



**Report to the Swedish Government
on the visit to Sweden
carried out by the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)
from 15 to 25 February 1998**

and

**Interim report of the Swedish Government
in response to the CPT's report**

The Swedish authorities have agreed to the publication of the CPT's report on its visit to Sweden, with the interim report of the Swedish Government in response.

Strasbourg, 25 February 1999

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(CPT)**

from 15 to 25 February 1998

(adopted on 3 July 1998)

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Copy of the letter transmitting the CPT's report

Strasbourg, 24 July 1998

Dear Sirs,

In pursuance of Article 10, paragraph 1, of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment, I have the honour to enclose herewith the report to the Government of Sweden drawn up by the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) after its visit to Sweden from 15 to 25 February 1998. The report was adopted by the CPT at its 36th meeting, held from 29 June to 3 July 1998.

I would draw your attention in particular to paragraph 103 of the report, in which the Committee requests the Swedish authorities to provide an interim and a follow-up report on action taken upon its report. It would be most helpful if the Swedish authorities could provide copies of their reports in a computer-readable form.

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

Finally, I would be grateful if you could acknowledge receipt of this letter.

Yours faithfully,

Ivan ZAKINE
President of the European Committee for
the prevention of torture and inhuman
or degrading treatment or punishment

**Ministry for Foreign Affairs
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Sweden**

I. INTRODUCTION

A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to Sweden from 15 to 25 February 1998. The visit formed part of the CPT's programme of periodic visits for 1998, and was the second periodic visit to Sweden to be carried out by the Committee.¹

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

- Ms Gisela PERREN-KLINGLER, Head of the delegation;
- Ms Emilia DRUMEVA;
- Mr Zdeněk HÁJEK;
- Mr Adam ŁAPTAŚ;
- Mr Demetrios STYLIANIDES.

They were assisted by:

- Ms Catherine HAYES, General practitioner, Dublin, Ireland (expert);
- Mr Rod MORGAN, Professor of Criminal Justice, University of Bristol, United Kingdom (expert);
- Ms Anna Maria HEMPH-MORAN (interpreter) (from 21 to 25 February 1998);
- Ms Anne LAMMING (interpreter);
- Ms Annika PLANK (interpreter) (from 15 to 20 February 1998);
- Ms Louise RATFORD (interpreter);
- Mr Alan REES (interpreter);

and were accompanied by the following members of the CPT's Secretariat:

- Mr Mark KELLY;
- Mr Jan MALINOWSKI.

¹ The first periodic visit to Sweden took place in May 1991; the CPT also carried out an ad hoc visit to Stockholm Remand Prison in August 1994.

B. Establishments visited

3. The delegation visited the following places of detention:

Police establishmentsMalmö

- Police Headquarters
- Davidshall Police Station

Stockholm

- Police Headquarters^(*)
- Norrmalm^(*), Solna and Södermalm District Headquarters
- Police facilities at Arlanda Airport^(*)

Prisons

- Malmö Remand Prison
- Stockholm Remand Prison (Kronoberg)^(*)^(**)
- Österåker Prison

Detention centres for immigration detainees

- Stockholm Region Detention Centre (Carlslund), Upplands Väsby^(*)

C. Consultations held by the delegation

4. The delegation held consultations with the national authorities and with representatives of non-governmental organisations and other persons active in areas of concern to the CPT. In addition, numerous meetings were held with local officials in charge of the places visited.

A list of the national authorities, non-governmental organisations and other persons with whom the delegation held talks is set out in Appendix II to this report.

(*) Establishment visited for the first time in 1991.

(**) Establishment visited in 1994.

D. Cooperation between the CPT and the Swedish authorities

5. The CPT wishes at the outset to underline that the degree of cooperation which prevailed during the visit was exemplary.

The delegation was received by the Minister for Justice, Ms Laila FREIVALDS. Further, in the course of the visit, the delegation held fruitful consultations with Ms Kristina RENNERTEDT, State Secretary in the Ministry of Justice, Ms Gun-Britt ANDERSSON, State Secretary for Migration and Asylum Policy in the Ministry of Foreign Affairs, and Mr Ulf WESTERBERG, State Secretary in the Ministry of Health and Social Affairs, as well as with other senior officials in those Ministries. It also held productive meetings with officials from the National Prison and Probation Administration, the Swedish Immigration Board and the Aliens Appeals Board.

Further, the delegation had interesting discussions with Mr Claes EKLUNDH, Chief Parliamentary Ombudsman, Mr Jan PENNLÖV, Parliamentary Ombudsman, and senior members of their staff, with a number of judges and public prosecutors and with the Head of the Internal Affairs Department of the Stockholm Police.

6. It should be added that the delegation received a very satisfactory reception at - and in particular rapid access to - all of the establishments visited, including places which had not been notified in advance of the CPT's intention to carry out a visit. Indeed, it would appear that the management of all of the places of detention visited had been informed of the possibility of a visit by the Committee and were reasonably knowledgeable about its mandate.

7. The CPT is also pleased to note that, taken as a whole, the content of its ongoing dialogue with the Swedish authorities and its delegation's findings during the 1998 visit clearly indicate that those authorities are committed to taking positive action to implement its recommendations.

In short, co-operation between the CPT and the Swedish authorities has to date been fully in compliance with Article 3 of the Convention.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Police establishments

1. Preliminary remarks

8. The CPT understands that the basic rules concerning the detention and treatment of persons held by the police have not changed since the 1991 periodic visit to Sweden. Those rules were summarised in the report drawn up following that visit (cf. CPT/Inf (92) 4, paragraphs 15 and 16, as well as Appendix III, paragraphs 8 et seq.).

2. Ill-treatment

9. None of the persons interviewed by the delegation who were or who had been detained by the police made allegations of physical ill-treatment by the police. However, a few persons claimed that they had been subjected to verbal abuse by police officers.

Nevertheless, the CPT did receive information from other sources to the effect that complaints of ill-treatment had recently been lodged by three persons who had been detained in connection with drug-related offences by officers attached to the Norrmalm District Headquarters in Stockholm; the ill-treatment in question concerned the use of excessive force at the time of arrest and the infliction of blows once the detainees had been taken to police premises. Further, a senior police officer spoken to at the Solna District Headquarters in Stockholm intimated that, some three weeks previously, a police officer had reported that a fellow officer had without justification punched and kicked a suspect who had already been brought under control.

In order to gain a nationwide picture, **the CPT would like to receive the following information, in respect of 1997 and the first half of 1998:**

- **the number of complaints of ill-treatment by the police lodged and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;**
- **an account of the disciplinary/criminal sanctions imposed on the grounds of ill-treatment by the police.**

10. Although the information gathered during the visit would tend to suggest that persons deprived of their liberty by the police in Sweden run relatively little risk of being ill-treated, **the CPT wishes to stress the importance of senior police officers regularly reminding their subordinates that ill-treatment is not acceptable and will be the subject of severe sanctions.**

As regards, more particularly, the alleged use of excessive force at the time of arrest, the CPT fully recognises that the arrest of a criminal suspect is often a hazardous task, in particular if the person concerned resists arrest and/or is someone whom the police have good reason to believe represents an immediate danger. The circumstances of an arrest may be such that injuries are sustained by the person concerned (and by police officers) without this being the result of an intention to inflict ill-treatment. However, no more force than is reasonably necessary should be used when effecting an arrest. Furthermore, once arrested persons have been brought under control, there can be no justification for them being struck by police officers.

The CPT recommends that police officers be reminded of these precepts.

11. Lastly, it is axiomatic that **the existence of effective mechanisms to tackle police misconduct is an important safeguard against the ill-treatment of persons deprived of their liberty. The imposition of appropriate disciplinary and/or criminal penalties in those cases where evidence of wrongdoing emerges can have a powerful dissuasive effect on police officers who might otherwise be minded to engage in ill-treatment** (cf. also in this connection paragraphs 27 to 29).

3. Conditions of detention

a. introduction

12. All police cells should be clean, of a reasonable size for the number of persons they are used to accommodate, and have adequate lighting (i.e. sufficient to read by, sleeping periods excluded) and ventilation; preferably, cells should enjoy natural light. Further, cells should be equipped with a means of rest (e.g. a fixed chair or bench), and persons obliged to stay overnight in custody should be provided with a clean mattress and clean blankets.

Persons in police custody should be allowed to comply with the needs of nature when necessary, in clean and decent conditions, and be offered adequate washing facilities. They should have ready access to drinking water and be given food at appropriate times, including at least one full meal (i.e. something more substantial than a sandwich) every day. Persons held for extended periods (24 hours or more) should be provided with appropriate personal hygiene items and, as far as possible, be offered outdoor exercise every day.

b. situation in the establishments visited

13. Conditions of detention in the police establishments visited were by and large of a good standard and, in particular, complied on the whole with the criteria set out in paragraph 12 above.

Most of the cells seen were of a reasonable size for the number of persons they were intended to accommodate (7 to 8 m² or more for cells intended to accommodate one detainee overnight). The only exceptions were certain cells used for overnight accommodation at Davidshall Police Station in Malmö, which measured less than 5.5 m²; **a cell of such a size is far from ideal as overnight accommodation.** All of the cells seen were clean, adequately lit and well-ventilated.

Cells used to accommodate persons who had been "arrested" ("anhållna")² by a public prosecutor were fitted with a bed or sleeping platform and a table and stool; detainees in this category were systematically offered a mattress and blankets and, on occasion, disposable sheets. The situation was not always as favourable for persons "apprehended" ("gripna")³ by the police or for those "taken into care" ("omhändertagna")⁴ e.g. because they were inebriated. In particular, detainees held in cells for apprehended persons at Norrmalm District Headquarters in Stockholm and in the cells for inebriated persons at Malmö Police Headquarters were not provided with a mattress (or blankets) even if they were held overnight.

The CPT recommends that steps be taken to ensure that any person held overnight at Norrmalm District Headquarters and at Malmö Police Headquarters - regardless of his/her legal status - is provided with a mattress.

More generally, **the CPT recommends that the Swedish authorities take steps to ensure that conditions of detention in all police establishments in Sweden comply with the criteria set out in paragraph 12.** In this respect, the Committee understands that the Swedish authorities have produced regulations on the conditions of detention which should obtain in police cells. **It would like to receive a copy of any such regulations.**

14. It should also be recalled that, in the report on its 1991 visit, the CPT criticised the 1.45 m² holding cubicles found at Stockholm Police Headquarters; it recommended that they be either enlarged or dismantled. However, at the time of the 1998 visit, those cubicles were still in existence (albeit not in use) and were shortly to be replaced by new facilities of an identical size. Similar cubicles were being used at the time of the visit to Malmö Police Headquarters. The CPT wishes to stress that, by virtue of their size alone, such facilities are not suitable to hold a person for any length of time whatsoever.

It recommends that the cubicles concerned - and any facilities of a similar size which may exist in other police establishments in Sweden - be withdrawn from service.

² Arrested persons may be held on police premises for up to four days.

³ Apprehended persons may be held by the police for a maximum of twelve hours.

⁴ Persons taken into care may be held by the police for up to six hours.

4. Safeguards against the ill-treatment of detained persons

a. introduction

15. The CPT attaches particular importance to three rights for persons deprived of their liberty by the police:

- the right of those concerned to inform a close relative or another third party of their choice of their situation,
- the right of access to a lawyer,
- the right of access to a doctor.

The CPT considers that these three rights are fundamental safeguards against the ill-treatment of persons deprived of their liberty, which should apply from the very outset of custody (that is, from the moment when the persons concerned are obliged to remain with the police).

Moreover, in the view of the CPT, it is equally fundamental that detained persons be informed without delay of all their rights, including those mentioned above.

b. notification of custody

16. In the report drawn up following its first periodic visit to Sweden (cf. CPT/Inf (92) 4, paragraph 24), the CPT recommended that persons in police custody should have the right as from the outset of their custody to have the fact that they have been detained notified to their next of kin or another third party of their choice, and that any possibility to delay the exercise of this right should be clearly circumscribed, accompanied by appropriate safeguards and made subject to an express time limit.

In their interim and follow-up reports, the Swedish authorities indicated that the implementation of this recommendation would require amendments to Chapter 24 of the Code of Judicial Procedure, a matter which was to be studied in further detail by the Ministry of Justice.

By the time of the CPT's second periodic visit, the formal legal situation was unchanged: it remained the case that persons deprived of their liberty by the police had no formal right to notify another person of that fact. Save as regards minors, the police continued to enjoy a discretion to delay notification of custody for some considerable time if they considered that this was in the interests of the investigation.

17. The information gathered during the visit suggests that police practice as regards notification of custody varies from case to case. While some detainees interviewed indicated that they had been promptly offered the possibility to inform a third party of their detention, others claimed that they had not received such an offer or that it had been made only after they had spent several hours in police custody. Discussions held with officers in the police stations visited tended to confirm the existence of a diversity of approaches.

18. In the course of the visit, senior officials at the Ministry of Justice informed the delegation that the Minister for Justice has now accepted that there is a need to make formal provision for persons detained by the police in Sweden to enjoy the right to inform a close relative or another third party of their choice of their situation, and is committed to taking action to introduce this right.

The CPT welcomes this development **and would like to receive further information on the steps being taken to implement its recommendation on this subject.**

The Committee also wishes to stress that all persons deprived of their liberty by the police - including those arrested, apprehended, taken into care or being questioned as potential witnesses - should be guaranteed the above-mentioned right, and that it should apply as from the moment when they are first obliged to remain with the police. Further, it wishes to reiterate that any possibility exceptionally to delay the exercise of this right should be clearly circumscribed by law, made subject to appropriate safeguards (e.g. any such delay to be recorded in writing together with the reasons therefor and to require the approval of a senior police officer or a public prosecutor) and strictly limited in time.

c. access to a lawyer

19. The CPT has previously noted that formal provision is made in Swedish law as regards the right of access to a lawyer for persons who have been arrested by a public prosecutor or remanded in custody by a court; however, the situation is less clear as regards access to a lawyer during the pre-arrest stage of police custody (cf. paragraph 25 of the report on the 1991 visit to Sweden). The Committee has recommended that it be expressly provided that persons deprived of their liberty by the police have the right of access to a lawyer as from the very outset of custody.

In the context of its ongoing dialogue with the Swedish authorities, the latter have made clear that persons suspected of a criminal offence have a right of access to a lawyer as from the moment when that suspicion first arises. They have also provided clarification as to the extent of that right and the manner in which it operates. Further, the CPT has noted that "when a person who may be suspected of crime on reasonable grounds is informed of this suspicion, the person responsible for questioning ... is obliged to inform the person concerned of this right" (cf. documents CPT/Inf (92) 6, page 8 and CPT/Inf (93) 7, page 5).

20. The CPT's 1998 delegation found that persons suspected of a criminal offence were systematically informed, immediately before their first formal interrogation by the police, of their right to appoint a lawyer; further, they were often offered the possibility to have the proceedings suspended in order to consult with a lawyer or to have the latter present during questioning. However, it also remained true that, in most cases, detained persons spent several hours on police premises before being informed of their right of access to a lawyer.

21. In the light of the information gathered by its delegation, the CPT wishes again to stress that it is during the period immediately following deprivation of liberty that the risk of intimidation and ill-treatment is greatest. It is therefore essential that the right of access to a lawyer be guaranteed to all persons obliged to remain with the police as from the very outset of their custody, and not only from the moment when such persons become criminal suspects or are first interrogated by a police officer.

The CPT recommends that the necessary measures be taken to extend the right of access to a lawyer to all categories of persons who may be obliged to remain with the police - including those being questioned as potential witnesses, apprehended or taken into care - as from the very outset of their custody.

d. access to a doctor

22. In the report on the first periodic visit to Sweden (cf. CPT/Inf (92) 4, paragraph 31), the CPT *inter alia* recommended that persons deprived of their liberty by the police should be able to be examined by a doctor of their own choice.

In their follow-up report, the Swedish authorities stated that "a person held in police custody shall ... be examined by a doctor as soon as possible if he is considered to require medical attention or if he requests that a doctor should be called in. However, ... such an examination need not be carried out if it is clearly unnecessary." It was further indicated that the CPT's remarks had "led the Ministry of Justice to initiate a legislative process in the course of which these questions [would] be considered in greater detail" (cf. CPT/Inf (93) 7, page 6).

