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**Preliminary observations made by the delegation
of the European Committee for the Prevention
of Torture and Inhuman or Degrading Treatment
or Punishment (CPT) which visited Sweden**

from 27 January to 5 February 2003

The Swedish Government has authorised the publication of these preliminary observations.

Strasbourg, 12 June 2003

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**Statement made on 5 February 2003
by Ms Renate KICKER (Head of delegation)
during the final talks with senior officials at the end of the
February 2003 periodic visit of the European Committee for the Prevention
of Torture and Inhuman or Degrading Treatment or Punishment (CPT)
to Sweden**

Cooperation and establishments visited

The cooperation received by the CPT's delegation during the visit was very good at all levels. More particularly, the delegation was given rapid access to - and received the necessary assistance in - all of the establishments visited, including those which had not received advance notice of the possibility of a visit by the CPT.

The delegation visited the following establishments:

- Borås Police Station
- Gothenburg Police Headquarters
- Stockholm Police Headquarters
- Umeå Police Station
- Västberga Police Station

- Gothenburg Remand Prison
- Kronoberg Remand Prison (Västberga Section)
- Tidaholm Prison
- Umeå Remand Prison

- Sahlgrenska Psychiatric Clinic in Gothenburg
- Department for Forensic Psychiatric Assessment, Gothenburg
- Umeå Forensic and General Psychiatric Unit

- Bärby Home for Young Persons

- Rebecka Home for drug addicts and other substance abusers

Police establishments

The delegation heard no allegations of ill-treatment from the persons it interviewed who were or had been detained by the police. However, in the context of its examination of the handling of complaints against the police in the County of Västra Götaland, the delegation reviewed a significant number of recent cases in which persons had lodged complaints to the effect that they had been assaulted by police officers at the time of apprehension and/or on police premises. In certain of those cases, it appeared that certain of the persons concerned had sustained injuries consistent with their allegations. The persistence of such cases highlights once again the importance of the CPT's recommendations regarding safeguards for persons in police custody.

Conditions of detention in the police establishments visited were, in general, of a good standard and fulfilled the criteria formulated by the CPT for police detention facilities. The delegation welcomes the fact that the new waiting cells at **Stockholm Police Headquarters** are of an acceptable size. However, the waiting cells at **Västberga Police Station**, which measured 1 m² or less, were unsuitable for detention purposes for any length of time. Further, it would appear that not all persons detained on police premises overnight had been provided with mattresses and blankets.

Turning to formal safeguards, the delegation found that there has been no appreciable progress as regards the implementation of its recommendations on the rights to notification of custody, access to a lawyer and access to a doctor. The delegation has taken note of the authorities' intentions to develop a legislative framework regulating these issues. Nevertheless, five years after the CPT last addressed this issue, persons deprived of their liberty by the police in Sweden still have no formal right to inform a third party of their custody, they are unlikely to see a lawyer before their first formal hearing and, at least in some cases, have access to medical care only at the discretion of the police. Urgent action is required in order to bring practice in Sweden into line with the CPT's standards.

The CPT's recommendation that a form setting out the rights of persons detained by the police be produced and issued to each person taken into custody has also yet to be implemented. This could, and should, be done as of now at least as regards the rights currently enjoyed by detained persons.

In the report on its 1998 visit to Sweden, the CPT stressed the importance of the existence of effective procedures for examining complaints against the police. It has subsequently emphasised that, if a police complaints mechanism is to enjoy public confidence, it must both be, *and be seen to be*, independent and impartial.

In the course of this visit, the CPT's delegation has taken the opportunity to examine in depth the operation of the police complaints system in the County of Västra Götaland. That examination has included detailed discussions with police officers, lawyers and public prosecutors, as well as scrutiny of specific case files being processed by the police discipline unit for Västra Götaland and by the Gothenburg Public Prosecution Authority.

The CPT includes among the "benchmarks" for assessing whether a criminal investigation into possible ill-treatment by law enforcement officials is effective that the investigation must be capable of leading to (1) a determination of whether force used was or was not justified under the circumstances, and (2) to the identification and, if appropriate, the punishment of those concerned. Further, all reasonable steps should be taken to secure evidence concerning the incident, including inter alia eyewitness testimony and forensic evidence. In a number of well-documented cases, the delegation found that these basic precepts had not been observed.

It is equally essential that investigations of possible police misconduct be conducted in a prompt and reasonably expeditious manner. Here again, the delegation found that allegations that complaints had not been expeditiously investigated were, in some cases, well-founded.

In the view of the CPT, it is indispensable that the persons responsible for carrying out investigations into complaints against the police should be truly independent from those implicated in the events. On the basis of its findings during this visit, the delegation wishes once more to emphasise that, in its view, it would be far preferable for the investigation of complaints against the police to be entrusted to an agency which is demonstrably independent of the police.

Prisons

The delegation heard no allegations of ill-treatment of prisoners by staff in **Tidaholm Prison**. Moreover, inmates generally spoke favourably about staff. However, the CPT's mandate is not limited to the ill-treatment of persons deprived of their liberty which is inflicted or authorised by prison staff. The Committee is also concerned when it discovers an environment which is conducive to inter-prisoner intimidation and violence. At Tidaholm, the delegation was told by both management and inmates that fights between prisoners, especially in Unit C, which accommodates a significant number of inmates considered to be particularly challenging, are a regular occurrence. The delegation commends the proactive manner in which such events are being addressed by staff. Nevertheless, continued vigilance is required; in this regard, current reflections concerning a possible restructuring of the unit should be pursued.

