framework of the general health-care system of society. The Criminal Sanctions Agency holds that the conversion of the Vantaa Prison Psychiatric Unit into a round-the-clock psychiatric hospital unit shall also be determined upon examination of this issue.

- **steps to be taken to ensure that the management of agitated patients is the responsibility of the health-care staff at Vantaa Prison's Psychiatric Unit; all assistance by prison staff in dealing with such patients should be provided under the instructions and close supervision of health-care staff (paragraph 101);**

Reference is made to that stated above with regard to paragraph 99. The ward should be converted into a round-the-clock closed psychiatric unit where involuntary care in accordance with the Mental Health Act could be provided.

- **instructions on the use of stun-guns in prisons to be reviewed, in the light of the remarks made in paragraph 102 (paragraph 102);**

The stun-gun piloted at certain prisons was introduced throughout the Prison Service on 1 April 2009. All users of stun-guns in the facilities will be given training in its use before stun-guns are distributed. This training shall be similar to the stun-gun training provided to police officers. General instructions on the use of stun-guns will also be issued. Stun-guns may only be used by persons specifically selected and trained for the task. The relevant instructions will be forwarded to the CPT upon completion.

In the hierarchy of forcible measures, the stun-gun occupies the same level as the OC spray and the telescopic truncheon. The most appropriate tool of force is chosen based on the individual circumstances in which force needs to be used. The principle guiding the selection of tool is that of the least force required under the circumstances.

The stun-gun was used once at Vantaa Prison during the pilot phase, by an officer specifically trained in its use. The said officer is highly experienced and serves as an instructor in the use of forcible measures. The said situation was judged to be extremely dangerous, as the inmate had wrecked his cell and no contact could be made with him. The inmate charged the officers arriving in his cell and the mildest possible forcible measure was used against him. The inmate was first invited and ordered to calm down, and forcible measures were only used as a last resort. Use of the telescopic truncheon or the OC spray would have been alternatives to the stun-gun. Use of the former would have given rise to an obvious risk of the inmate being injured and in need of subsequent first aid.

- **health-care staff working at Vantaa Prison's Psychiatric Unit to be provided with detailed guidelines on the monitoring of patients placed in a seclusion room, in the light of the remarks made in paragraph 103 (paragraph 103).**

comments

- **the Finnish authorities are invited to provide a less austere and more personalised environment in the patient accommodation area of Vantaa Prison's Psychiatric Unit (paragraph 100);**

Colours, plants and textiles will be employed to make the ward and the accommodation area more comfortable, having regard however to fire safety.

- **the design of the seclusion rooms at Vantaa Prison's Psychiatric Unit is unsuitable (paragraph 103).**

Reference is made to that submitted above with regard to paragraph 99. Prison legislation is currently observed in situations of seclusion. The ward should be converted into a round-the-clock closed psychiatric unit where involuntary treatment in accordance with the Mental Health Act can be provided, in which event the seclusion rooms will also correspond to the needs of a psychiatric facility.

Staff instructions are at present designed together with prison management, as the unit in question is not a closed unit and restrictions on the right of self-determination such as seclusion, in accordance with the Mental Health Act, cannot be applied there. The psychiatric unit staff at present lack the authority to place patients in seclusion.

Under the current Mental Health Act, major patients placed in seclusion in involuntary care need not be constantly monitored; being checked upon by a nurse as instructed is deemed to suffice.

requests for information

- **a copy of the instructions on the use of stun-guns in prisons, as reviewed (paragraph 102).**

- The instructions are currently being drafted and will be forwarded to the CPT as soon as they have been adopted.

Other issues of relevance to the CPT's mandate

recommendations

- **the practice observed at Helsinki Prison, where nurses had to certify that "there were no medical reasons not to isolate" an inmate, to cease immediately (paragraph 106);**

Under Chapter 15, section 8(3) of the Imprisonment Act, a doctor or other official on the health-care staff shall be notified of placement in isolation as soon as possible. Health-care staff shall be consulted if solitary confinement of more than seven days is imposed on an inmate. Enforcement shall be postponed or, if already commenced, suspended if it poses a risk to the inmate's health.