Further, in the course of the 1998 visit, the delegation was informed by the Swedish authorities that, in accordance with the principle of "normalisation", persons held in police custody in Sweden maintain their full civic right to have access to a doctor, including to a doctor of their own choice.

23. The delegation found that, in practice, detainees whom the police considered required medical attention received appropriate care (e.g. through transfer to a local hospital). However, it remained unclear whether detainees were allowed to see a doctor if the police were not of the opinion that medical care was required.

24. The CPT considers that, as matters stand, the absence of a specific reference to the right of access to a doctor in the legislation governing deprivation of liberty by the police may serve to limit the extent to which persons detained continue to enjoy that right. Consequently, **it recommends that the right of persons deprived of their liberty by the police to have access to a doctor - including, if they so wish, to one of their own choice - be made the subject of a specific legal provision.**

e. information on rights

25. In the report on its 1991 visit, the CPT recommended that, in order to ensure that persons in police custody are duly informed of their rights to have a third party notified of their situation and to have access to a lawyer, a form setting out these rights be given systematically to such persons at the outset of their custody (cf. CPT/Inf (92) 4, paragraph 29).

In their response (cf. CPT/Inf (92) 6, page 9), the Swedish authorities indicated that it would be possible to introduce the arrangements recommended by the CPT by amending the Preliminary Investigation Decree. It was also suggested that the National Police Board and/or the Prosecutor-General might be given the task of determining the wording of the relevant form.

However, by the time of the second periodic visit, such a form had not yet been introduced.

26. The CPT has noted with interest that, during the 1998 visit, its delegation was informed that the Minister for Justice had declared herself prepared to make more explicit provision for all persons held by the police to be informed of their rights as regards notification of custody and access to a lawyer. In the view of the CPT, any such provision should also include information on a detained person's right of access to a doctor, including one of his/her own choice. Indeed, as already indicated (cf. paragraph 15), detained persons should be informed of all of their rights as from the moment when they are first obliged to remain with the police.

In order to ensure that persons in police custody are duly informed of their rights, **the CPT recommends that a form setting out those rights in a straightforward manner be systematically given to such persons at the very outset of their deprivation of liberty. The form should be available in an appropriate range of languages.**

f. complaints procedures

27. The importance of the existence of effective procedures for examining complaints against the police has already been highlighted (cf. paragraph 11).

Complaints against the police can be made at any police station in Sweden and, in the case of the three largest cities (Stockholm, Gothenburg and Malmö), submitted directly to specialist police complaints units. When such complaints are received, police investigators gather all available documentation (custody and incident records, reports on the use of force etc.) and - in every case - forward them to a public prosecutor, who decides whether or not the complaint should be the subject of a "preliminary investigation" with a view to bringing criminal charges.

If a prosecutor decides to initiate a preliminary investigation, the necessary investigative work is performed by police officers, acting under the day-to-day direction and control of the public prosecutor concerned. The CPT's delegation was informed that, in most cases, prosecutors supervise such investigations "in minute detail". Nevertheless, in order for the investigation of complaints against the police to be fully effective, the procedures involved must be, and be seen to be, independent and impartial. In this respect, the CPT considers that it would be preferable for the investigative work concerned to be entrusted to an agency which is demonstrably independent of the police. **It would like to receive the views of the Swedish authorities on this question.**

28. The CPT's delegation also explored the question of the efficacy of existing legal remedies for police misconduct, inter alia during discussions with the Ombudsman for Justice and with the Chief Inspector in charge of the Stockholm Police complaints unit (the "C.U.").

Under the current system, in cases where a public prosecutor dismisses a complaint (either by deciding not to initiate a preliminary investigation or by discontinuing such an investigation without bringing criminal charges), police investigators will submit a report on the case concerned to the Commissioner of Police. The Commissioner may, at this stage, decide to order a further disciplinary investigation. However, according to the Chief Inspector in charge of the C.U., this "very rarely happens". Further, if a complaint which includes allegations of assault by police officers is dismissed by a public prosecutor (on the grounds that there is insufficient evidence that a crime has been committed) the alleged assault cannot be the subject of any disciplinary action. This also holds true in cases where a police officer is brought to trial, but acquitted of assault by a court.

In a letter dated 2 June 1998, the Chief Legal Adviser to the National Police Board informed the CPT that this is because "the requirements as regards evidence are as high in a disciplinary matter as they are in a criminal matter". Moreover, according to the regulations in force, police disciplinary boards are "bound to the evaluation of the evidence made by the court or the prosecutor".

29. To sum up, as matters stand, the only way in which action can be taken against a police officer in connection with a complaint involving allegations of assault is if the officer concerned is convicted by a criminal court; there are no circumstances in which such a complaint can be handled as a disciplinary matter.

In the view of the CPT, this very broad interpretation of the principle of *non bis in idem*, may well run counter to the interests of the prevention of ill-treatment. Even in the absence of sufficient evidence to secure a criminal conviction, there will almost certainly be cases in which a complainant's allegations of physical ill-treatment give rise to legitimate concerns about the conduct of the police officer(s) concerned. In order to address such situations - and to ensure that senior police officers are being placed in a position effectively to appraise the conduct of the officers over whom they have authority - it would be preferable if a lower standard of proof (based upon that which applies in other employee appraisal contexts) were to apply to police disciplinary proceedings.

The Committee would like to receive the comments of the Swedish authorities on this question.

B. Prisons

1. Preliminary remarks

30. The CPT's second periodic visit to Sweden included visits to three prison establishments. As already indicated, Stockholm Remand Prison received a follow-up visit (having been visited by CPT delegations in 1991 and in 1994); the CPT's delegation also visited Malmö Remand Prison and Österåker Prison.

31. The essential characteristics of **Stockholm Remand Prison** were described in paragraphs 39 and 40 of the report on the CPT's 1991 visit and in paragraph 8 of the report on its 1994 visit. In February 1998, 275 of the establishment's cells were available for use and, on the first day of the visit, there were 235 inmates (including 15 women and 4 minors), of whom 192 were remand prisoners.⁵

Malmö Remand Prison is located on the upper floors of a building which also houses the police headquarters. The delegation was informed that the prison had 117 cells for single occupancy (four of them only used as temporary accommodation for prisoners in transit through Malmö). On the first day of the visit, it was accommodating 113 inmates (including 7 women), the vast majority (101) on remand. The delegation was told that, for some time, the occupancy level of this establishment had been close to its maximum capacity; however, the population had never been allowed to exceed that capacity.

Located near the town of Åkersberga, **Österåker Prison** received its first prisoners in 1969. The establishment has a total capacity of 172 places: 95 for sentenced prisoners (72 in a drug treatment unit and 23 in a psychiatric unit), 56 in a remand unit, and 21 in a pre-release unit. At the time of the visit, it was holding 146 prisoners (81 sentenced inmates in the drug treatment and psychiatric units, 48 remand prisoners (including 4 women) and 17 inmates in the pre-release unit).

32. It is noteworthy that, in a welcome departure from the situation observed by the CPT in many of the other States which it visits, none of the prisons visited in Sweden suffered from overcrowding. Moreover, the CPT understands that the Swedish prison system as a whole currently enjoys a situation of significant excess capacity. Apparently, this has been achieved by making greater use of alternatives to prison such as suspended sentences, conditional release, community service and other community-based sanctions.

⁵ It should also be noted that the functions of the separate unit at Huddinge, to which reference was made in paragraph 8 and paragraphs 31 et seq. of the report on the CPT's 1994 visit, had been absorbed within the main building of Stockholm Remand Prison. Consequently, the Huddinge Unit no longer formed part of the establishment.

2. Ill-treatment

33. The CPT's delegation heard no allegations - and gathered no other evidence - of physical ill-treatment of inmates by staff in the prisons visited or in other prison establishments in Sweden. On the contrary, staff-inmate relations appeared to be cordial and relaxed in all of the establishments visited. Indeed, many prisoners interviewed by the delegation made positive remarks about their relations with custodial staff.

However, some allegations were heard of the use of excessive force and/or unusual means of restraint by prison officers from the Transport Service of the Prison and Probation Administration (the TPT) during the expulsion of foreign nationals from Swedish territory. This matter is addressed in the chapter of this report which deals with immigration detainees (cf. paragraph 67).

3. Restrictions

34. The CPT has been engaged, for several years, in a dialogue with the Swedish authorities on the issue of the application by public prosecutors of restrictions upon remand prisoners, in particular as regards contact with other persons.

As a result of legislative changes which took effect shortly before the Committee's 1994 visit, the decision as to whether restrictions should be imposed was transferred from public prosecutors to the courts. However, the decision as to which specific restrictions should be imposed, the length of time for which they should be applied and whether they should be varied remained vested in public prosecutors. The CPT found that, at the time of the 1994 visit, the shift to a system of court-sanctioned restrictions had had only a minimal impact on the number of persons on whom restrictions were imposed, and little or no impact on the nature of the restrictions involved or the length of time for which they might be applied.

During the 1998 visit, the CPT's delegation raised the issue of the imposition of restrictions with senior public prosecutors, senior officials in the Ministry of Justice, a defence lawyer, judges, prison staff and prisoners. Further, in the course of the visit, the Swedish Government proposed additional legislative change in this area, in the form of a Bill on the treatment of detained persons (submitted to the Council on Legislation on 20 February 1998⁶); the provisions of that Bill are discussed in further detail in paragraphs 38 to 42, below.

⁶ The Bill was submitted to Parliament on 19 March 1998. It is proposed that the statutory amendments which it includes will enter into force on 1 January 1999.

35. In the remand establishments visited, the delegation found that some 40 to 50% of prisoners were being held under restrictions (e.g. at the time of the visit to Stockholm Remand Prison, of 185 remand prisoners, 80 (43%) were subject to restrictions, as compared to 80 out of 176 (45%) at the time of the 1994 visit). Moreover, according to the governors of the establishments concerned, it was still the case that a very high proportion (75% or more) of newly-admitted prisoners were subject to restrictions.

The pattern of restrictions being applied was also virtually unchanged as compared to the situation observed in 1994; the most usual being those on letters, visits, telephone calls and contact with other prisoners. The prohibition of access to newspapers, radio and television remained comparatively rare.

It had become less common for restrictions to be applied for prolonged periods of time. At the time of the 1998 visit, it was relatively unusual for prisoners to be subject to restrictions for more than four to eight weeks. This positive development was largely attributable to a system-wide reduction in the periods of time which inmates spent awaiting trial. In those cases where restrictions were maintained until the time of trial, it was common for them to be progressively relaxed. Further, it appeared that public prosecutors were increasingly prepared to make exceptions to restrictions on contact with the outside world (e.g. to allow a visit from a close relative) - such exceptions often being granted at the request of the inmate's "contact" prison officer (cf. further, paragraph 50 below).

36. Particular reference should be made to the delegation's discussions with public prosecutors and judges, in the course of which it gained a clear picture of the precise procedures applied when restrictions are imposed or prolonged.

As matters stand, there is no formal guidance for public prosecutors on the manner in which they should exercise their discretion to apply to the court for restrictions. Moreover, they are under no obligation to record the reasons for which they have requested restrictions in a given case. In this respect, none of the prosecution service case files which were examined by the delegation included any written reasoning to justify the restrictions which had been requested (and, in one case, prolonged for some five months). The written element of a prosecutor's request to the court for general permission to apply restrictions consists of placing a tick in a box on a pre-printed form. Written requests that the court prolong restrictions are effected by means of a letter containing a standard three-line formula which: states that the prosecutor cannot complete the investigation within the current 14-day remand period, requests a court order that the prisoner be remanded for another 14 days and states that, in the prosecutor's view, there is still a need for restrictions to be maintained.

None of the three judges met by the CPT's delegation could remember a single occasion on which they had refused a public prosecutor's application for restrictions. As a matter of course, the court's written response to such applications simply cites the wording of the provision of the Code of Judicial Procedure under which it is empowered to impose such a measure. As had been the case during the 1994 visit, the only information given to prisoners on this subject is a one page form on which ticks have been placed in boxes which correspond to the (pre-printed) restrictions which are to be applied to them. That form contains neither the reasons for the court's decision to impose restrictions, nor an explanation of the public prosecutor's choice of particular restrictions.

37. To sum up, the CPT's delegation observed positive developments as regards the total length of time for which remand prisoners are being held under restrictions and in respect of the length of time for which specific restrictions are being applied. However, it is still the case that, at least during an initial period, the overwhelming majority of persons remanded in custody in Sweden are being held in solitary confinement. As the Committee has observed on a number of previous occasions, this is a measure which can have very harmful consequences for the persons concerned. The system in operation at the time of the visit also failed to accord a number of important procedural guarantees to persons upon whom restrictions were imposed.

38. In the report on its 1994 visit, the CPT made a number of recommendations designed to ensure that an appropriate balance is struck between the requirements of a criminal investigation and the imposition of restrictions.

In particular, it recommended that in requesting the permission of the court to impose restrictions, public prosecutors be obliged to identify the specific restrictions which they intend to apply. The aforementioned Bill on the treatment of detained persons will not oblige prosecutors to give this information to the court as a matter of course. However, it does provide that remand prisoners shall be entitled to request the court to review the specific restrictions which have been imposed by a public prosecutor. Such a review can be requested at the initial court hearing at which the issue of remand is decided. In line with another of the CPT's 1994 recommendations, the Bill specifies that, in the context of each fortnightly review of the necessity to continue remand in custody, the question of the necessity to continue to impose restrictions is to be considered as a separate issue.

39. The Committee also recommended that, on every occasion when the question of whether to impose, continue or vary restrictions is raised, the reasoned grounds for the decision which results be recorded in writing and, unless the requirements of the investigation dictate otherwise, the prisoner be informed of those reasons.

In a welcome development, the Bill on the treatment of detained persons specifies that the prosecutor must, when requesting the Court's general permission to impose restrictions, specify the reasons for which that general permission is being sought. Moreover, the Bill will create a general duty upon public prosecutors to record in writing the factual circumstances which justify the imposition of specific restrictions. In cases where a remand prisoner requests the court to review the imposition of a specific restriction, the Bill indicates that the prosecutor is obliged to state the reasons for which that restriction has been imposed.

As a matter of principle, the Bill provides that (as at present) remand prisoners shall be informed of each decision by the prosecutor to impose restrictions. However, prisoners will only be informed in writing of the reasons for which restrictions have been imposed if this is possible without harming the criminal investigation. In this respect, the delegation was told by senior public prosecutors that, given that the risk of harm to the criminal investigation is one of the principal grounds on which they seek permission to apply restrictions, they found it difficult to imagine a case in which they would be prepared to provide a remand prisoner with such information. Subordinate legislation (a Decree by the Minister of Justice and Instructions issued by the Prosecutor General) will govern the manner in which these new rules are to be applied in practice.

40. Another of the Committee's recommendations concerned the issue of proportionality. It recommended that in considering whether restrictions ought to be applied, courts take due account of whether the particular restrictions requested by a public prosecutor are proportional to the needs of the criminal investigation concerned.

In this respect, the Bill on the treatment of detained persons provides that, in cases where a remand prisoner requests the court to review the imposition of a specific restriction, the court shall consider whether that restriction is justified in the circumstances of the case. The manner in which the court is to be placed in a position effectively to discharge this task will also be specified in the above-mentioned Decree and Prosecutor General's Instructions.

41. The Bill on the treatment of detained persons has the potential to make a significant contribution towards the implementation of the CPT's recommendations in this area. However, in order to guarantee that a proper balance is struck between the needs of a criminal investigation and the imposition of restrictions, it will be necessary to ensure that - in future - the court is able to conduct a meaningful review of a prosecutor's decision to impose particular restrictions in a given case.

In the view of the CPT, such a review will only be meaningful if the court is placed in a position to establish: firstly, whether there is a genuine risk of harm in the context of a given criminal investigation and, secondly, whether that risk is sufficient to justify the particular restrictions being sought in that case. It follows, as a *sine qua non*, that the prosecutor should be obliged to provide the court - preferably in writing - with reasoned grounds which justify the imposition/prolongation of the specific restrictions involved in any given case. For it is only on the basis of such reasoned grounds that the court will be able to determine whether the prosecutor's view of the risk of harm is well-founded in fact and, if so, whether the associated restrictions are proportional to the degree of harm concerned.