The report of the CPT notes (on page 51) that Finnish law requires that health-care staff are notified of a placement in solitary confinement as soon as possible and that in case of solitary confinement of more than seven days, such staff are heard on the matter, and goes on to find the provision an important safeguard to ensure that health-care staff are in a position to monitor the health of prisoners placed in isolation. The Legal Affairs Committee of Parliament, in the context of amendment of the law, already previously attached importance to the consultation of a doctor or other health-care staff member before the imposition of lengthy periods of solitary confinement.

The explanatory memorandum of Rule 43 of the European Prison Rules states that doctors or qualified nurses should not be forced to find an inmate fit for punishment, but they may advise the prison authorities on the risks posed to the inmate's health by certain measures. They should have a particular duty to those inmates on whom solitary confinement is imposed regardless of reason: disciplinary reasons, their own "dangerous" or "difficult" behaviour, for reasons of criminal investigation or at their own request. Established policy dictates that these inmates should be visited daily.

Under the Imprisonment Act in force, health-care staff shall be consulted when the disciplinary sanction to be imposed exceeds seven days. The intention of the law was for health-care staff in no way to be involved in the imposition of the actual disciplinary sanction, which would also be contrary to the European Prison Rules. The purpose of the consultation is to ensure that health-care staff have an opportunity to express their views as to whether enforcement of the disciplinary sanction poses a risk to the inmate's health. In practice, neither the patient relationship nor confidentiality in health care are compromised, as the consultation of health-care staff does not take place as a part of the disciplinary hearing or in the presence of the inmate.

Solitary confinement of more than seven days is quite rare. In 2008, a total of 55 such sanctions were imposed, 44 of these at closed prisons and 11 at open establishments.

The Criminal Sanctions Agency will conduct a separate review as to whether instructions may be issued to prisons to further protect the patient relationship in practice. According to the statement of the Health Care Services, it will in 2009 draw up a plan to address the issue. The responsibilities of nurse and doctor in evaluating the health status of isolated inmates will also be further clarified at the same time.

- **steps to be taken at Riihimäki Prison to ensure that prisoners in a state of intoxication or presenting violent or suicidal behaviour are promptly provided with appropriate safe clothing when placed in an observation cell (paragraph 108);**

  Riihimäki Prison has provided its staff with written instructions to issue without delay ordinary prison clothing to an inmate placed under observation. The relevant instructions of Riihimäki Prison are enclosed herewith.

- **the Finnish authorities to take steps to ensure that the privacy of prisoners placed in conditions of disciplinary solitary confinement at Helsinki and Vantaa Prisons is preserved when they are using a toilet and washing themselves. This should also apply to inmates placed in observation cells to the greatest extent possible (paragraph 109);**

  Inmates placed in disciplinary solitary confinement and observation cells wash in a separate shower room where there is no camera surveillance, thus preserving their privacy. Inmates serving disciplinary sanctions are not actively monitored by camera surveillance. The same cells are used for the observation of intoxicated inmates, among other things, thus justifying the presence of cameras in the cells. As regards use of the toilet, staff working in the control room are instructed to switch off the monitor for the relevant cell when an inmate in disciplinary solitary confinement is using the facilities. In principle, the prisons see no reason why the camera could not be switched off for the duration of the disciplinary sanction and will take the technical steps necessary to accomplish this.

- **prison staff at Helsinki and Riihimäki Prisons to receive detailed instructions as to the manner in which the measure of placing a prisoner believed to be a "body-packer" under constant observation should be implemented. These instructions should include the inmates' ready access to a toilet at all times (including at night). Arrangements should also be made (e.g. tinted glass partitioning of the toilet facility) to preserve a minimum amount of privacy when the inmates concerned are using a toilet (paragraph 112);**

- **suspected "body-packers" held under constant supervision to be always provided with appropriate bedding for overnight stays (paragraph 112);**

  The Criminal Sanctions Agency will draw up separate instructions on the use of "locked" overalls in the event of their introduction.