The CPT recommends that due account be taken of these considerations in the Decree and Prosecutor General's Instructions which are to be issued under the Act on the treatment of detained persons. In this connection, the Committee would like to receive copies of the Decree and the Instructions, in draft form, at the earliest possible opportunity.

42. Lastly, in the report on its 1994 visit, the CPT recommended that prisoners be accorded an effective right of appeal in respect of the specific restrictions applied by a public prosecutor. Although the Bill on the treatment of detained persons sets no limit on the number of occasions on which a prisoner may request the court to review the imposition of specific restrictions, it does not create a right of appeal in the event that the court finds against the applicant prisoner. Given that the decisions to remand in custody, to grant general permission to impose restrictions, to review the imposition of specific restrictions and to convict or exculpate will often be taken by the same judge, this is a potentially serious lacuna.

The CPT recommends that prisoners be accorded an effective right of appeal against a court's decision to maintain specific restrictions which have been the subject of a review.

4. Remand establishments

a. material conditions

43. Material conditions of detention in all three of the remand establishments visited (i.e. Malmö and Stockholm Remand Prisons, and the remand unit at Österåker Prison) varied from good to very good. Prisoners were accommodated in single occupancy cells of an acceptable size (some 8 m² to 10 m²), which were suitably equipped (bed, table, chair or stool, washbasin, television, radio).

At Malmö Remand Prison, all cells had a sanitary annexe including a washbasin and a lavatory, and certain of them were equipped with a shower. Inmates at Stockholm Remand Prison had no complaints about access to a lavatory or sanitary facilities; however, a few prisoners interviewed at Österåker Prison complained of delays in being released from their cells at night for the purpose of using the lavatory. In this context, **the CPT would recall the importance of prisoners having ready access to a lavatory at all times, including at night** (cf. CPT/Inf (92) 4, paragraph 47).

44. The CPT is pleased to note that renovation work designed to improve ventilation and access to natural light at Stockholm Remand Prison - which was being carried out at the time of the 1994 visit - has now been finalised. As a result, the shortcomings identified in paragraphs 43 to 45 of the CPT's 1991 visit report have been remedied.

At Österåker Prison, ventilation and access to natural light were satisfactory, whereas at Malmö Remand Prison, although access to natural light was quite acceptable, staff drew the delegation's attention to the ineffectiveness of the ventilation system. The delegation itself gained the impression that the air quality in the cells at the latter establishment left something to be desired. Consequently, **the CPT invites the Swedish authorities to review the ventilation at this establishment.**

45. Progress has been rather limited as regards the implementation of the CPT's 1991 and 1994 recommendations concerning the small cage-like rooftop exercise areas at Stockholm Remand Prison. The Committee had stressed that those facilities should be altered in order to ensure that all prisoners are offered exercise in areas which are large enough to enable them to exert themselves physically (cf. paragraph 52 of the 1991 visit report and paragraph 11 of the 1994 visit report).

By the time of the 1998 visit, there were adequate facilities for prisoners taking exercise in groups (yards measuring some 9 m² having been converted into facilities with a surface area of 38 m² or more); however, the exercise areas for prisoners subject to restrictions continued to be extremely modest (measuring little more than 13 m²). This shortcoming is particularly serious given that access to these facilities could well represent a prisoner's only opportunity to be out of doors for weeks, or even months on end.

46. The situation was somewhat better - although not fully satisfactory - at Malmö Remand Prison: roof-top exercise yards for small groups of prisoners measured about 40 m² and pens for use by one or two prisoners some 18 m². Although the outdoor exercise areas for remand prisoners subject to restrictions at Österåker Prison were located at ground level (and hence not subject to the space constraints which exist at the two other establishments visited), they were also rather cramped and oppressive facilities.

47. More generally, it should be recalled that, in its report on the 1991 visit, the CPT recommended that immediate steps be taken substantially to improve outdoor exercise facilities of a similar nature in all Swedish remand prisons (cf. CPT/Inf (92) 4, paragraph 52). On the basis of the information gathered by its delegation during the 1998 visit (including, in particular, the fact that the rather limited facilities at Malmö Remand Prison were built only four years ago), the CPT is far from confident that this recommendation has been implemented.

48. The CPT recommends that outdoor exercise facilities for use by remand prisoners (and more particularly by those subject to restrictions) in the three establishments visited - and in other remand prisons in Sweden where similar conditions obtain - be rebuilt in order to ensure that all prisoners are offered exercise in areas which are sufficiently large to allow them to exert themselves physically.

b. regime

49. The regime activities which were being offered to inmates in Stockholm Remand Prison at the time of the 1991 visit were characterised by the CPT as "manifestly unsatisfactory". The delegation which carried out the 1994 visit to that establishment observed that there had been some improvement, in particular as regards activities offered to remand prisoners who were not subject to restrictions (group association activities, education, sport).

In this respect, the CPT is pleased to note that progress has continued: by February 1998, out-of-cell time had increased and inmates were offered a number of different activities, in many cases with the active participation of staff. The information gathered by the CPT's delegation indicated that there had also been positive developments as regards the regime offered to prisoners in the other remand establishments visited.

The delegation was impressed by the standard of certain of the facilities which had been made available (e.g. computer rooms) and by the creative use which was being made of the (often limited) available resources. By way of example, isolation cells had been turned into association rooms and physical fitness facilities, and space had been made available for other sports activities (e.g. aerobic classes); group counselling and discussion groups had been organised; and a few workshops were operating. Further, in order to augment the association time effectively offered to them, certain prisoners were allowed to remain in groups of two in a cell during part of the day.

50. Reference should also be made to the contact or personal officer scheme which was in operation in the establishments visited. All prisoners were assigned a prison officer, who had direct responsibility for monitoring their day-to-day situation and assessing their needs.

Such officers served as a channel of communication between the prison system and the inmates concerned, they participated in activities with prisoners (often taking their meals in the company of prisoners) and performed a certain number of social welfare functions (i.e. assisting prisoners with practical problems). Moreover, on occasion they took the initiative when they felt action was needed to minimise the negative effects of imprisonment or isolation, namely by approaching the relevant public prosecutor on a prisoner's behalf. Not surprisingly, a number of prison officers with whom the delegation spoke stated that their work had become all the more interesting and rewarding as a result of these developments.

51. Notwithstanding these positive developments, the CPT feels obliged to stress that the Swedish authorities' current targets for out-of-cell time for remand prisoners (i.e. one hour per day for those subject to restrictions and five hours per day for those without restrictions, in both cases in addition to one hour per day of outdoor exercise) still fall short of the objective to which the CPT made reference in the report on its 1991 visit, namely to ensure that prisoners spend 8 hours or more outside their cells engaged in purposeful activities of a varied nature. Efforts should be made substantially to increase out-of-cell time for prisoners subject to restrictions, and the target for those not subject to restrictions should also be reviewed.

On this latter point, it should be noted that senior staff at both Stockholm and Malmö Remand Prisons indicated that actual performance fell somewhat short of the five-hour target, partly for want of staff but principally due to lack of space for developing activities for prisoners. Many of the remand prisoners without restrictions who were interviewed by the delegation in Stockholm claimed that - at most - they were able to participate in activities for three to four hours every day; the situation at Malmö was even less favourable. Of course, the presence of a significant number of prisoners subject to restrictions (in the order of 45% at both Stockholm and Malmö Remand Prisons) adds to the difficulties in developing regime activities for other prisoners.

In the light of its delegation's findings, **the CPT recommends that serious efforts continue to be made by prison staff with a view to offering additional activities and appropriate human contact to prisoners held on remand under restrictions. It also recommends that the Swedish authorities take action to ensure that - in the short term - the current target of 5 hours of out-of-cell time per day for remand prisoners not subject to restrictions is attained. Further, a new target should be set, with the aim of substantially increasing the out-of-cell time offered to prisoners, in line with the CPT's previous recommendations on this subject (cf. CPT/Inf (92) 4, paragraph 62 and CPT/Inf (95) 5, paragraph 20).**

5. The drug treatment unit at Österåker Prison

52. Participation in the programme offered to sentenced drug abusers at Österåker Prison was entirely voluntary and had a quasi-contractual nature. A prisoner wishing to participate in the programme had to apply and, if admitted, agree to the rules applied there. In particular, they were required to abstain from taking drugs in order to remain in the programme, and they had to participate in work and other organised activities, and in group therapy. Moreover, prisoners had to agree to give a urine sample for drug testing on a daily basis in the presence of a prison officer.

53. Material conditions of detention at the drug treatment unit call for no particular comment; they were of the same - good - level as in the remand unit of that establishment (cf. paragraphs 43 and 44). As for the regime offered in the unit, prisoners were occupied throughout the day in a number of purposeful activities (work with vocational value, sport, association, group discussions). Further, they were offered individual support and group therapy.

In short, the drug treatment unit at Österåker Prison was found to be an impressive facility which provided a varied and stimulating regime in an atmosphere conducive to the rehabilitation of the prisoners concerned.

6. Health care services

a. general health care

54. As had been the case in the prisons visited by the CPT in 1991 and 1994 (cf. CPT/Inf (92) 4, paragraph 114), in-house health care services in the establishments visited in February 1998 in principle provided primary health care. Prisoners could also be referred to specialists and/or to local hospitals.

It should also be recalled that the stated goal of the Swedish authorities - of which the CPT fully approves - is to provide prisoners with health care services of the same standard as that available in the outside community (cf. CPT/Inf (92) 6, page 43 and CPT/Inf (95)12, paragraph 41).

55. The health care staff entrusted with the provision of primary health care at Stockholm Remand Prison comprised one doctor (trained as a psychiatrist) who attended the establishment for 4 to 6 hours every weekday, assisted by the equivalent of eight full-time nurses. At Malmö Remand Prison, one general practitioner was present in the establishment for 10 hours per week, assisted by three full-time nurses. At Österåker Prison, a half-time psychiatrist and three psychologists, primarily employed to work at the psychiatric unit and the drug treatment unit, also provided support/ambulatory care to other inmates at that establishment. Further, somatic care was provided by one general practitioner, present for 5 hours per week, and by two full-time nurses. The prisons' in-house health care services were reinforced by visiting specialists, including dentists and gynaecologists.

The facilities available to the health care services in all three of the establishments visited were of a high standard.

56. No complaints were heard from inmates at Österåker and Malmö Prisons about the quality of care which they received; however, medical members of the delegation found that, at both those prisons, the records of prisoners' medical histories were, on occasion, incomplete.

The delegation did hear a number of specific complaints from prisoners being held at Stockholm Remand Prison about the quality of care which they had received. In certain such cases, a detailed examination of prisoners' medical records (including files held by nursing staff and by the doctor) revealed that a full medical history not been taken, and there was no record of the prisoners in question having been physically examined by a doctor at any stage. Nevertheless, for some considerable time, nursing staff had continued to supply prescription drugs to the inmates concerned, in the absence of a thorough medical evaluation.

57. More generally, at all three of the prisons visited, the delegation found that it was comparatively unusual for inmates to be physically examined by the establishments' doctors, whether on reception, or at a later stage. As regards, more particularly, medical screening on reception, this consisted of an interview with a nurse on the day of - or the day following - admission. Prisoners might only be seen by a doctor some considerable time after admission (e.g. one week or more), and frequently would not be physically examined even at that stage.

Reference should also be made to the fact that the delegation was told by doctors in the establishments visited that they could not devote all of the time which they might have wished to patient care, inter alia because a significant proportion of their working hours was spent on purely administrative duties. Medical members of the delegation observed that, in consequence, a number of patient-care tasks which are properly those of a doctor had been delegated to nursing staff, without appropriate supervision.

58. The CPT delegation's findings during the 1998 visit would suggest that doctors working in the prisons visited may not be devoting sufficient time to patient care. Consequently, **the Committee recommends that the Swedish authorities review the provision of patient care by doctors in the establishments visited, having regard to the remarks set out in paragraphs 56 and 57 above.**

59. Further, the CPT considers that improvements in the manner in which medical records are kept and in the nature of medical screening could serve to enhance the quality of care which is offered to prisoners in Sweden.

The CPT has already indicated, in the report on the 1994 visit, that it would be preferable for doctors' notes to be set out on a standardised medical record form which could also include a range of other information about the patient's medical history and current state of health (cf. CPT/Inf (95) 5, paragraph 41). Further, in the CPT's opinion, every prisoner should be properly interviewed and physically examined by a medical doctor as soon as possible after his admission; save for in exceptional circumstances, the interview/examination should be carried out on the day of admission, especially insofar as remand establishments are concerned. However, a newly-arrived prisoner's first point of contact with the health care service could also be a fully-qualified nurse reporting to a doctor.

The CPT recommends that the approach followed in prisons in Sweden as regards medical records and medical screening be reviewed in the light of these remarks.

60. Finally, the CPT wishes to recall that the quality and the effectiveness of the work of health-care staff in prisons should be assessed by a qualified medical authority. **The Committee would like to receive further information about the approach followed in this respect in Sweden.**

b. psychiatric care

61. In any prison system there will be many prisoners who, whilst not requiring admission to a psychiatric hospital facility, would benefit from appropriate psychiatric and/or psychological care. Of course, mentally-ill prisoners should be kept and cared for in a hospital facility which is adequately equipped and possesses appropriately-trained staff. That facility could be a civil mental hospital or a specially-equipped psychiatric facility within the prison system.

62. The delegation's findings during the 1998 visit suggest that the in-house/visiting psychiatric services at Stockholm and Malmö Remand Prisons were underdeveloped. As already indicated, at Stockholm Remand Prison the prison doctor was a psychiatrist; however, he was called upon to perform all of the functions of a general practitioner. Another psychiatrist did visit the establishment, but for a mere five hours per week. Bearing in mind that Stockholm Remand Prison had an inmate population of upwards of 200, of whom, at any one time, some 45% are subject to solitary confinement by court order, the CPT is not convinced that this is an adequate provision. At Malmö Remand Prison, until several months before the visit, a psychiatrist had been attending the prison for 3 hours every week; however, she had not been replaced following her retirement.

The CPT recommends that the current provision in terms of ambulatory psychiatric care for inmates in Stockholm and Malmö Remand Prisons be reviewed.

63. The delegation was informed that the psychiatric unit at Österåker Prison accommodated both psychiatric patients and psychologically fragile persons, who might be adversely affected by continued detention in a normal prison environment. On the whole, the living conditions at the unit and the care offered to patients were of a satisfactory standard.

Nonetheless, the regime offered to patients was rather unchallenging. Although they had the possibility to spend time in a workshop, there were few other organised activities (education, vocational training, etc.); for most of the day, patients were simply left to their own devices. **The CPT recommends that efforts be made to remedy this lacuna.**

c. suicide prevention

64. Suicide prevention is another matter falling within the purview of a prison's health care service. It should ensure that there is an adequate awareness of this subject throughout the establishment, and that appropriate procedures are in place.

Medical screening on arrival (on which, cf. also paragraph 59), and the reception process as a whole, has an important role to play in this context; performed properly, it could identify at least certain of those at risk and relieve some of the anxiety experienced by all newly-arrived prisoners. Further, prison staff, whatever their particular job, should be made aware of (which implies being trained in recognising) indications of suicidal risk. In this connection it should be noted that the periods immediately before and after trial and, in some cases, the pre-release period, involve an increased risk of suicide.

A person identified as a suicide risk should, for as long as necessary, be kept under a special observation scheme. Further, such persons should not have easy access to means of killing themselves. Steps should also be taken to ensure a proper flow of information - both within a given establishment and, as appropriate, between establishments (and more specifically between their respective health care services) - about persons who have been identified as potentially at risk.

The CPT would like to receive further information about the approach adopted to these questions in Sweden.

C. The treatment of foreign nationals under the Aliens Act

1. Preliminary remarks

65. Questions related to the admission of foreigners to Swedish territory - including as regards the right of asylum, refusal of entry at the border and forceful removal from the country - are dealt with in the Aliens Act⁷. The Act also sets out the circumstances and conditions under which a foreigner can be deprived of his/her liberty (as an "immigration detainee") in the context of immigration/aliens procedures.