  The Prison Service has building planning instructions to be observed in the construction of new prison facilities. The instructions are also observed as applicable in the modernisation of existing facilities. Enclosed is card 093–1013 of the building planning instructions concerning the layout of the observation cell. There is a window between the sampling area and the sample analysis area extending to approximately 80 cm above the floor. This window may be of tinted glass. The inmate is observed by staff from the analysis area via the window, guaranteeing a reasonable degree of privacy for the inmate.

  The Criminal Sanctions Agency will draw the attention of the prisons to providing inmates in observation cells with appropriate bedding.

- **measures to be taken to ensure that up-to-date information leaflets are systematically given to prisoners on their arrival. These leaflets should be available in an appropriate range of languages (paragraph 117).**

  Inmates shall be issued an up-to-date new-arrival guide upon their arrival at the prison. The new-arrival guides will be updated at Southern Finland District Prison starting in spring 2009, subsequent to the entry into force of the disciplinary regulations modelled by the working group thereon. Vantaa Prison will also ensure that leaflets/new-arrival guides are available in an appropriate range of languages. The Criminal Sanctions Agency will ensure that progress in the matter is made in keeping with the CPT's recommendation.

  comments

- **the Finnish authorities are invited to take the necessary measures at Helsinki and Riihimäki Prisons concerning the medical examination and supervising of prisoners suspected of carrying unlawful substances or items inside their body, in the light of the remarks made in paragraph 113 (paragraph 113);**

  The current policy is to transport any inmate with acute symptoms to the health centre or the hospital emergency room for examination. Examination is not within the remit of the Health Care Services.

- **the imposition of the restrictions on visits mentioned in paragraph 115 should be based on an individual risk assessment (paragraph 115);**

  Under current legislation, visits in prison may take place supervised, unsupervised or under special supervision. The classification of visiting areas is based on legislation. Physical contact is prohibited in ordinary supervised visits to prevent drug smuggling. However, the director may grant permission for a "child visit" during which physical contact is permitted. No restrictions apply to physical contact during unsupervised visits.

  The Criminal Policy Department of the Ministry of Justice is preparing a legislative amendment to clarify the arrangements for visits.

- **the Finnish authorities are invited to allocate sufficient resources to the Ombudsman's Office (or to another independent body) to ensure that it is in a position to carry out frequent and unannounced inspections of prison establishments (paragraph 116).**

  By virtue of a decision taken on 30 October 2006, the Ministry for Foreign Affairs appointed a working group tasked with determining the measures required by ratification of the Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted on 18 December 2002. Finland signed the Optional Protocol on 23 September 2003 and it entered into international force on 22 June 2006. The working group is to draft its proposal in the form of a Government Bill, providing it deems this appropriate. The deadline for the working group's report is 31 October 2009.

The draft Government Bill prepared by the working group is likely to propose appointment of the Parliamentary Ombudsman as the national supervisory body to carry out the duties under the Protocol. As far as the financial impacts of the Government Bill are concerned, the new duties would seem to necessitate the allocation of additional resources to the Parliamentary Ombudsman as well as the hiring of at least one additional employee to take charge. Preliminary estimates put the salary inclusive of social security expenses at a minimum of EUR 65,000–75,000 annually and other operating expenses at EUR 25,000–35,000 at the least. The latter also includes items such as the fees and travel expenses of experts necessary for the performance of the duties and serving on an *ad hoc* basis.

In the longer term, the financial impacts of the Bill would depend on whether the duties would require e.g. a considerable expansion of the Parliamentary Ombudsman's current inspection duties.

In evaluating the financial impacts, particular attention should also be paid to any comments issued to Finland by the U.N. sub-committee monitoring enforcement of the Protocol (once it has been nationally implemented).