As already indicated, in the course of the visit, the delegation had a fruitful meeting with the State Secretary for Migration at the Ministry of Foreign Affairs; it also held interesting discussions with members of the Swedish Immigration Board and the Asylum Appeals Board, and with the relevant police authorities at Arlanda Airport. These meetings inter alia permitted the delegation to form a view as to the manner in which those provisions of the Aliens Act which are of relevance to the CPT's mandate are being applied in practice.

⁷ Act 1989:529 as amended in October 1997.

2. Torture and other forms of ill-treatment

66. In the course of the visit, the CPT's delegation heard no allegations - and gathered no other evidence - of physical ill-treatment of foreigners on arrival/apprehension or whilst detained by the police. Further, no such allegations were heard concerning foreigners being held under the Aliens Act at the Stockholm Region Detention Centre (Carlslund) or in other detention centres/prisons in Sweden.

67. However, as already indicated (cf. paragraph 33), some allegations were heard of the use of excessive force and/or unusual means of restraint by prison service transport (TPT) officers during the expulsion of foreign nationals from Sweden.

The most serious allegations of ill-treatment heard by the delegation concerned a foreign national expelled from Sweden in late December 1997, who subsequently made a number of detailed written allegations regarding the manner in which he had been treated by prison officers from the TPT (blows with a baton, gagging of the mouth with adhesive tape) during an earlier abortive deportation attempt. Documents obtained by the CPT's delegation from the TPT Central Office in Gothenburg partially corroborated the account given by the person concerned.

68. The CPT recognises that it will often be a difficult task to enforce an expulsion order in respect of a foreign national who is determined to stay on a State's territory. Law enforcement officials may on occasion have to use force in order to effect such a removal. However, **the force used should be no more than is reasonably necessary. It would, in particular, be entirely unacceptable for persons subject to an expulsion order to be physically assaulted as a form of persuasion to board a means of transport or as punishment for not having done so. Further, the Committee must emphasise that to gag a person is a highly dangerous measure.**

69. The delegation's concerns about the means of restraint which may be used by prison service transport officers were heightened by the equipment which it found during impromptu inspections of two separate TPT vehicles at two different locations - Arlanda Airport and Österåker Prison. Both vans were carrying pouches which contained chains approximately two metres long, fitted with a number of padlocks. In each case, members of the TPT crew demonstrated the manner in which this item could be used to secure a detainee, namely fastened around the waist, passed down the inside of a trouser leg and secured tightly around the ankle in order to fix one leg in a partially-flexed position.

During the talks held at the end of the CPT's visit, the Swedish authorities indicated that such "body chains" were not an approved means of restraint⁸ and provided an assurance that they would be withdrawn from service forthwith. **The CPT would like to receive confirmation that this has been done.**

⁸ According to information subsequently transmitted by the Swedish authorities, the only authorised means of restraint which may be used during expulsions are handcuffs (cf. the letter from the Swedish authorities to the President of the CPT of 28 April 1998).

70. The risk of immigration detainees being ill-treated in the countries which the CPT visits, whether at the time of apprehension, whilst detained, or in the context of removal, is not the only subject of interest to the Committee. Indeed, the prohibition of torture and inhuman or degrading treatment or punishment also embraces the obligation not to send a person to a country where there are substantial grounds for believing that he/she would run a real risk of being subjected to torture or ill-treatment.

The CPT wishes to stress that the applicable procedure should offer immigration detainees a real opportunity to present their cases, and that officials entrusted with handling such cases should be provided with appropriate training and have access to objective and independent information about the human rights situation in other countries. Further, in view of the potential gravity of the interests at stake, the Committee considers that all decisions involving the removal of a person from a State's territory should be appealable before another body of an independent nature prior to their implementation.

71. Subject to the remarks in paragraph 75 below, decisions as to whether foreign nationals may remain on Swedish territory lie with the Swedish Immigration Board. According to information supplied to the delegation, this was the case inter alia if, on entry to the country, a person raised with the police the question of asylum or, in any understandable manner, expressed fear of being returned to another country. A decision by the Immigration Board can be appealed before the Aliens Appeals Board, and a case decided by the latter can be reopened at the request of an applicant if there are new issues which might be of relevance to his/her legal status.

At present, there is no appeal against a decision of the Aliens Appeals Board; however, the delegation was told that it is envisaged that the Board itself acquire the status of an administrative court. The delegation was told that such a development would create the possibility for review of the Board's decisions by a higher court. The CPT would welcome such a development **and would like to receive further information on this subject.**

72. The procedure offers the persons concerned an adequate opportunity to present their case. Further, even after a final decision has been handed down by the Aliens Appeals Board, a foreigner can submit one or more new applications to that body if there are "new circumstances" to be examined.

If need be, foreigners are assisted by an interpreter in proceedings conducted by the Immigration Board and the Appeals Board. Further, foreigners may be legally represented during Immigration Board procedures, and they are always assisted by a lawyer when it is considered that their application is likely to be rejected, or in the event of an appeal being lodged.

73. If an asylum application is rejected, residence in Sweden may still be granted on several grounds. According to the information provided to the delegation, in such circumstances permanent residence is often granted on humanitarian grounds. Moreover, a firm decision to remove a foreigner from Swedish territory may be stayed, and even reversed, if there are "impediments" to its enforcement.

The Aliens Act provides that impediments arise in cases where enforcement would involve sending the foreigner concerned to a country "where there are reasonable grounds for believing that he would be in danger of suffering capital or corporal punishment or of being subjected to torture or other inhuman or degrading treatment or punishment", or "where he risks persecution". If the country to which a person is to be returned is considered to offer an inadequate level of protection against being sent on to another country where there may be such risks, this can also be an obstacle to the enforcement of a removal order.

In this connection, Immigration Board officials indicated that information used to form a view as to whether a person may be considered "at risk" and in respect of countries which are to be regarded as being "safe" was gathered from a wide variety of sources (including Swedish embassies and other Swedish authorities working abroad, the UNHCR, non-governmental organisations, the press, the Internet, and fact-finding visits to the countries concerned).

74. The CPT considers that the system currently being applied in Sweden is, in principle, capable of offering suitable guarantees against persons being sent to countries where they run a risk of torture or ill-treatment.

However, representatives of a number of non-governmental organisations contended that the efficiency with which the Swedish authorities gathered information about whether persons may be "at risk" and about the countries which are to be regarded as being "safe" could be enhanced, and claimed that persons had been returned to countries where they ran a risk of being subjected to torture or inhuman or degrading treatment or punishment. **The CPT would like to receive the comments of the Swedish authorities on this issue.**

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

75. Notwithstanding these positive findings, not all persons arriving in Sweden are benefitting from access to the above-mentioned procedures. At the time of the visit, the initial - point of arrival - decision to admit an alien to Swedish territory or to refuse entry was, with certain exceptions, taken by the police upon examination of the formal requirements for admission (valid passport/visa, adequate financial means, etc.). As far as the delegation could ascertain, very little information is provided to aliens at this stage; further, persons in this situation are not offered legal advice. Moreover, although aliens have a right to appeal to the Swedish Immigration Board against a police decision to refuse them entry, such an appeal does not have suspensive effect. Consequently, as matters stand, the CPT is not entirely convinced that everyone who runs a risk of ill-treatment if refused entry and removed from the country will be identified.

However, the delegation was told that there were plans to transfer responsibility for making all decisions on refusal of entry to the Swedish Immigration Board. **The CPT would like to be informed of any progress being made as regards the transfer of responsibility for decisions concerning refusal of entry from the police to Immigration Board officials, and to receive precise information about the procedures which will be applied in this area.**

3. Conditions of detention

76. The Aliens Act stipulates that detention for investigation (e.g. at the point of arrival/entry) may last for up to six hours. Following a formal detention order, deprivation of liberty can last for up to 48 hours (when such a measure is required for the purpose of establishing a person's identity), or for renewable periods of two weeks (if detention is deemed necessary in order to facilitate the investigation of a person's right to remain in Sweden; if it is likely that a person will be refused entry or expelled; in order to ensure that a refusal-of-entry or expulsion order can be enforced). It should also be noted that a decision to detain may be appealed before an administrative court.

The detention of young persons under the age of 18 is only allowed in exceptional cases (e.g. in order to ensure that a refusal-of-entry or expulsion order can be enforced) and is subject to additional safeguards (the young person concerned cannot be separated from his/her guardian as a result of detention unless there are exceptional grounds for so doing). Moreover, detention of young persons is limited to a period of a maximum of 72 hours, which can only be renewed once.

77. Persons detained for investigation at **Arlanda Airport** were placed in a spacious waiting room equipped with a bench, which was quite adequate for its declared use of holding persons for a few hours. Whenever foreigners were required to remain in custody for more than a few hours (and always if they were detained overnight) they were transferred to the Stockholm Region Detention Centre.

78. As already indicated, the **Stockholm Region Detention Centre** - a closed unit situated within the complex of the (open) Carlslund Refugee Centre at Upplands Väsby - was first visited by a CPT delegation in May 1991 (cf. CPT/Inf (92) 4, paragraphs 148 to 150). At the time of the 1998 visit, the centre had a maximum capacity of 40 places and was holding 26 inmates, the average length of stay being about four weeks. As had been the case in 1991, material conditions of detention at the centre were quite satisfactory.

79. The most significant change at the centre concerned staff; at the time of the 1998 visit, it was no longer staffed by the police, but by Immigration Board personnel. The delegation observed that staff appeared to be attentive to the needs of inmates and were well equipped to perform their duties vis-à-vis detained foreigners (e.g. as regards knowledge of languages).

80. Following the 1991 visit, the CPT criticised the level of activities offered to persons detained at the centre for lengthy periods.

At the time of the 1998 visit, efforts were being made to provide a better regime for inmates. In addition to access to an outdoor exercise area, inmates could use an adequately equipped fitness facility and were offered the possibility to play table tennis and other games, to borrow books from the in-house and a public library, and to read newspapers; further -subject to the availability of staff to provide supervision - they could have access to the Internet. In addition, they could listen to the radio and watch a broad selection of both national and foreign television channels. However, the educational activities on offer were not as well developed, apparently due to space constraints, and work opportunities for inmates were very limited.

In this connection, the delegation was informed that the detention centre was soon to be transferred to more spacious premises, which would allow the range of activities offered to inmates to be further developed. **The CPT would like to receive additional information on this subject.**

81. The Aliens Act provides for the possibility to isolate or to segregate immigration detainees under certain circumstances (e.g. for security reasons). However, since the Stockholm Region Detention Centre had no facility for isolation/segregation, inmates deemed to require this measure were transferred to prison.

The information gathered in the course of the visit suggested that recourse to isolation/segregation of immigration detainees had become a rare event.

82. Basic health care for immigration detainees held at the Stockholm Region Detention Centre was provided by a medical doctor who attended the centre for one hour per week, and a nurse who was present in the establishment for three (half) days every week. Outside those periods, assistance could be sought from the well-staffed health care service at Carlsund Refugee Centre or from a local emergency service, which provided both somatic and psychiatric care.

However, only emergency and ante-natal care was provided free of charge, there was no systematic medical screening on reception, medical records were kept in a perfunctory fashion and preventive medicine was not practised at the centre.

The CPT considers that the health care services provided to inmates at the Stockholm Region Detention Centre for foreigners should be developed. In particular, all inmates should be medically screened on reception and information should be provided to newly-arrived immigration detainees inter alia reminding them of basic hygiene measures. Further, appropriate arrangements should be introduced to ensure that health care is provided free of charge to all inmates who are not in a position to pay for such services.

III. RECAPITULATION AND CONCLUSIONS

A. Police establishments

83. None of the persons interviewed by the CPT's delegation who were or who had been detained by the police made allegations of physical ill-treatment by the police. More generally, the information gathered during the visit would tend to suggest that persons deprived of their liberty by the police in Sweden run relatively little risk of being ill-treated.

Nevertheless, the CPT has stressed the importance of senior police officers regularly reminding their subordinates that ill-treatment is not acceptable and will be the subject of severe sanctions. Further, given that a few allegations were heard of the use of excessive force at the time of arrest, the Committee has recommended that police officers be reminded that no more force than is reasonably necessary should be used when effecting an arrest and that, once arrested persons have been brought under control, there can be no justification for striking them.

84. As regards formal safeguards against the ill-treatment of detained persons, the Committee has recalled the particular importance which it attaches to three rights which should apply from the very outset of custody, namely the right of those concerned to inform a close relative or another third party of their choice of their situation, the right of access to a lawyer, and the right of access to a doctor. The report on the Committee's 1991 visit to Sweden recommended that these rights be made available to all persons deprived of their liberty by the police in Sweden.

85. At the time of the CPT's 1998 visit, the formal legal situation as regards notification of custody was unchanged: it remained the case that persons deprived of their liberty by the police had no formal right to notify another person of that fact. Save as regards minors, the police continued to enjoy a discretion to delay notification of custody for some considerable time if they considered that this was in the interests of the investigation. However, during the visit, senior officials at the Ministry of Justice informed the CPT's delegation that the Minister for Justice had accepted that there is a need to make formal provision for persons detained by the police to enjoy the right to inform a close relative or another third party of their choice of their situation, and is committed to taking action to introduce this right.

The CPT has welcomed this development; however, it has stressed that all persons deprived of their liberty by the police - including those arrested, apprehended, taken into care or being questioned as potential witnesses - should be guaranteed this right, and that it should apply as from the moment when they are first obliged to remain with the police. Further, it has reiterated that any possibility exceptionally to delay the exercise of this right should be clearly circumscribed by law, made subject to appropriate safeguards (e.g. any such delay to be recorded in writing together with the reasons therefor and to require the approval of a senior police officer or a public prosecutor) and strictly limited in time.

86. As regards the right of access to a lawyer, persons suspected of a criminal offence were being systematically informed, immediately before their first formal interrogation by the police, of their right to appoint a lawyer; further, they were often offered the possibility to have the proceedings suspended in order to consult with a lawyer or to have the latter present during questioning. However, it also remained true that, in most cases, detained persons spent several hours on police premises before being informed of their right of access to a lawyer.

In this connection, the CPT has stressed that it is during the period immediately following deprivation of liberty that the risk of intimidation and ill-treatment is greatest. It is therefore essential that the right of access to a lawyer be guaranteed to all persons obliged to remain with the police as from the very outset of their custody, and not only from the moment when such persons become criminal suspects or are first interrogated by a police officer. The Committee has recommended that the necessary measures be taken to extend the right of access to a lawyer to all categories of persons who may be obliged to remain with the police - including those being questioned as potential witnesses, apprehended or taken into care - as from the very outset of their custody.

87. In practice, detainees whom the police considered required medical attention were receiving appropriate care. However, it remains unclear whether detainees are allowed to see a doctor if the police are not of the opinion that medical care is required.

As matters stand, the absence of a specific reference to the right of access to a doctor in the legislation governing deprivation of liberty by the police may serve to limit the extent to which persons detained continue to enjoy that right. Consequently, the CPT has recommended that the right of persons deprived of their liberty by the police to have access to a doctor - including, if they so wish, to one of their own choice - be made the subject of a specific legal provision.

88. In order to ensure that persons in police custody are duly informed of their rights, the CPT has recommended that a form setting out those rights in a straightforward manner be systematically given to such persons at the very outset of their deprivation of liberty.

89. Of course, the existence of effective mechanisms to tackle police misconduct is another important safeguard against the ill-treatment of persons deprived of their liberty. The imposition of appropriate disciplinary and/or criminal penalties in those cases where evidence of wrongdoing emerges can have a powerful dissuasive effect on police officers who might otherwise be minded to engage in ill-treatment. In this connection, the Committee has raised questions both as regards the independence of the investigative process and the efficacy of current legal remedies for police misconduct.

90. Conditions of detention in the police establishments visited were by and large of a good standard. However, the CPT has recommended the withdrawal from service of the small holding cubicles seen at Stockholm and Malmö Police Headquarters, and of any facilities of a similar size which may exist in other police establishments in Sweden.

Further, in the light of the information gathered by its delegation, the Committee has recommended that steps be taken to ensure that any person held overnight at Norrmalm District Headquarters in Stockholm and at Malmö Police Headquarters - regardless of his/her legal status - is provided with a mattress.

B. Prisons

91. The CPT's delegation heard no allegations - and gathered no other evidence - of physical ill-treatment of inmates by staff in the prisons visited or in other prison establishments in Sweden. On the contrary, staff-inmate relations appeared to be cordial and relaxed in all of the establishments visited.