An itemisation of the financial resources required by the Parliamentary Ombudsman to perform the aforementioned tasks so that the institution might serve as a national supervisory body in the manner referred to in the Protocol may be included in the Government Bill, yet ultimately Parliament decides on its own budget.

requests for information

- **remarks of the Finnish authorities on the allegations received from some inmates at Helsinki Prison that they had been placed in solitary confinement for up to four days, without benefitting from the formal safeguards provided by the disciplinary procedure (paragraph 105);**

A decision of disciplinary sanctions on an inmate may be appealed against under the Imprisonment Act and on a remand prisoner under the Remand Imprisonment Act. The appeal shall initially be lodged with the director of the District Prison, whose decision may in turn be appealed to the Administrative Court.

At Helsinki Prison, all inmates subjected to disciplinary sanctions are given instructions for appeal explaining how to lodge an appeal. Instructions for appeal are given after the disciplinary hearing, at the same time as the decision on solitary confinement is issued to the inmate in writing. The languages of the instructions for appeal are Finnish and Swedish. Whenever necessary, the prison staff verbally explain the substance of the disciplinary decision and the instructions for appeal to foreign inmates. The services of an interpreter are secured if language problems arise. Instructions for appeal to the Administrative Court against the decision of the director of the District Prison are given *mutatis mutandis*.

An inmate has the right to counsel at a disciplinary hearing and in drafting the appeal.

- **remarks of the Finnish authorities on the practice at Helsinki Prison of obliging prisoners believed to be concealing unlawful substances or items inside their body and held in a cell under constant observation to wear "locked" overalls when they were not using a toilet (paragraph 111).**

At a training seminar for Chief Officer in 2005, the Criminal Sanctions Agency issued verbal instructions to suspend the use of "locked" overalls while the pre-trial investigation by the police was pending. Similar instructions were also issued in the report of the prison safety working group in December 2007. Nonetheless, the overalls continued to be in use at Helsinki Prison until the CPT's visit in April 2008. Information of the suspension had failed to reach Helsinki Prison. The overalls have not been used at Helsinki Prison since the CPT's visit.

At present, the trial relating to the use of the overalls is pending before the Supreme Court and the suspension remains in effect until such time that the Supreme Court issues its decision, after which time the Criminal Sanctions Agency will issue new instructions to the prisons on the use of "locked" overalls.

D. PSYCHIATRIC ESTABLISHMENTS

1. Preliminary remarks

- **more detailed information on new draft amendments to the Mental Health Act aimed at creating the possibility for courts to order compulsory outpatient care for forensic patients (paragraph 118);**

The aim is to revise the current provisions of the Mental Health Act to allow a person whose sentence has been waived due to mental condition to be ordered into involuntary care based on a severe mental disorder also other than mental illness. Such mental disorders would mainly comprise severe personality disorders akin to mental illness, such as the personality disorders in cluster A of the DSM IV: paranoid, schizoid and schizotypal personality disorder.

The aim is also to introduce compulsory outpatient care. The working group on the matter proposed (Ministry of Social Affairs and Health 2005) that the duration of compulsory outpatient care would be determined on the basis of the need for treatment. At the latest, compulsory outpatient care would of course end when the need for involuntary care was found no longer to be present. The decision on involuntary care would need to be revisited at six-month intervals and subjected to an Administrative Court for confirmation. The care services in accordance with the treatment plan would be provided in the form of outpatient services in the relevant person's municipality of residence. If a patient under compulsory outpatient care failed to observe the treatment plan prepared within him or if his health so required, the person could be admitted to hospital without a separate observation referral. The hospital would then evaluate the person's need for involuntary care in accordance with the provisions and policies of the Mental Health Act.

Evaluation and preparation of the prerequisites to the legislative amendment and its manner of implementation are currently underway in the Ministry of Social Affairs and Health. The Government is yet to take any decision on the timetable for the reform. State mental hospitals for their part have announced their preparedness to support the implementation of the reform by providing expert counsel in the implementation of compulsory outpatient care services, among other things.

- **more information on the possibility of enlarging the Psychiatric Treatment and Research Unit for Adolescent Intensive Care (EVA) or opening a similar facility in the greater Helsinki area (paragraph 119).**

There are a total of 24 places in the EVA unit and another similar unit in the juvenile ward of the Niuvanniemi mental hospital. The units have now been in operation for six and five years, respectively. During this time, the occupancy rate at the EVA unit has remained good while capacity under-utilisation has been experienced from time to time at the Niuvanniemi unit. Although units intended for difficult-to-treat adolescents would seem to possess adequate capacity to respond to the treatment needs of especially dangerous and difficult-to-treat juveniles, Helsinki University Central Hospital is converting an adolescent psychiatric ward at its Kellokoski Hospital to permit the treatment of especially difficult-to-treat juvenile patients. This unit, located in the greater Helsinki area, would provide services to adolescents in its catchment area.

2. Ill-treatment

- **the management of Vanha Vaasa Psychiatric Hospital is invited to regularly remind staff that patients should be treated with respect and that any form of ill-treatment – including verbal abuse – is unacceptable and will not be tolerated (paragraph 120).**

According to the statement of the Vanha Vaasa facility, the hospital has acted and will also in future act in accordance with the CPT's recommendation.

3. Patients' living conditions

a. Psychiatric Treatment and Research Unit for Adolescent Intensive Care (EVA)

- **steps to be taken to ensure that all juvenile patients have the possibility to take daily outdoor exercise in both a safe and unoppressive environment at the EVA unit (paragraph 122).**

According to the statement of the EVA unit, the view formed by the CPT during its inspection of a juvenile having been at the EVA unit for six consecutive weeks without a chance for outdoor exercise is mistaken. The case most likely involved the opportunity for unrestricted exercise, which allows juveniles to leave the ward independently in order to exercise. Some juvenile patients may be prevented from unrestricted exercise for periods of up to several weeks, yet they take exercise together with their nurses and also take part in group exercise and sports. If a juvenile is incapable of group activities due to his illness, he shall take outdoor exercise under the supervision of one or, if necessary, two nurses.

A fenced-in exercise yard at the Niuvanniemi Hospital was already in place when the juvenile ward was started, meaning it was taken into account already at the planning stage.

4. Treatment and staff

- **steps to be taken at Vanha Vaasa Hospital to improve the clinical review of patients, in the light of the remarks made in paragraph 126 (paragraph 126);**

Elements underscored in the preparation of treatment plans are catering for each patient's individual needs in determining both the frequency of plan review and the members of staff taking part in such review. On the other hand, treatment plan review is but a part of the ongoing clinical multidisciplinary assessment of patients. The management of state mental hospitals are nonetheless aware of the room for improvement in respect of this issue. Raising the educational level of staff has been a strategic development focus for state mental hospitals. The expertise required in the work has been reinforced through e.g. further and continuing education.

The hospital's performance guidance will be used to steer care development efforts so as to allow the review of treatment plans at Vanha Vaasa Hospital in multidisciplinary care meetings at a sufficient frequency. The frequency of this review shall be based on the needs of the patient.

- **a specific register to be set up in all psychiatric establishments in Finland where recourse is had to electroconvulsive therapy (ECT), and patients' informed consent to be sought before undergoing this therapy (paragraph 127). (see paragraph 140)**

Patients receiving ECT are asked for consent before the therapy is administered. In addition, detailed entries as to the execution and effects of the therapy are made in the patient's clinical records. The ECT laboratory holds information on patients treated (as a part of the case history system) and monitoring data on the therapy sessions inclusive of anaesthesiology records (anaesthesiologist). The therapy is administered unilaterally under anaesthetic and using muscle relaxation. ECT is considered a necessary and medically justified therapy especially in the treatment of severe depression.

The supervisory authorities are not aware of any patient safety issues or conduct resulting in reprimands in the administration of ECT. The transition to a nationally consistent electronic clinical records system can be expected to simplify the collection of data on ECT administered.

- **the Finnish authorities are invited to seek to involve more patients at Vanha Vaasa Hospital in activities which correspond to their individual needs and abilities. Further, the offer of individual and group psychotherapy should be increased (paragraph 128);**

The Ministry of Social Affairs and Health states that the aim expressed by the CPT is sought within the framework of available resources. For example, six positions of occupational therapist have been set up at Niuvanniemi Hospital since the CPT's visit in 2003. Extension of the premises of Vanha Vaasa Hospital as well will provide additional opportunities for patient activities.