92. The CPT has been engaged, for several years, in a dialogue with the Swedish authorities on the issue of the application by public prosecutors of restrictions upon remand prisoners, in particular as regards contact with other persons. The Committee's reports on its 1991 and 1994 visits to Sweden set out a number of detailed recommendations designed to ensure that a proper balance is struck between the needs of a criminal investigation and the imposition of restrictions.

The CPT's 1998 delegation observed certain positive developments as regards the total length of time for which remand prisoners are being held under restrictions and in respect of the length of time for which specific restrictions are being applied. However, it is still the case that, at least during an initial period, the overwhelming majority of persons remanded in custody are being held in solitary confinement, a measure which can have very harmful consequences for the persons concerned. Moreover, the system in operation at the time of the visit failed to accord a number of important procedural guarantees to persons upon whom restrictions were imposed.

New rules - set out in the Bill on the treatment of detained persons - have the potential to make a significant contribution towards the implementation of the CPT's recommendations in this area. However, the manner in which these rules are to be applied in practice will be governed by subordinate legislation (a Decree by the Minister for Justice and Instructions issued by the Prosecutor General). The CPT has recommended that, in framing that subordinate legislation, due consideration be given to ensuring that the relevant court is able to conduct a meaningful review of a prosecutor's decision to impose particular restrictions in a given case. It has also recommended that prisoners be accorded an effective right of appeal against a court's decision to maintain specific restrictions which have been the subject of a review.

93. Material conditions of detention in all three of the remand establishments visited (i.e. Malmö and Stockholm Remand Prisons, and the remand unit at Österåker Prison) varied from good to very good. The CPT has welcomed the fact that renovation work designed to improve ventilation and access to natural light at Stockholm Remand Prison has now been finalised. As a result, the shortcomings originally identified in its 1991 visit report have been remedied.

At Österåker Prison, ventilation and access to natural light were satisfactory, whereas the CPT has invited the Swedish authorities to review the ventilation at Malmö Remand Prison.

94. Progress has been rather limited as regards the implementation of the CPT's 1991 and 1994 recommendations concerning the small cage-like rooftop exercise areas at Stockholm Remand Prison. By the time of the 1998 visit, there were adequate facilities for prisoners taking exercise in groups; however, the exercise areas for prisoners subject to restrictions continued to be extremely modest. This shortcoming is particularly serious given that access to such facilities could well represent a prisoner's only opportunity to be out of doors for weeks, or even months on end. The situation was somewhat better - although not fully satisfactory - at the other two prisons visited.

The CPT has recommended that outdoor exercise facilities for use by remand prisoners (and more particularly by those subject to restrictions) in the three establishments visited - and in other remand prisons in Sweden where similar conditions obtain - be rebuilt in order to ensure that all prisoners are offered exercise in areas which are sufficiently large to allow them to exert themselves physically.

95. There have been positive developments as regards the regime offered to prisoners in the three remand establishments visited. The CPT's delegation was impressed by the standard of certain of the facilities which had been made available and by the creative use which was being made of the (often limited) available resources. The contact or personal officer scheme - under which all prisoners are assigned a prison officer who has direct responsibility for monitoring their day-to-day situation and assessing their needs - is another welcome innovation.

Nevertheless, the CPT has stressed that the Swedish authorities' current targets for out-of-cell time for remand prisoners (i.e. one hour per day for those subject to restrictions and five hours per day for those without restrictions, in both cases in addition to one hour per day of outdoor exercise) still leave a great deal to be desired. It has recommended that serious efforts continue to be made by prison staff with a view to offering additional activities and appropriate human contact to prisoners held on remand under restrictions. The Committee has also recommended that the Swedish authorities take action to ensure that - in the short term - the current target of 5 hours of out-of-cell time per day for remand prisoners not subject to restrictions is attained. Further, a new target should be set, with the aim of substantially increasing the out-of-cell time offered to prisoners, in line with the CPT's previous recommendations on this subject.

96. The facilities available to the health care services in all three of the establishments visited were of a high standard. However, the records of prisoners' medical histories were, on occasion, incomplete and it was comparatively unusual for inmates to be physically examined by the establishments' doctors, whether on reception, or at a later stage. Moreover, a number of patient-care tasks which are properly those of a doctor had been delegated to nursing staff, without appropriate supervision.

The CPT has recommended that the Swedish authorities review the provision of patient care by doctors in the establishments visited. It has also recommended improvements in the manner in which medical records are kept and the nature of medical screening.

97. In-house/visiting psychiatric services at Stockholm and Malmö Remand Prisons were found to be underdeveloped; the CPT has recommended that the current provision in terms of ambulatory psychiatric care for inmates at those establishments be reviewed.

As regards the psychiatric unit at Österåker Prison, living conditions and the care offered to patients were of a satisfactory standard. Nonetheless, the regime offered to patients was rather unchallenging and the Committee has recommended that efforts be made to remedy this lacuna.

C. The treatment of foreign nationals under the Aliens Act

98. In the course of the visit, the CPT's delegation heard no allegations - and gathered no other evidence - of physical ill-treatment of foreigners on arrival/apprehension or whilst detained by the police. Further, no such allegations were heard concerning foreigners being held under the Aliens Act at the Stockholm Region Detention Centre (Carlslund) or in other detention centres/prisons in Sweden.

However, some allegations were heard of the use of excessive force and/or unusual means of restraint by prison service transport (TPT) officers during the expulsion of foreign nationals from Sweden. The most serious allegations of ill-treatment heard by the delegation concerned a foreign national expelled from Sweden in late December 1997, who subsequently made a number of detailed written allegations regarding the manner in which he had been treated by prison officers from the TPT (blows with a baton, gagging of the mouth with adhesive tape) during an earlier abortive deportation attempt. Documents obtained by the CPT's delegation from the TPT Central Office in Gothenburg partially corroborated the account given by the person concerned.

The CPT has recognised that it will often be a difficult task to enforce an expulsion order in respect of a foreign national who is determined to stay on a State's territory. Law enforcement officials may on occasion have to use force in order to effect such a removal. However, the force used should be no more than is reasonably necessary. It would, in particular, be entirely unacceptable for persons subject to an expulsion order to be physically assaulted as a form of persuasion to board a means of transport or as punishment for not having done so. Further, the Committee has emphasised that to gag a person is a highly dangerous measure.

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

In this connection, the CPT has stressed that the applicable procedure should offer immigration detainees a real opportunity to present their cases, and that officials entrusted with handling such cases should be provided with appropriate training and have access to objective and independent information about the human rights situation in other countries. Further, in view of the potential gravity of the interests at stake, all decisions involving the removal of a person from a State's territory should be appealable before another body of an independent nature prior to their implementation.

100. The procedures currently being applied in Sweden are, in principle, capable of offering suitable guarantees against persons being sent to countries where they run a risk of such treatment.

However, not all persons arriving in Sweden are benefitting from access to those procedures. As far as the delegation could ascertain, very little information is provided to aliens at the initial - point of arrival - stage; further, persons in this situation are not offered legal advice. Moreover, although aliens have a right to appeal to the Swedish Immigration Board against a police decision to refuse them entry, such an appeal does not have suspensive effect. Consequently, as matters stand, the CPT is not entirely convinced that everyone who runs a risk of ill-treatment if refused entry and removed from Sweden will be identified. In this connection, the Committee has requested information on plans to transfer to the Swedish Immigration Board responsibility for all decisions concerning refusal of entry.

101. Material conditions in the waiting rooms for immigration detainees at Arlanda Airport and at the Stockholm Region Detention Centre were quite satisfactory. Moreover, the level of activities offered to persons held at the Detention Centre for lengthy periods had improved since the CPT's first visit to the Centre, and the transfer of the establishment to more spacious premises should allow the range of activities to be further developed.

However, the CPT has indicated that health care services provided to inmates at the Stockholm Region Detention Centre should be developed. In particular, all inmates should be medically screened on reception and information should be provided to newly-arrived immigration detainees inter alia reminding them of basic hygiene measures.

D. Action on the CPT's recommendations, comments and requests for information

102. The various recommendations, comments and requests for information formulated by the CPT are summarised in Appendix I.

103. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the CPT requests the Swedish authorities:

- i. to provide within six months an interim report giving details of how it is intended to implement the CPT's recommendations and, as the case may be, providing an account of action already taken;
- ii. to provide within twelve months a follow-up report providing a full account of action taken to implement the CPT's recommendations.

The CPT trusts that it will also be possible for the Swedish authorities to provide in the above-mentioned interim report reactions to the comments formulated in this report which are summarised in Appendix I as well as replies to the requests for information made.

APPENDIX I**SUMMARY OF THE CPT'S RECOMMENDATIONS, COMMENTS
AND REQUESTS FOR INFORMATION****A. Police establishments****1. Ill-treatment**recommendations

- police officers to be reminded that no more force than is reasonably necessary should be used when effecting an arrest and that, once arrested persons have been brought under control, there can be no justification for striking them (paragraph 10).

comments

- senior police officers regularly to remind their subordinates that ill-treatment is not acceptable and will be the subject of severe sanctions (paragraph 10);
- the existence of effective mechanisms to tackle police misconduct is an important safeguard against the ill-treatment of persons deprived of their liberty. The imposition of appropriate disciplinary and/or criminal penalties in those cases where evidence of wrongdoing emerges can have a powerful dissuasive effect on police officers who might otherwise be minded to engage in ill-treatment (paragraph 11).

requests for information

- in respect of 1997 and the first half of 1998:
 - . the number of complaints of ill-treatment by the police lodged and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;
 - . an account of the disciplinary/criminal sanctions imposed on the grounds of ill-treatment by the police (paragraph 9).

2. Conditions of detentionrecommendations

- steps to be taken to ensure that - regardless of his/her legal status - any person held overnight at Norrmalm District Headquarters in Stockholm and at Malmö Police Headquarters is provided with a mattress (paragraph 13);

- steps to be taken to ensure that conditions of detention in all police establishments in Sweden comply with the criteria set out in paragraph 12 (paragraph 13);
- the small holding cubicles at Stockholm and Malmö Police Headquarters - and any facilities of a similar size which may exist in other police establishments in Sweden - to be withdrawn from service (paragraph 14).

comments

- a cell measuring less than 5.5 m² is far from ideal as overnight accommodation (paragraph 13).

requests for information

- a copy of any regulations on the conditions of detention which should obtain in police cells (paragraph 13).

3. Safeguards against the ill-treatment of detained persons

recommendations

- the right of access to a lawyer to be extended to all categories of persons who may be obliged to remain with the police - including those being questioned as potential witnesses, apprehended or taken into care - as from the very outset of their custody (paragraph 21);
- the right of persons deprived of their liberty by the police to have access to a doctor - including, if they so wish, to one of their own choice - to be made the subject of a specific legal provision (paragraph 24);
- a form setting out the rights of persons in police custody in a straightforward manner to be systematically given to such persons at the very outset of their deprivation of liberty; the form to be available in an appropriate range of languages (paragraph 26).

comments

- all persons deprived of their liberty by the police - including those arrested, apprehended, taken into care or being questioned as potential witnesses - should be guaranteed the right to inform a close relative or another third party of their choice of their situation as from the moment when they are first obliged to remain with the police. Any possibility exceptionally to delay the exercise of this right to be clearly circumscribed by law, made subject to appropriate safeguards (e.g. any such delay to be recorded in writing together with the reasons therefor and to require the approval of a senior police officer or a public prosecutor) and strictly limited in time (paragraph 18).

requests for information

- further information on the steps being taken to implement the CPT's recommendation that persons in police custody should have the right, as from the outset of their custody, to have the fact that they have been detained notified to their next of kin or another third party of their choice (paragraph 18);
- the views of the Swedish authorities on the desirability of entrusting the investigation of complaints against the police to an agency which is demonstrably independent of the police (paragraph 27);
- comments on the efficacy of existing legal remedies for ill-treatment by the police and, in particular, on the advisability of lowering the standard of proof which applies to police disciplinary proceedings (paragraph 29).

B. Prisons**1. Restrictions**recommendations

- in framing the Decree and Prosecutor General's Instructions which are to be issued under the Act on the treatment of detained persons, due consideration to be given to ensuring that - in future - the relevant court is able to conduct a meaningful review of a prosecutor's decision to impose particular restrictions in a given case (paragraph 41);
- prisoners to be accorded an effective right of appeal against a court's decision to maintain specific restrictions which have been the subject of a review (paragraph 42).

requests for information

- copies of the draft Decree and the draft Instructions which are to be issued under the Act on the treatment of detained persons (paragraph 41).

2. Remand establishmentsrecommendations

- outdoor exercise facilities for use by remand prisoners (and more particularly by those subject to restrictions) in the three establishments visited - and in other remand prisons in Sweden where similar conditions obtain - to be rebuilt in order to ensure that all prisoners are offered exercise in areas which are sufficiently large to allow them to exert themselves physically (paragraph 48);
- serious efforts to continue to be made by prison staff with a view to offering additional activities and appropriate human contact to prisoners held on remand under restrictions (paragraph 51);

- action to be taken to ensure that - in the short term - the current target of 5 hours of out-of-cell time per day for remand prisoners not subject to restrictions is attained. Further, a new target to be set, with the aim of substantially increasing the out-of-cell time offered to prisoners, in line with the CPT's previous recommendations on this subject (paragraph 51).

comments

- it is important for prisoners to have ready access to a lavatory at all times, including at night (paragraph 43);
- the Swedish authorities are invited to review the ventilation at Malmö Remand Prison (paragraph 44).

3. Health care services

recommendations

- the provision of patient care by doctors in the establishments visited to be reviewed, having regard to the remarks set out in paragraphs 56 and 57 (paragraph 58);
- the approach followed in prisons in Sweden as regards medical records and medical screening to be reviewed, in the light of the remarks made in paragraph 59 (paragraph 59);
- the current provision in terms of ambulatory psychiatric care for inmates at Stockholm and Malmö Remand Prisons to be reviewed (paragraph 62);
- efforts to be made to offer a more challenging regime to patients in the psychiatric unit at Österåker Prison (paragraph 63).

requests for information

- whether the quality and effectiveness of the work of health-care staff in prisons is assessed by a qualified medical authority (paragraph 60);
- further information about the approach adopted in Sweden to the question of suicide prevention in prisons (paragraph 64).

C. The treatment of foreign nationals under the Aliens Act

1. Torture and other forms of ill-treatment

comments

- the force used to enforce an expulsion order should be no more than is reasonably necessary. It would, in particular, be entirely unacceptable for persons subject to an expulsion order to be physically assaulted as a form of persuasion to board a means of transport or as punishment for not having done so. Further, to gag a person is a highly dangerous measure (paragraph 68).

requests for information

- confirmation that the "body chains" found in prison service transport (TPT) vehicles have been withdrawn from service (paragraph 69);
- whether the Aliens Appeals Board is to acquire the status of an administrative court, thus opening its decisions to review by a higher court (paragraph 71);
- comments on the adequacy of the procedures currently used to gather information about whether persons may be "at risk" if expelled from Swedish territory, and about the countries which are to be regarded as being "safe" (paragraph 74);
- whether the Swedish authorities carry out any monitoring or follow-up as regards the situation of persons following their expulsion from Sweden (paragraph 74);
- progress being made as regards the transfer of responsibility for decisions concerning refusal of entry from the police to Immigration Board officials, and precise information about the procedures which will be applied in this area (paragraph 75).

2. Conditions of detention

comments

- the health care services provided to inmates at the Stockholm Region Detention Centre for foreigners should be developed (paragraph 82).

requests for information

- further information regarding the planned transfer of Stockholm Regional Detention Centre to more spacious premises (paragraph 80).

APPENDIX II**LIST OF THE NATIONAL AUTHORITIES, NON-GOVERNMENTAL ORGANISATIONS AND OTHER PERSONS WITH WHOM THE CPT'S DELEGATION HELD CONSULTATIONS****A. National authorities****Ministry of Justice**

Ms Laila FREIVALDS	Minister for Justice
Ms Kristina RENNERSTEDT	State Secretary
Mr Fredrik WERSÄLL	Director-General for Legal Affairs
Ms Lena MOORE	Director
Ms Ingela JÖNSSON	Deputy Director
Mr Håkan FRIMAN	Associate Judge of Appeal
Ms Annika LOWEN	Associate Judge, Administrative Court of Appeal

National Prison and Probation Administration

Mr Bertel ÖSTERDAHL	Director-General
Mr Per COLLIANDER	Head of Division
Dr Stefan SKAGERBERG	Head of Prison Medical Services

Office of the Prosecutor General

Ms Solveig RIBERDAHL	Deputy Prosecutor-General
Mr Nils REKKE	Director
Ms Barbro JÖNSSON	Director

National Police Board

Mr Ulf BERG	Chief Legal Adviser
Mr Lars SJÖSTRÖM	Legal Adviser
Mr Sven Arne ANDREASSON	Chief Inspector

Ministry for Foreign Affairs

Ms Gun-Britt ANDERSSON	State Secretary for Migration and Asylum Policy
Mr Lars MAGNUSON	Director-General for Legal Affairs
Ms Ingrid HERZOG	Director
Mr Lars PÅHLSSON	Deputy Director
Ms Ingela FRIDSTRÖM	Associate Judge of Appeal
Ms Åsa GUSTAFSSON	Desk Officer

Aliens Appeals Board

Mr Göran HÅKANSSON	Director-General
Mr Håkan SANDESJO	Assistant Director-General
Ms Ulla STIGERBERG	Judge
Mr Kjell BJÖRNBERG	Judge
Mr Tommy LINDBERG	Legal Adviser

Swedish Immigration Board

Ms Lena HÄLL ERIKSSON	Director-General
Mr Erik STENSTRÖM	Head of Legal Services
Ms Kria ARVIDSSON	Head of the Detention Centre Region mitt, Flen

Ministry of Health and Social Affairs

Mr Ulf WESTERBERG	State Secretary
Mr Björn REUTERSTRAND	Director-General for Legal Affairs
Ms Ingrid PETTERSSON	Director
Mr Per-Olof ÅNGMAN	Desk Officer
Mr Per-Erik RINSELL	Desk Officer
Mr Kenneth SJÖSTRAND	Desk Officer

National Board of Forensic Medicine

Mr Kurt ROOS Director-General

National Board of Health and Welfare

Mr Per G. SWARTLING Medical Director

National Board of Institutional Care

Mr Sören ÖMAN Head of Legal Services

Mr Bernard TAYLOR Head of the Gudhemsgården Institution

Office of the Parliamentary Ombudsman

Mr Claes EKLUNDH Chief Parliamentary Ombudsman

Mr Jan PENNLÖV Parliamentary Ombudsman

Mr Kjell SWANSTRÖM Administrative Director

B. Other authorities

Mr Claes DJURBERG Judge, Stockholm City Court

Ms Anna Britta MALMSTRÖM-ÖHMAN Judge, Stockholm City Court

Ms Annika MARCUS Judge, Stockholm City Court

Ms Eva REGNER Chief District Prosecutor

Mr Stefan LUNDBERG Assistant Chief Prosecutor

C. Non-Governmental Organisations

Caritas Sverige

Exodus Network

FARR - Swedish Network of Asylum and Refugee Support Groups

Kantt - The Swedish National Secretariat for Torture Survivors

Rådgivningsbyrån - Swedish Refugee Advice Centre

Swedish Helsinki Committee

**Interim report of the Swedish Government
in response to the report of the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)
on its visit to Sweden
from 15 to 25 February 1998**

(transmitted by letter of 3 February 1999)



REGERINGSKANSLIET

Introduction

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) carried out a visit to Sweden from 15 to 25 February 1998. The CPT has previously visited Sweden in 1991 and 1994. During its latest visit to Sweden the Committee visited the police headquarters in Malmö and Stockholm, the police stations in Davidshall in Malmö, Norrmalm in Solna and Södermalm in Stockholm, the police facilities at Arlanda Airport, the remand prisons in Malmö and Stockholm, Österåker Prison, and the Stockholm Region Detention Centre (Carlslund) in Upplands Väsby.

As requested by the CPT, the Swedish Government is herewith enclosing an interim report containing responses to the Committee's recommendations, comments and requests for information.

A. Police establishments

1. Ill-treatment

9. During its visit to Sweden and during interviews with persons who were detained by the police, the CPT established that none of the interviewees made allegations of physical ill-treatment. However, a few persons claimed that they had been subjected to verbal abuse by police officers.

In order to gain a comprehensive and nation-wide picture of the situation, the CPT has requested information about the number of complaints lodged by persons deprived of their liberty of ill-treatment by the police in 1997 and the first half of 1998 and an account of any disciplinary/criminal sanctions enforced as a result of these complaints.

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Visitors' address
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178 20 PREMIER S

At the request of the Swedish Government, the National Police Board has assigned each police authority to produce the information requested by the CPT. This information is presented in **appendix 1**.

The following should be observed when interpreting the statistics: all complaints which are lodged against the police and individual police officers are, in actual practice dealt with as formal applications in accordance with the rules which apply to such cases; this also concerns complaints which, objectively, appear to be unfounded. It should also be noted that the statistics contain a large number of complaints by persons who feel ill-treated purely on account of having been detained by the police.

10. During its visits to the police authorities, the CPT found that persons deprived of their liberty run relatively little risk of being ill-treated by the police. However the CPT has recommended that senior police officers should regularly inform their subordinates that ill-treatment is not acceptable and will be the subject of sanctions.

The CPT has also recommended that senior police officers inform their subordinates that when effecting an arrest, no more force than is reasonably necessary should be used in order to carry out official duties.

Section 8 of the Police Act (1984:387) establishes the principles of legality, proportionality and needs. They are of fundamental importance to all police activities. Pursuant to this section a police officer, in carrying out his official duties, should observe laws and statutes and should intervene in such a way as is justifiable with regard to the aim of the measures taken and other circumstances; should force be necessary, it should only be used in the form and to the extent required to achieve the desired result. Chapter 5, section 1 of the Police Ordinance (1984:730), which relates to the above regulation, defines the requirements of professional ethics relating to police officers. A police officer should, in his or her work, behave in such a way as inspires confidence and respect; he or she should be polite, considerate and firm and practise self-control, and should avoid any displays of what may be perceived as unfriendliness or pettiness.

Interventions that violate section 8 of the Police Act may involve criminal liability. For example, police officers who are punished for service irregularity or assault have generally been removed from office. Interventions in violation of chapter 5, section 1 of the Police Ordinance may involve disciplinary liability, if the act is not subject to criminal liability.

In addition to clear statutory regulations, the most important way of preventing ill-treatment of persons deprived of their liberty is through educational measures and by influencing attitudes. The reformed basic training of police officers devotes a great deal of time to issues of professional ethics. The Swedish National Police Academy runs a special ethics programme. The ethics programme aims to train special ethics supervisors at police authorities. The ethics supervisors run regular advanced training courses in professional ethics and also provide continuous supervision in such issues. They also participate themselves in regular advanced training at the Swedish National Police Academy.

11. The CPT has emphasised the importance of having a well functioning control mechanism for preventing police officers from subjecting persons deprived of their liberty to ill-treatment and that there, especially as a preventive measure, must be a well functioning disciplinary and legal system.

The police establishment has an efficient system of controls which is adapted to the Swedish authority structure. The regulations in chapter 6 of the Police Ordinance guarantee that every claim that an employee within the police establishment - police officer or civilian - has committed an irregularity in his official duties or committed a crime on or off duty will be submitted to a prosecutor. It is, in other words, not the police establishment but another authority which decides which measures to take in connection with such a reported claim. The report may lead to preliminary investigations and prosecution or, if the act is not criminal, to disciplinary action (cf. also paragraph 29 below).

On 1 July 1987 the National Police Board specially established the Committee for Responsibility of Personnel, which has the task of examining cases related to official responsibility of employees in the police establishment. The Committee views assaults by police officers especially gravely. Such deeds generally lead to dismissal.

2. Conditions of detention

13. The CPT has established that the conditions of detention in the police establishments visited were by and large of a good standard with regard to, inter alia, cleanliness, size, lighting, ventilation and overnight facilities (mattresses, sheets etc.). There were, however, exceptions.

The CPT has recommended that measures be taken to ensure that all persons deprived of their liberty held overnight at Norrmalm District Headquarters in Stockholm and at Malmö District Headquarters have access to a mattress.

The CPT has also recommended that the responsible authorities ensure that conditions of detention in all police establishments comply with the criterion set up by the CPT with regard to, inter alia, cleanliness, size, lighting, ventilation and overnight facilities (mattresses, sheets etc.).

With regard to Davidshall Police Station in Malmö, it was noted that there are cells which measure less than 5.5m². The CPT considers that such small police cells are far from ideal as overnight accommodation for detainees.

The CPT has requested information about the regulations on the conditions of detention which should obtain in police cells.

Stockholm Police Authority has explained that the cells referred to are those that are used for short-term detention of persons who are inebriated or who have disturbed the peace. Inebriated persons - who are the main category (4500 per year) - are taken into custody in accordance with the Act on the Taking into Custody of Inebriated Persons etc. (1976:511). They may not be held for longer than considered necessary for them to be able to take care of themselves - for eight hours at the most. Persons who have been taken into custody temporarily on account of disturbing the peace are to be interrogated by the police as soon as possible and then released, in accordance with section 16 of the Police Act. They may not be held for longer than six hours.

These cells for apprehended persons are not normally equipped with mattresses. However, it is possible to obtain a mattress if necessary. Measures have been initiated to supply these cells with mattresses.

The police in Malmö have stated that there are mattresses in the cells for apprehended persons. During the CPT's visit, one cell without a mattress was found. This was attributed to an oversight by the police staff.

The National Police Board's regulations on the conditions of detention are available in an ordinance (1958:215) containing certain regulations on conditions in prisons and police cells and in FAP 915-1. These are enclosed as **appendices 2 and 3**.

14. On its visit in 1991 the CPT criticised the 1.45m² holding cells found at the old 24-hour service department at the Stockholm Police Headquarters. Similar cubicles were found at the Malmö Police Headquarters.

The CPT has recommended that the cells referred to in Stockholm and Malmö should not be used to hold persons deprived of their liberty. Any facilities of a similar size which may exist elsewhere in Sweden should be withdrawn from service .

The Stockholm Police have explained that the facilities referred to - old holding cubicles with fixtures - still exist. However, they have not been used for several years to hold persons deprived of their liberty. Today they are used as storage rooms for various types of equipment.

The Malmö Police have stated that the authority intends to investigate what can be done to improve conditions with regard to the size of cells in the establishments.

Pursuant to section 9 of the ordinance containing certain regulations on conditions in prisons and police cells (1958:215), exceptions may be made to the regulations in special cases. Chapter 3 of FAP 915-1 contains regulations on such exceptions for so-called waiting cells which may be used upon special permission from the National Police Board. A waiting cell is a waiting room within police establishments, which is available to hold persons who have been apprehended or taken into care for a short time, pending interrogation, transport or other measures. The time a person deprived of his or her liberty may be held is, as a rule, limited to one hour. The time limit is determined from case to case with regard to how the conditions in the cell compare to conditions which generally apply to detention facilities (chapter 3, section 2 FAP 915-1, see appendix 3).

3. Safeguards against the ill-treatment of detained persons

21. *The CPT has recommended that the right to be represented by a lawyer be extended to all categories of persons who are held by the police including those who are questioned as potential witnesses, apprehended or taken into care. This right should apply from the very outset of their custody.*

The regulations on the right to representation by a lawyer, to informing relatives or others about the detainment and informing the detainee of his or her rights are, at present, all being reviewed by the Ministry of Justice. During its visit in February 1998 the CPT explained, inter alia, its views on what categories of persons it considers should be embraced by the suggested safeguards. The views that were presented then and which reappear in the report will be taken into account in the Ministry's review. A memorandum containing suggestions should be ready during the first quarter of 1999.

24. The CPT has recommended that the right of persons deprived of their liberty to have access to a doctor be made the subject of a specific legal provision. The provision should include the right to a doctor of their own choice.

The CPT has noted that, during its visit, it found that the persons deprived of their liberty who have been assessed by the police to be in need of medical attention had also received adequate treatment. However, according to the CPT it was unclear whether detainees were also given access to a doctor in cases where the police did not consider medical treatment to be necessary.

According to sections 4, 17 and 18 of the Act on the Treatment of Detained Persons (1976:371) a person deprived of his or her liberty by the police should be examined by a doctor as soon as possible if he or she is assessed to need medical treatment or asks for a doctor to be consulted. Exceptions may be made only in cases where examination is obviously unnecessary.

According to the Act on the Taking into Custody of Inebriated Persons etc. (1976:511) the detainee should be examined by a doctor as soon as possible if necessary with regard to his or her condition.

If the doctor's visit has been requested by the police authority the fee is to be paid by the authority.

According to the so-called normalisation principle, persons deprived of their liberty in Sweden have the same right to medical care as those who are not deprived of their liberty. Swedish legislation on health- and medical care does not include any general rights for individuals to choose a particular doctor. This also pertains to those detained by the police.

The National Police Board has stated that it should only be necessary to consult a doctor requested by the detainee himself/herself in the case of specialist care. According to the National Police Board, this can be arranged within the framework of the current regulations. In the opinion of the Board, there is, in other cases, hardly need to let the detainee decide whether a doctor should be consulted or which doctor to call.

The Swedish Government shares the National Police Board's opinion in this matter and does not consider it necessary to change or complement the provisions pertaining to the right of persons deprived of their liberty to have access to a doctor in order to fulfil the CPT's recommendation.

Finally, the National Police Board has stated that it has nothing against an arrangement whereby persons deprived of their liberty have the right to consult a doctor at their own expense. The Swedish Government considers that the need for such a provision is limited and therefore does not intend to take any special measures in this regard at present.

26. The CPT noted during its visit that the Minister for Justice has declared herself prepared to ensure that all persons held by the police be informed of their rights as regards notification to a next of kin, access to a lawyer, and access to a doctor including one of his/her own choice. The committee has recommended that a leaflet to inform the detainee of his/her rights be produced and that it be available in an appropriate range of languages.

The recommended leaflet does not exist at present. The National Police Board has said that such a leaflet would serve a certain purpose.

The Swedish Government is considering assigning to the National Police Board the task of producing a leaflet with the said contents.

27. The CPT considers it of utmost importance that investigations concerning alleged crimes committed by the police when on duty be conducted in an independent and impartial manner. The procedures involved must be, and be seen to be, independent and impartial.

The CPT has requested information on how Swedish authorities view the suggestion of establishing an independent agency for the investigation of criminal charges against the police.

The question of how complaints against the police - and other employees in the police services - should be dealt with has been discussed, inter alia, in various official reports (see SOU 1975:20, SOU 1979:71 and Ds Ju 1984:10). The reports have established that there is no evidence that the internal criminal investigations do not hold a good standard and that there is no reason to suspect illegitimate considerations on the part of the investigative staff.

The present system has in essence been considered the most suited to the Swedish authority structure. In short, the system is such that complaints against employees in the police services on or off duty - or for wrongful behaviour when on duty - must always be forwarded to a public prosecutor for further investigation. The investigation work is carried out by special police officers under the leadership of a prosecutor.

In October 1997 the Swedish Government assigned to the Chancellor of Justice the task of reviewing authorities' routines for investigations of deaths in connection with intervention by authorities. The Chancellor of Justice submitted a report to the Government on 25 November 1998. The report contains an evaluation of the police services' internal investigations. The Chancellor of Justice considers that there is no reason to believe that the internal criminal investigations undertaken by the police do not hold a good standard in general. The Chancellor of Justice also refers to a representative of the Prosecutor-General who considers that there is in fact a greater risk that incidents are investigated too extensively in order to eliminate all suspicion of crime.

In his report the Chancellor of Justice finds no reason for changing the principle that investigations against police officers are dealt with within the police services. In the opinion of the Chancellor of Justice this is the optimum system from the point of view of efficiency and the rule of law. However, the Chancellor of Justice does consider there to be room for improvement of the organisation and the procedures for investigation and advocates a model proposed by the former Deputy Prosecutor General, Axel Morath, in April 1997 in the report 'Polis-Åklagare-Internkontroll' [Police-Public Prosecutor-Internal Control].

Among other things, the report suggests that the police services' internal investigations should be regionalised so that each of the seven public prosecution districts has an internal investigation group at the police authority in the city where the office is located. With this model, there would be a larger distance between the police who may be subject to criminal investigation and the persons who undertake the investigations.