Particular attention has been paid to on-the-job guidance of state mental hospital staff, who have also widely taken advantage of continuing education opportunities in recent years. Further improvements in care will remain a focus in the performance guidance of state mental hospitals.

- **a reinforcement of the staff qualified to provide psycho-social rehabilitative activities is necessary at Vanha Vaasa Psychiatric Hospital (paragraph 130).**

Attention will be paid to improvements in care at state mental hospitals as a part of performance guidance, and appropriate staffing structure is an element in this consideration.

5. Means of restraint/seclusion

- **staff of the EVA unit should remain vigilant to avoid patients feeling claustrophobic or fearing they cannot breathe while restrained by being rolled in a mat (paragraph 131);**

According to the statement of the EVA unit, this matter is the subject of constant attention. Staff take part in annual continuing education in safe and therapeutic techniques of physical restraining, and all new members of staff are provided training in these issues.

In this context, the CPT should be informed that rolling in a mat was occasionally used as an experimental form of treatment in the juvenile ward of Niuvanniemi Hospital in the years 2004–2005. The treatment has since been abandoned, as other means of pacification and restraint (not involving seclusion) have been felt to better serve juvenile patients and have also proven more effective.

- **information, in due course, on the implementation of the measures described in paragraph 134 at Vanha Vaasa Psychiatric Hospital (paragraph 134);**

- **information on the outcome of the nationwide assessment of procedures and methods used in psychiatric facilities, including seclusion measures, and its implications at legislative level (paragraph 134).**

In their letter of 29 August 2008, the Finnish authorities informed the Committee that a number of measures would be taken at Vanha Vaasa Psychiatric Hospital with a view to reducing recourse to seclusion, in particular the introduction of a more effective recording system (to allow monitoring of the grounds for applying the measure and of the length of seclusion) and the development of rehabilitative activities (through the setting-up of new facilities designed for such activities and the subsequent employment of specialised staff). In addition, steps aimed at improving the conditions in which patients are secluded (e.g. increased time for discussions with the patients concerned, access to reading material and radio) would be taken. More generally, the Finnish authorities indicated that procedures and methods used in psychiatric facilities (such as seclusion) would be subject to review in the context of legislative reforms to be launched in the course of 2009.

Vanha Vaasa Hospital has increased the frequency of discussions with patients placed in seclusion. Access to entertainment in the seclusion area is the rule. The hospital's multidisciplinary seclusion working group has brainstormed ways to humanise seclusion. Among other things, the working group has interviewed patients who have been held in seclusion and modified seclusion activities based on the wishes of these patients. The seclusion facilities in the new building soon to be completed will feature furnishings and other similar tools to improve the conditions for patients. Whenever possible, the patient's own room is used as the seclusion facility, allowing the patient to remain in a familiar setting, watch TV when desired, etc. Particular attention is paid to the importance of humane treatment.

According to information provided by Vanha Vaasa Hospital, the number of secluded patients reported by the CPT is 2.5 times higher than the number reported by Vanha Vaasa Hospital. A total of eleven patients have been held in seclusion in the current year. Six of these were patients who had been held in seclusion on several occasions and for long periods of time. Each case with a history of seclusion exceeding one week is always addressed in Vanha Vaasa Hospital's Chief's rounds together with a multidisciplinary team.

With regard to the request for information concerning the entire country, we submit the following:

Psychiatric hospitals in Finland employ room seclusion, which is referred to as seclusion, and seclusion in restraints, which is referred to as mechanical restraint. The conditions to the use of either are defined in the Mental Health Act and no particular need to revise legislation has come to light. The working group preparing the national mental health and substance abuse plan proposed that the wishes of the patient expressed in advance be taken into account when using coercive means, for example in the case of seclusion, whether to employ room seclusion or mechanical restraint.