To date, the suggested model has been introduced in one public prosecution district and the possibility of setting up the model throughout the country is being considered. In the report the Chancellor of Justice states that an amendment of the Statute should be considered if the deliberations do not lead to an introduction of the model throughout the police services.

The Swedish Government views the current work within the police and prosecution services positively and shares the Chancellor of Justice's view that there is at present no need for an agency which is independent of the police.

29. The CPT has requested information about to what extent the disciplinary system can be considered appropriate in cases where police officers are guilty of ill-treatment. As the CPT understands it a police officer who has not been convicted by a court of law cannot be subject to disciplinary action since the standard of proof is identical in both cases. In this light, the CPT would like to know the Swedish Government's view on lowering the standard of proof in the case of police disciplinary proceedings.

When an act has been investigated in accordance with penal law, disciplinary action may only be initiated or continued if the deed, for a reason other than insufficient evidence, has not been considered to constitute a crime (section 18, subsection 2 of the Act on Public Sector Employment (1994:260)). Permitting subsequent disciplinary proceedings in cases in which criminal proceedings were not pursued because the evidence was too weak for a conviction, or in which the defendant has been acquitted in a court of law for the same reason, would involve an administrative retrial of the evaluation of proof conducted by the bodies which protect the interests of justice. However, in cases in which the deed is not considered a crime by a public prosecutor or a court of law, but instead is assessed as misconduct, it is possible to take disciplinary measures.

As regards the standard of proof, a fundamental tenet of the Swedish legal system is that no one may be punished - and not subjected to disciplinary measures - unless he/she can be found to be guilty beyond reasonable doubt.

The described system functions well. As described in paragraph 27 above changes are being introduced to improve the organisation of internal investigations.

In this light the Swedish Government considers that there is no reason to change the standards of proof as they apply to police disciplinary proceedings.

B. Prisons

1. Restrictions

41. The CPT has recommended that in the elaboration of the Decree and the Prosecutor General's Instructions which are to be issued under the Act on the Treatment of Detained Persons (1976:371), due consideration be given to ensuring that the court will, in future, be able to conduct a meaningful review of a prosecutor's decision to impose restrictions in a given case.

From 1 January 1999 a provision that prosecutors are to document the circumstances which lead to a decision to impose restrictions has been included in the Decree on the Treatment of Detained Persons (1976:376). The detained person is to be informed of this to the extent that this is possible without it being detrimental to the investigation (section 19b; SFS 1998:136).

The Prosecutor General has been asked to present more detailed directions on how the documentation and notification to the detainee are to be conducted. There are already formal instructions from the Prosecutor General on the prosecutors' application of restrictions (Circular from the Prosecutor General, RÅC I:120, last issued in June 1994). The point of departure is that the detainee's contact with the outside world is to be limited as little as possible. The circular also contains directions on documentation of decisions to impose restrictions.

The reasons which the prosecutor has to document for the court in the case of certain restrictions largely correspond to those which he or she must cite when motivating a detention because of a risk that the suspect may remove evidence or in some other way obstruct the criminal investigation and in support of general permission for imposing restrictions. In order to clarify and emphasise this obligation to cite the reasons for imposing restrictions a specific provision has been added to chapter 24, section 14, Swedish Code of Judicial Procedure.

The most important issue at this stage of the criminal proceedings is to assess whether or not the person should be deprived of his or her freedom. In principle there is no reason to demand that the prosecutor gives a more detailed account of the reasons for imposing restrictions than of the reasons for detention. In this context it should also be noted that, according to principles of Swedish procedural law, the information submitted to the court of law is also given to the suspect. This is naturally particularly troublesome in the case of detailed information about possible obstruction of the criminal investigation.

*The CPT has asked to receive copies of the Decree and the Instructions to be issued under the Act on the Treatment of Detained Persons. The Decree is attached as **appendix 4**. The Instructions have not yet been translated but will be forwarded to the CPT as soon as this is completed.*

42. The CPT has recommended that prisoners be accorded an effective right of appeal against a court's decision to maintain specific restrictions which have been the subject of a review.

From an international perspective Sweden has few persons who are detained in custody. Internal investigations also show that detention times are short in most cases. These are the goals of the Swedish system. One condition for few and short detentions on account of crime is that the rules have been drafted so as to enable a quick and efficient preliminary investigation.

The recent reform regarding restrictions imposed on persons deprived of their liberty aims to give better protection to the rights of the prisoner at the same time as maintaining the conditions for efficient criminal investigations. The new regulations enter into force on 1 January 1999.

The new regulations give the prisoner the right to demand a trial in court of the different kinds of restrictions imposed upon him. The regulations complement the compulsory trial in court of the detention and the requirements of general permission to impose restrictions which already exist today. Appeals can be made against both kinds of decision without a time-limit to a higher court. The prisoner can also demand a review of the detention order at any time. Court detention orders which are based on a risk that the person might, if not detained, remove evidence or obstruct the criminal investigation are necessary in order for the prosecutor to be able to decide to impose specific forms of restriction on the person who is deprived of his or her liberty. For such restrictions to be imposed, the court's permission is, in principle, required.

The prosecutor is obliged to continuously review the restrictions and to allow individual exceptions from these whenever possible. The evaluation upon which the new regulations are based shows that prosecutors fulfil their obligations.

In this light and because the circumstances which call for the imposition of a particular kind of restriction may change quickly, the Swedish Government has not found it necessary to make it possible to appeal against a court's decision to impose specific restrictions. This has been approved by the Council on Legislation which has examined the proposal and by the Parliament. Any potential changes to the regulations should not be made until they have entered into force and the effects have been evaluated.

2. Remand establishments

48. The CPT has recommended that the facilities for outdoor exercise for use by remand prisoners (and especially for those subject to restrictions) in the three establishments visited be rebuilt in order to ensure that all prisoners are offered exercise in areas which are sufficiently large to allow them to exert themselves physically. The recommendation also applies to other remand establishments in Sweden where similar conditions obtain.

Most remand establishments in Sweden are on the top floor of administrative offices. Their location is the largest obstacle to achieving increased possibilities for outdoor exercise for the prisoners. The National Prison and Probation Administration has, however, conducted a review of conditions in Swedish remand establishments which has, inter alia, led to a significant reconstruction of these establishments. The primary aim is to adapt the premises so as to allow the prisoners greater opportunities to spend time with one another. Changes are also being made to provide larger outdoor areas.

At Österåker Prison the National Prison and Probation Administration plans to increase the size of the exercise yard as a consequence of the CPT's criticism. Measures such as repainting are also planned in order to avoid the impression of compactness.

At Malmö Remand Prison the National Prison and Probation Administration plans to increase the size of the exercise yards by removing the walls between a number of smaller exercise yards.

The National Prison and Probation Administration contends that it is not possible to fulfil the CPT's recommendations through reconstruction at Stockholm Remand Prison; all available space is used for exercise yards and it is not possible to move them elsewhere.

At present it is not possible to rebuild the exercise yards so as to completely fulfil the CPT's recommendations. In order to do so the remand establishments on the top floors of administrative offices would have to be moved to other locations. However, efforts are being made, in as far as it is possible, to provide larger outdoor areas. The National Prison and Probation Administration also points out that most remand establishments have well-equipped gymnasiums which are available to prisoners who are subject to restrictions at certain times.

51. The CPT has recommended that serious efforts should continue to be made by prison staff with a view to offering additional activities and appropriate human contact to prisoners held on remand under restrictions.

The CPT has recommended that measures be taken to ensure that - in the short term - the current target of five hours of out-of-cell time per day is offered to the prisoners, in line with the CPT's earlier recommendations on this subject.

The CPT has noted that vast improvements have been achieved at Stockholm Remand Prison with regard to the prisoners' possibilities of participating in joint activities. However, the requirement that the prisoners should spend at least eight hours of out-of-cell time per day has not been fulfilled.

The Swedish Prison and Probation Service has taken substantial measures to improve conditions for the prisoners. Efforts to increase the possibilities of prisoners who are not subject to restrictions of participating in joint activities have continued. On the whole, conditions have also improved for those who are subject to restrictions. Continued efforts to improve conditions for the prisoners remain a priority of the Swedish Prison and Probation Service.

Rebuilding of the remand establishments are estimated to take between three to four years to complete. As mentioned above, the changes are primarily being made in order to improve possibilities for joint activities among the prisoners.

In order to improve conditions in remand establishments the Swedish Government has proposed an amendment to the Act on the Treatment of Detained Persons (1976:371). The amendment is to the effect that remand prisoners should, as a rule, be given the opportunity to spend time together with other prisoners. The amendment, which enters into force on 1 January 1999, will expedite the improvement of conditions in remand establishments. At the same time, the new regulations described above concerning the imposition of restrictions on prisoners will enter into force.

The National Prison and Probation Administration has also initiated discussions with the Prosecutor General about a simplified procedure when prisoners who are subject to restrictions are visited by representatives of authorities and external consultants who have been employed for activities arranged by the remand establishment. The aim of such a change is to increase the prisoners' opportunities for receiving organised visits and engaging in purposeful activities. The National Prison and Probation Administration also considers it possible to increase the 'joint sittings' of prisoners who are subject to restrictions if permission is given by a prosecutor.

43. The CPT has also recalled the importance of prisoners having access to a lavatory at night.

The National Prison and Probation Administration has said that it shares the CPT's view that prisoners should not have to wait to be released from their cells in order to visit the lavatory. Complaints about this were made during the CPT's visit to Österåker Prison. However, such criticism has not been voiced previously, either in the evaluation filled in by prisoners when they leave the prison or through complaints to the National Prison and Probation Administration. Österåker Prison has been notified of the problem and has taken appropriate measures.

44. The CPT has requested a review of the ventilation at Malmö Remand Prison.

The National Prison and Probation Administration has said that the ventilation at Malmö Remand Prison will be remedied in connection with the planned renovation of the prison.

3. Health care services

a) general health care

58. The CPT has noted that there is reason to believe that doctors in the prisons visited may not be devoting sufficient time to patient care and has recommended a review of the doctors' provision of patient care. The CPT has stated that the review should be conducted with regard to the remarks on the keeping of medical records, taking of full medical histories of the prisoners, physical examination by doctors and the doctors' administrative duties.

The National Prison and Probation Administration has informed the authorities concerned of the CPT's remarks and recommendations. At Malmö and Stockholm Remand Prisons a survey is being conducted at present both on the need for and on the procurement of medical services. Through a general and a more specific review of the existing health-care services, the National Prison and Probation Administration will also emphasise how important it is that doctors devote sufficient time to the prisoners' needs and that anamnestic and other findings are systematically documented. If the survey shows that the doctors' administrative tasks are so extensive that they hamper documentation and actual work devoted to the patients this will be remedied.

Under the Health and Medical Service Act, the National Prison and Probation Administration has developed a system to guarantee the quality of health and medical service activities in prisons. The system is currently in process of implementation.

The Swedish Government finds no reason to take further measures in connection with the CPT's recommendations.

59. The CPT has recommended a review of the routines in Swedish prisons as regards medical records and medical screening. The review is to be conducted in the light of the CPT's recommendation that doctors' notes be recorded on a standardised medical record form and that every prisoner should be properly interviewed and examined by a doctor as soon as possible after his or her admission to the prison, and in the case of custody, on the day of admission. The CPT has been told that nursing staff have continued to supply prescription drugs for a considerable time, in the absence of a medical examination.

The Swedish Government has earlier informed the CPT that the Medical Record Act (1985:562) contains provisions on the keeping of medical records, which also apply to the medical and health care in the Swedish Prison and Probation Services. As mentioned above, the National Prison and Probation Administration will conduct both a general and a specific review of the health-care services in order to bring further attention to the importance of documenting anamnestic and other findings systematically. The system for quality control in the medical- and health-care services in the Swedish Prison and Probation Services also includes quality manuals, inter alia, on the keeping of medical records.

The National Prison and Probation Administration is also undertaking a review of the computerised registration systems for information about prisoners. In this context, routines for the keeping of medical records are to be further developed and systematised. The CPT's recommendations will be taken into account in this review.

According to the National Prison and Probation Administration's regulations for remand establishments and institutions, persons who are admitted are to be examined by a doctor as soon as possible. While waiting for a medical examination by a doctor, the prisoners' state of health is to be assessed by a nurse. The quality manual on initial medical examinations which is being prepared within the system for quality control for health and medical care shall fulfil these regulations. According to the manual, the initial medical examination should be conducted as soon as possible after admission.

The medical examination should focus on the problems at issue and the physical examination should be adapted accordingly. In Sweden, health care may, in principle, not be given without the patient's permission. The idea of physically examining all persons who are admitted to a remand prison or an institution for signs of torture or assault is not in line with the Swedish medical profession's view on health and medical care.

The National Prison and Probation Administration has stated that it is concerned about the information concerning the occurrence of treatment for some considerable time without there having been a medical examination. Attention has been drawn to the matter in connection with the preparation of quality manuals for contact with a doctor.

The Swedish Government does not find reason to take further measures with regard to the CPT's recommendation.

60. The CPT has requested further information about Sweden's approach to the CPT's reminder that the work of medical and health-care staff in prisons and institutions should be assessed by a qualified medical authority.

Since 1 January 1997 the health care provided in the Swedish Prison and Probation Services is supervised by the National Board of Health and Welfare in accordance with the Act on Supervision of Health and Medical Care (1996:786). The National Board of Health and Welfare has qualified medical expertise. The overall aim of the supervision is to prevent and eliminate injuries and risks in medical and health care. The supervision entails that the National Board of Health and Welfare checks that health care is provided and carried out in accordance with laws, ordinances, other regulations and good practice. If conditions are clearly unsatisfactory, the National Board of Health and Welfare may, inter alia, order the responsible medical staff to remedy the situation under the penalty of a fine. To date, the National Board of Health and Welfare has conducted approximately 10 inspections of prisons and institutions. In October 1998 the health-care services at Stockholm Remand Prison were inspected. A report from this inspection has not yet been presented.

b. psychiatric care

62. The CPT has recommended a review of the current provision of ambulatory psychiatric care for inmates in Stockholm and Malmö Remand Prisons.

63. The CPT has recommended that efforts be made to offer patients at the psychiatric unit at Österåker Prison more stimulating activities.

It is a priority of the Swedish Prison and Probation Services to ensure that psychologically fragile inmates are given adequate care and treatment.

During 1999 the National Prison and Probation Administration will conduct a comprehensive examination of the psychiatric/psychological needs within the prison and probation services. Within the framework of this examination, the work of the psychiatric unit at Österåker Prison will also be reviewed. A process for procurement of psychiatric medical care has been initiated at Malmö Remand Prison and according to the National Prison and Probation Administration this should mean that the CPT's requirements will have been fulfilled after 1 January 1999.

64. The CPT has requested further information about Sweden's efforts to prevent suicide.

In order to increase knowledge and awareness of depressive symptoms and crisis behaviour among inmates, the National Prison and Probation Administration has produced educational material which is to be used for preventive purposes within the prison and probation services. The material has been prepared, inter alia, by doctors. It is to be used by study groups at the prisons and in the basic training of prison staff. The material contains a manual which can be used as an aid during conversations with inmates and clients at prisons, institutions and in non-custodial treatment.

C. The treatment of foreign nationals under the Aliens Act

1. Torture and other forms of ill-treatment

68. The CPT has emphasised that no more force than is reasonably necessary should be used when enforcing an expulsion order. It is entirely unacceptable for persons who are subject to an expulsion order to be physically assaulted as a form of persuasion to board a means of transport or as punishment for not having done so. Further the CPT has emphasised that to gag a person is a highly dangerous measure.

The Government totally agrees with the CPT on this issue. The CPT has referred to a case involving transport from Sweden of a person subject to an expulsion order. The National Prison and Probation Administration has investigated the incident. The investigation shows that the deportation was, in part, conducted in such a way and using such methods as are contrary to accepted practice in the prison service transport (TPT). However, the incident occurred at the airport in Zürich, Switzerland and the criticised measures were taken by the Swiss police. The Head of the transport service assessed that the Swedish prison officers did not have any real opportunity to direct the methods that were to be used, since they understood that the Swiss police took over responsibility for this part of the transport operation and their actions followed established routine. The National Prison and Probation Administration has contended that the methods used are contrary to the view of how detained persons are to be treated as expressed in Swedish legislation.

69. The CPT has asked for confirmation that the body chains found in the TPT's vehicles have been withdrawn from service.

The National Prison and Probation Administration decided on 11 November 1998 that body chains may no longer be used. The decision is attached as **appendix 5**.

71. The CPT has requested for information whether the Aliens Appeals Board is to acquire the status of an administrative court, thus opening its decisions to review by a higher court.

The provisions in the Aliens Act (Chapter 2 section 5 b) regulate cases where an alien may submit a so-called new application to the Aliens Appeals Board. It should be added that there is also a possibility for the alien to apply for a new trial (resning) at the Administrative Court of Appeal under Section 37 b of the Administrative Court Procedure Act. The Court may grant a new trial if, on account of any particular conditions, there are exceptional grounds for doing so. It should be further added that a parliamentary commission is looking over legislation pertaining to aliens. The Commission was set up by the Government in early 1997. Among other things, the task of the Commission is to investigate future procedures in matters relating to aliens and citizenship legislation. The Commission will examine whether to allow for representation of both parties in the legal procedure and whether decisions should be taken by courts of law, independent bodies with judicial power or purely administrative authorities. The question of establishing a leave to appeal in the procedure will also be examined as well as the possibility of an accelerated procedure in certain cases. The Commission is to complete its assignment in the beginning of February 1999.

74. The CPT has requested comments on the adequacy of the procedures currently used to gather information about whether persons may be "at risk" if expelled from Swedish territory, and about the countries which are to be regarded as being "safe", and information whether the Swedish authorities carry out any monitoring or follow-up as regards the situation of persons following their expulsion from Sweden.

The Government would like to confirm that information is gathered from the sources mentioned. In addition, information is gathered through the EU working parties, inter alia CIREA. In the Government's view the acquisition of knowledge concerning whether persons may be "at risk" and about countries to be regarded as "safe" offers suitable guarantees. Information is continuously followed up. In general, the Swedish authorities do not monitor the situation of persons following their expulsion from Sweden. If the authorities are given any indication that a person has been subject to any kind of inhuman treatment according to the Aliens Act, the authorities check up on the information.

75. *The CPT has requested information on progress being made as regards the transfer of responsibility for decisions concerning refusal of entry from the police to Immigration Board officials, and precise information about the procedures which will be applied in this area.*

If a person applies for a residence permit after entering Sweden the application should be addressed to the Swedish Immigration Board. Before the 1st of October 1997 applications for residence permits other than asylum were initially a matter for the police. Apart from that difference, there are no immediate plans to transfer the responsibility in these particular cases of refusal of entry orders from the police to the Swedish Immigration Board. However, it should be mentioned that proposals have been presented to the Government in reports from special investigators to the effect that the Board should participate more frequently in border controls. The Government is now taking the matter under consideration. The applicable provision concerning the handling of refusal-of-entry cases is Chapter 4 section 4 of the Aliens Act. Refusal-of-entry cases shall be examined by the Swedish Immigration Board if 1. The alien applies for asylum in Sweden, 2. The alien has a close relative who is applying for asylum in Sweden, 3. the alien may come to be refused entry because of a request by the central aliens authority of another Nordic country when it may be presumed that the alien will otherwise make his way to that country, or 4. the alien, when the question of his refusal of entry is raised, has been staying in Sweden for more than three months after arrival. In other cases, the question of refusal of entry is to be examined by the police. If the police is in doubt as to whether entry should be refused, the matter should be referred to the Swedish Immigration Board. It should be mentioned that the number of cases handled by the police is approximately 4000 each year. A vast majority of these cases concern persons who are to be sent back to Denmark or Germany. The Government is not aware of any cases where the present procedure has caused any problem of the kind the CPT fears.

2. Conditions of detention

80. *The CPT has requested for further information regarding the planned transfer of Stockholm Region Detention Centre to more spacious premises.*

Decisions have recently been taken, implying that the Stockholm Region Detention Centre, probably during 1999, will move to new and more appropriate premises.

82. *The CPT considers that the health care services provided to inmates at the Stockholm Region Detention Centre for foreigners should be developed.*

An alien can be taken into custody if there is uncertainty about his or her identity, if it is necessary to be able to accomplish an investigation concerning the alien's right to stay in the country and also in situations of enforcement. Under the relevant legislation an alien who is taken into custody shall be entitled to the same medical care as is given to an alien who applies for asylum. This includes emergency care, care that cannot be deferred, maternity care, contraceptive guidance, care in connection with abortion and measures in accordance with legislation on communicable diseases (*smittskyddslagstiftning*). For the care given to an alien he or she shall, as in the case with any other person, pay a certain fee. An asylum-seeker receives support in the form of a daily allowance, which is also payable if the alien is taken into custody. An alien who can be assumed to stay in Sweden for at least one year or more has the same right to medical care as a Swedish citizen. Medical screening for asylum seekers is provided to examine the need for emergency care or care that cannot be deferred or measures under legislation on communicable diseases. As soon as possible after arrival in Sweden, an alien who applies for asylum is offered an initial individual contact with the health service, in which the alien's individual status and need of further examination is determined. The medical screening therefore varies depending on his or her personal status and country of origin. If an alien is taken into custody in connection with his/her arrival in Sweden, the above-mentioned initial contact will take place at the detention centre. If, on the other hand, the alien taken into custody has already been in Sweden for some time, medical screening will already have been carried out. In such cases there is no need for general medical screening. As regards inmates' costs for health care, the aim is, according to the allowances system, that the alien should be ensured adequate means.

National Police Board

11 November 1998

PEB-793-4185/98

Personnel Office

Per Nichols

Chief Lawyer Ulf Berg

PRESENTATION OF INFORMATION FOLLOWING REQUEST OF THE COUNCIL OF EUROPE

Below follows a table of the statistical information collected partly from Sweden's police authorities and partly from the Committee for Responsibility of Personnel. The headings at the top of each column show which data, as defined by the Council of Europe, are presented.

January 1997 -- June 1998

Police Authority	Number of complaints	Number of proceedings	Number of disciplinary or criminal sanctions
County of Stockholm	730	12	8
County of Uppsala	56	1	1
County of Södermanland	45		
County of Östergötland	59		
County of Jönköping	33		
County of Kronoberg	25		
County of Kalmar	81	1	1
County of Blekinge	31		
Skåne	630	6	
County of Halland	28		
Västra Götaland	306	1	
Värmland	17		
County of Örebro	34		
County of Västmanland	42		
Dalarna	31	1	1
County of Gävleborg	35	6	
County of Jämtland	35		
County of Västernorrland	34	1	
County of Västerbotten	73	1	1
County of Norrbotten	94		
Visby	11		
SUMMA	2430	30	12

Ordinance containing certain regulations on conditions in prisons and police cells (1958:215)

Issued on: 25 April 1958

Amendments made: up to SFS 1993:1015

Section 1

Conditions in detention rooms in prisons or police cells shall fulfil reasonable sanitary requirements. Decree (1988:42).

Section 2

Detention rooms shall be arranged so that they are shut off from the view of unauthorised persons. They shall have a window which is positioned so as to give the room sufficient light.

The floor area shall be at least 6 square metres, the cubic measurement of the room shall be at least 15 cubic metres and the height of the room at least 2.4 metres.

The room shall be satisfactorily sound-proofed and otherwise arranged in such a way that unauthorised contact between the prisoner and other persons can be prevented in as far as it is possible. Decree (1987:335).

Section 3

Detention rooms shall be provided with appropriate installations for heating, ventilation and lighting and with a suitable signal device for calling the attention of prison guards.

Detention rooms shall be equipped with a chair, table, shelf and bed and with necessary bedding; however, rooms which are used for the custody of inebriated, violent or sick persons should instead have other suitable fittings.

The fittings in detention rooms shall, to the extent that it is possible, be designed and provided with such protective devices that they may not be used by prisoners to cause harm to themselves or to others.

Section 4

Detention rooms are to be provided with a lavatory and wash-basin. There shall also be room and suitable fittings for storage of the prisoner's clothes and other belongings.

Section 5

Detention rooms which are used daily shall be cleaned, aired and be heated to normal room temperature. When not in use rooms shall be kept sufficiently warm in order that they may be used without too much delay.

Detention rooms may not be used for purposes other than those intended.

Section 6

Prisoners are to be provided with items of clothing and toiletries to the extent that it is necessary and found appropriate.

Section 7

Used clothing shall be properly cleaned before it is given to prisoners. If a prisoner has been shown to carry a contagious disease or vermin, the detention room and any clothing used by him/her shall be disinfected.

Section 8

Supervision of prisons and police cells which are situated in such prisons is exercised by the National Prison and Probation Administration, and of other police cells by the National Police Board. Decree (1988:42).

Section 9

The supervisory authority shall provide the more detailed instructions which are necessary for the application of sections 1-7.

If there is special reason to do so, the supervisory authority may grant an exception to the second clause of the first paragraph of section 2, and to the second and third paragraphs of the same section, as well as to sections 3-5. Decree (1967:609).

Section 10

Has been annulled by decree (1970:531).

Section 11

The National Prison and Probation Administration and the National Police Board will in consultation make standard drawings and draw up technical instructions on the construction and fitting of prisons and police cells. Decree (1993:1015).

Section 12

Has been annulled by decree (1970:531).

The National Police Board's regulations on police cells

Valid from 1 March 1987

Based on Section 9 of the ordinance containing certain regulations on conditions in prisons and police cells (1958:215) the National Police Board announces the following regulations.

Chapter 1 Fittings and maintenance

Section 1

The lavatories in the police cell department shall be fitted with containers for toilet-seat covers, holders for paper mugs, soap dispensers for liquid soap, paper towels, ashtrays and waste-paper baskets.

Section 2

When the prisoner leaves the police cell the following shall be checked:

- that no damage has been done;
- that objects such as matches, tools or similar objects, which the prisoner may have taken into the cell without authorisation, have not been hidden in cracks, radiators, vents or other places;
- that screws in skirting boards, signal buttons, floor drains, protective sheeting, etc. are not loose or missing;
- that low-tension installations, lighting installations, windows, doors, locks, heating- and ventilation installations, flooring etc. are in satisfactory condition; and
- that the exercise yard has not been damaged and that unauthorised objects have not been left behind.

Section 3

If damage or weaknesses are found - even if they are slight and do not render the cell uninhabitable - repairs shall be undertaken or replacements made.

Construction damage or damage of installations shall be reported to the regional building-control committee office. Damage and weaknesses found in fittings and equipment shall be remedied through the agency of the police authority.

Section 4

On the basis of inspection records, the police authority shall remedy any weaknesses found immediately (e.g. replacement of equipment). Construction damage which is not acute shall be taken up in connection with annual inspection of state-owned buildings by the building-control committee. Damage of a similar nature in rented premises shall be reported in writing to the National Police Board. Acute damage which may necessitate temporary closure of cells shall - irrespective of who owns the building - be reported to the regional building-control committee office for immediate measures. Damage to fittings is to be remedied through the agency of the police authority.

Chapter 2 Regulations for police cells

Section 1

Cells which are used daily shall be cleaned and, if possible, aired in the morning, at noon and in the evening. The temperature in the cell should not normally fall below 19 degrees centigrade in the day and 17 degrees centigrade at night.

After the prisoner has left the cell, the cell, locker and other fittings shall be cleaned thoroughly before being used again. Bedclothes and blankets are to be aired, beat and brushed or, if necessary, washed before they are used again by a new prisoner. If the prisoner is provided with a bedding, the bed-linen is to be changed once a week or, if necessary, more frequently. Towels are to be changed twice a week.

Prisoners are to be given the opportunity to go to the lavatory at least twice a day and, if possible, to take a bath or shower at least once a week. Paper towels are to be provided for daily washing.

Communal lavatories for the prisoners shall be equipped with paper toilet-seat covers, toilet paper, soap, washing facilities and paper towels.

A disinfectant (such as Desivon or a similar product) shall be available at all times and to be stored in a suitable, locked cupboard.

When cells are not in use they must nevertheless be cleaned at least twice a month, aired at least once a week and kept at a temperature of at least 14 degrees centigrade.

Floor drains in cells which do not flush automatically shall be filled with water at least once a week in order to prevent them from drying up.

The regulations for police cells are to be posted so that they are clearly visible within the police cell department.

Printed, laminated regulations can be ordered from the financial office of the National Police Board.

Chapter 3 Waiting cells and temporary cells

Section 1

A waiting cell is a waiting room within police establishments, which is available to hold persons who have been apprehended or taken into care for a short time, pending interrogation, transport or other measures. Such waiting cells are found in older police headquarters and do not fulfil existing requirements.

Section 2

Upon petition by the police authority, the National Police Board may decide that existing waiting cells can be used notwithstanding the fact that they do not fulfil the requirements in the existing statute. With regard to their technical design, however, the time a person may be held in such a cell must be limited, as a rule to a maximum of one hour. The time-limit is determined from case to case with regard to the extent of the deviation from the existing statute.

Section 3

A temporary cell is a cell which is arranged for a particular occasion (e.g. in premises where parties are held) outside police headquarters.

Section 4

Upon petition by the police authority and with a statement by the chief commissioner of the county police department, the National Police Board can give permission for such a cell to be used for a shorter or longer time.

Chapter 4 Inspection

Section 1

The county administrative board shall inspect police cells at least once every two years. When drawing up inspection reports the form "Inspection record for police cells" is to be used. Copies of the record are to be sent to the police authority, the county administrative board and the National Police Board.

Section 2

The National Police Board is to have received a copy of the record one month after the inspection at the latest. If inspection has not been possible in a particular place, the inspection record, statistical information and the reason why the inspection has not taken place are nevertheless to be sent to the National Police Board.

Section 3

In police districts with a county police commissioner organisation and in Visby police district, inspections are to take place through the agency of the National Police Board.

(Financial Office, Legal Section)

Swedish Code of Statutes

SFS 1998:136

Decree

on Amendment to the Decree on the Treatment of Detained Persons, etc. (1976:376);

issued on 19 March 1998

The Swedish Government prescribes, in the question of the Decree on the Treatment of Detained Persons, etc. (1976:376)¹ that two new sections, 19a and 19b, be inserted to read as follows.

Section 19a

The prosecutor or leader of the investigation shall immediately notify the detained and the authority responsible for the detention establishment of decisions pursuant to section 16 on the Act on the Treatment of Detained Persons, etc. (1976:371).

Section 19b

The prosecutor shall document the circumstances leading to a decision pursuant to section 16 of the Act on the Treatment of Detained Persons, etc. (1976:371) regarding the detained person. The detained person shall be informed of the contents of the documentation to the extent that this is possible without it being detrimental to the criminal investigation.

The Prosecutor-General will provide more detailed instructions on documentation and notification to the detained person in accordance with the first paragraph.

This decree will enter into force on 1 January 1999.

On behalf of the Government

LAILA FREIVALDS

Anders Perklev
Ministry of Justice

¹ The Decree was reprinted in 1990:1022.

Prison and Probation Service

National Prison and Probation Administration

MINUTES

11 November 1998

No. B41

9811-0285

Place: National Prison and Probation Administration, Norrköping**Present:** Bertel Österdal, Director-General; Doris Högne, Deputy Director-General; Ulf Jonson, Divisional Manager; Gunilla Blomqvist, Head of Legal Services; Per Colliander, Head of Division, Rapporteur

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) verbally pointed out during its visit to Sweden in February 1998, the existence of body fetters in the form of a chain and was then informed that the use of such chains would not continue to be permitted in Sweden.

In a letter to the chairman of the CPT of 28 April 1998, the Director stated that only hand chains would be permitted in the future. In section 60 of its current report, the CPT requests confirmation that body fetters are no longer permitted.

With reference to article 30 of the "European Prison Rules", which inter alia states that "The use of chains and irons shall be prohibited..." the National Prison and Probation Administration has decided that body fetters may no longer be used.

Deputy Director-General Högne, Divisional Manager Jonson, Staff Law Officer Blomqvist and Head of Division Colliander, Rapporteur participated in the decision, which was taken by Director-General Österdal.

Recording clerk

Birgitta Forsström

Mailing list:

TPT

Regions

Local authorities