The application of restrictions of the right of self-determination is monitored in two distinct ways:

1. Hospitals report to the State Provincial Offices at two-week intervals on all restrictions of the right of self-determination imposed as well as the duration of these.
2. Any coercive means applied to a patient are reported to the hospital discharge register upon discharge of the patient.

A problem arises from a lack of communication and common registers between the two monitoring systems.

Involuntary psychiatric care remains fairly common in Finland. Approximately one third of all psychiatric patients are under involuntary care. Roughly eight percent of all patients treated experience seclusion each year, slightly over 4% are mechanically restrained and slightly over 3% receive involuntary injection medication. The figures have remained unchanged throughout the monitoring period running from 2002 to 2007. There is considerable regional variance.

In accordance with the national mental health and substance abuse plan, the aim is to launch a national programme to reduce the occurrence of restrictions of the right of self-determination in psychiatric care. This programme, to be implemented in 2009–2015, will extend to all psychiatric hospitals in Finland. The programme is coordinated by the National Institute for Health and Welfare and it aims to reduce restrictions of the right of self-determination by roughly 40 percent.

In addition, a development project seeking to reduce restrictions of the patients' right of self-determination was launched at Niuvanniemi Hospital in 2008. The project will conclude at the end of 2009, before which time extension of the project will be evaluated. The project seeks to reduce the application of coercive means at Niuvanniemi Hospital and to generate data for the purpose of developing forensic psychiatric care.

- **the standards of recording and reporting as regards the use of restraint mats and chemical restraint should be the same as for recourse to mechanical restraint and seclusion at the EVA unit (paragraph 135);**

The recording policies at the EVA unit are in accordance with the Mental Health Act in force. The views expressed by the CPT will be had regard to when reforming legislation, at which time the provisions and recording procedures concerning restriction policies will also be revised.

- **the Finnish authorities are encouraged to continue their efforts to provide staff in direct contact with patients with initial and refresher training in manual control and other means of restraint vis-à-vis agitated or violent patients (paragraph 136).**

Attention has constantly been paid to this matter at the treatment units. The EVA unit as well as state mental hospitals observe the recommendations of the CPT, as do other establishments. Training will be a key element in the national programme to reduce the use of restraint. The aim is for the programme to reduce the use of restraint at psychiatric hospitals to comprise involuntary care, best practices and attitude education through e.g. training and peer evaluations between hospitals.

6. Safeguards

recommendations

- **the existing legal provisions to be amended so as to provide for a psychiatric opinion (independent of the hospital in which the patient is placed) in the context of the initiation and review of the measure of involuntary hospitalisation (paragraph 138);.**

Pursuant to the Mental Health Act, the initiation of involuntary care requires the opinion of four doctors as to the fulfilment of the prerequisites for involuntary care, which has been deemed sufficient to safeguard the legal protection of the patient. The patient has access to a two-tiered system of appeal against the initiation of involuntary care and also has the right to be heard. In respect of minors, the first decision on involuntary care is already brought before the Administrative Court for confirmation. A decision to continue involuntary care is always subject to the confirmation of the Administrative Court. A patient is entitled to appeal his placement in involuntary care to the Administrative Court and the patient may also appear in the Administrative Court or Supreme Administrative Court to speak on his own behalf.

The national mental health and substance abuse plan proposes, based on the comments of the CPT, that a policy of obtaining a second opinion from an outside expert be established in psychiatric hospital care. The aim of this policy would be to increase the reliability, openness and transparency of decision-making as well as to enhance the legal protection of a person under involuntary care. The outside expert would be a psychiatrist unaffiliated with the care organisation and he could also draw on other experts in drafting his opinion. The aim is for hospitals to provide patients with assistance in locating an outside expert if the patient so desires.

The need to reform the provisions on involuntary care will be evaluated in connection with the reform of the Mental Health Act, having regard to inter alia the recommendations of the CPT.

- **the Finnish authorities to take effective steps to ensure that there is always a meaningful and expedient court review of the measure of involuntary hospitalisation (paragraph 139);**

- **steps to be taken to ensure that psychiatric patients have the effective right to be heard in person by the judge during the involuntary hospitalisation procedure (paragraph 139);**

Under section 24 of the Mental Health Act, an appeal may be lodged with the Administrative Court against the decision of a hospital physician to order a person into care or to continue care against the person’s will. The lengthy time required for the Administrative Court to consider such an appeal poses some problems, however.

Upon reform of the Mental Health Act, the duties of the health authorities and the judicial authorities in initiating and continuing involuntary care will be evaluated in order to safeguard the legal protection of patients. In this evaluation, regard will be had inter alia to the views expressed by the CPT.

- **a special form relating to informed consent to treatment, signed by the patient and (if he is incompetent) by his legal representative, to be introduced at the EVA unit and Vanha Vaasa Hospital (as well as in all other psychiatric establishments in Finland). The relevant legislation should be amended so as to require an external psychiatric opinion in any case where a patient does not agree with the treatment proposed by the establishment's doctors; further, patients should be able to appeal against a compulsory treatment decision to the court (paragraph 140);**

  Section 6 of the Act on the Status and Rights of Patients requires that a patient has to be cared in mutual understanding with him/her. If the patient refuses a certain treatment or measure, he/she has to be cared, as far as possible, in other medically acceptable way in mutual understanding with him/her. If a major patient because of mental disturbance or mental retardation or for other reason cannot decide on the treatment given to him/her, the legal representative or a family member or other close person of the patient has to be heard before making an important decision concerning treatment to assess what kind of treatment would be in accordance with the patient's will. If this matter cannot be assessed, the patient has to be given a treatment that can be considered to be in accordance with his/her personal interests.

  Treatment guidelines are discussed with the patient in a manner understandable to him, but in Finland treatment is not conditional upon written consent. The patient's views as to treatment are entered in the clinical records. The same policies shall be observed in psychiatric and somatic treatment. A patient may refuse treatment pursuant to the aforementioned Act. The conditions for involuntary treatment are defined in the Mental Health Act.

  Reform of the Mental Health Act will necessitate an extensive review of the policies observed in Finland as well as possible alternative approaches. The implementation potential of the recommendations made by the CPT will also be evaluated at this juncture.

- **a brochure setting out in a comprehensible manner patients' rights to be drawn up and systematically provided to patients and their families on admission (paragraph 141);**

  The policy is already in place at several hospitals. Cooperation with patient organisations is also vital to this issue.

- **steps to be taken to ensure that involuntary psychiatric patients have effective access to legal assistance (independent of the admitting hospital), if necessary free of charge (paragraph 143);**

  Legal assistance is also intended for psychiatric patients. Patients are entitled to contact an attorney if they so desire. Patient ombudsmen are tasked with assisting patients as necessary in legal matters relating to health care and medical care. Municipal residents without means are provided municipal legal aid free of charge. The realisation of current rights and structures will be examined inter alia as a part of the reform of the patient ombudsman system.

- **steps to be taken to ensure that psychiatric establishments in Finland are visited on a regular basis by independent outside bodies responsible for the inspection of patients' care. These bodies should be authorised, in particular, to talk privately with patients, receive directly any complaints which they might have and make any necessary recommendations. Further, the management of all psychiatric establishments should be duly informed of the results of any inspections carried out on their premises (paragraph 144).**

  Health care in Finland has in place established responsibilities and policies concerning compliance with laws, decrees, quality recommendations and the specific Current Care guidelines as well as international conventions and recommendations.

  Psychiatric hospitals are regularly inspected by both the Parliamentary Ombudsman and by representatives of the State Provincial Offices. A joint task force of the National Supervisory Authority for Welfare and Health (Valvira) and the State Provincial Offices has drafted uniform instructions for these inspections, which instructions are followed by all State Provincial Offices. State establishments are also inspected by the Parliamentary Ombudsman and representatives of the social affairs and health departments of the State Provincial Offices. A greater degree of external and independent evaluation is a commendable trend in the development of care and the care system.