Material conditions of detention at Tidaholm were of a high standard. That said, all prisons require continuous upkeep and refurbishment, and at Tidaholm, the fact that the establishment is being used at its maximum capacity may be hampering that work. As regards regime, the vast majority of inmates enjoyed generous out-of-cell time and there were plans to extend work opportunities further. Moreover, the delegation appreciates the fact that efforts are being made to provide a wide range of educational and other activity programmes to prisoners.

However, the delegation is concerned about the extremely impoverished regime offered to prisoners held for prolonged periods in segregation for their troublesome behaviour. Measures should be taken to enhance possibilities for association among the prisoners concerned and to provide more activities to them, not least in the light of the deleterious mental health consequences on prisoners, observed by the delegation, of prolonged isolation.

The delegation was informed of plans to reorganise the existing unit for prisoners considered to represent a particularly high security risk (SÅK) in such a way as to facilitate their return to normal location.

The delegation would stress that the prisoners concerned should, within the confines of their detention unit, enjoy a relatively relaxed regime by way of compensation for their severe custodial situation. In addition to being able to meet their fellow prisoners in the unit, they should be granted a good deal of choice about activities.

Turning to health-care, the delegation was impressed by the professionalism and dedication of the establishment's health care staff. Despite this, the existing resources in terms of psychiatric and nursing care made it difficult to fully meet the needs of the inmate population. Further, in the light of the high prevalence of mental disorders among inmates, and especially among those held in isolation, the input from psychiatrists and psychologists should be significantly augmented.

The delegation gained a favourable impression of the programmes delivered in the unit for inmates with drug problems at Tidaholm Prison; ways should be sought to involve a larger number of prisoners in programmes of this type.

As regards the **remand prisons** visited, the delegation heard no allegations of ill-treatment of prisoners by staff, and gathered no other evidence of such treatment.

Conditions of detention at **Umeå** were found to be satisfactory. However, the individual exercise areas, located on the roof of the building and measuring some 20 m², were too small for prisoners to exert themselves physically. Prisoners who were not subject to restrictions were able to associate for several hours every day and had access to some activities. However, remand prisoners subject to restrictions spent up to 23 hours per day locked in their cells.

The **Västberga** section of Kronoberg remand prison is located on the same premises as the Västberga Police Station. The detention facility was quite adequate for police custody, but was far from satisfactory for persons on remand. There were no facilities for association or for activities, and regardless of whether they were subject to restrictions or not, prisoners were confined to their cells for 23 hours per day. Prisoners could be held under such conditions for weeks at a time and, on occasion, for even longer periods. The delegation doubts whether the planned renovation, although a positive initiative, will in itself be sufficient to remedy the shortcomings observed.

The visit to **Gothenburg Remand Prison** focused on the establishment's regime. As regards inmates *not subject to restrictions*, the delegation found that prisoners in the recently upgraded and enlarged Unit 5.2 were offered generous out-of-cell time which could be spent in association, work and a variety of other organised activities.

However, the regime available to the rest - i.e. the majority - of the prisoners not subject to restrictions was much more limited. The delegation was told that the establishment's current target was to offer such prisoners six hours per day of out-of-cell activities. The delegation's on-site observations (and interviews with inmates) suggested that this target, which represents a modest increase (of one hour) as compared to the targets found in remand prisons in 1998, was not being met.

Gothenburg Remand Prison's target for *prisoners subject to restrictions* was a mere two hours of out-of-cell time per day, and it is uncertain whether even this limited goal was being achieved.

The delegation's findings during this visit stress the urgent need to offer additional activities and appropriate human contact to prisoners on remand, especially those who are subject to restrictions. Moreover, a far more ambitious target for out-of-cell time for such prisoners should be set, and measures put in place to ensure that it is attained.

As regards the legal position of prisoners who are subject to restrictions, the delegation has taken careful note of the measures which have been taken by the Swedish authorities to implement the CPT's 1998 recommendations.¹ These legislative and regulatory modifications are welcome; however, the delegation continues to entertain reservations about the manner in which restrictions are applied, in practice, to prisoners on remand.

As regards the imposition of restrictions, the CPT's 1998 report highlighted the need for courts to be placed in a position to conduct a meaningful assessment of whether or not specific restrictions were required in a given case. It appears that the aforementioned legislative and regulatory modifications have not achieved this goal. In particular, it is still the case that the pre-printed form which a prosecutor uses to request that the court remand a person in custody and grant the prosecutor the authority to impose restrictions ("häkningsframställning m m") does not specify the particular restrictions which the prosecutor intends to impose, nor does it record the grounds which justify the imposition of restrictions (as distinct from the grounds which justify remand).

This has an impact on the question of the effective review of the need to maintain restrictions. The courts are still not informed of the specific restrictions which a prosecutor intends to impose, and the grounds for imposing those restrictions are not systematically recorded. In these circumstances, it will remain very difficult for remanded persons, or their lawyers, to challenge effectively the restrictions imposed upon them. In this connection, lawyers with whom the delegation spoke indicated that appeals against the imposition of restrictions rarely, if ever, succeed.

The delegation also ascertained that, in the context of the periodic review by the court of the need to maintain remand, the question of the need to maintain restrictions can be handled by the simple written assertion by prosecutors that "restrictions are still required" which is (quite literally) "rubber-stamped" by the court to which it is addressed.

The importance of the above considerations is highlighted by the fact that, at the time of the delegation's visit to Gothenburg Remand Prison, some 50% of remand prisoners were subject to restrictions; the percentage of remand prisoners at that establishment who had been subject to restrictions when they were first remanded was close to 100%. In other words, the imposition of restrictions upon remand prisoners (at least for an initial period) remains the norm. The CPT's report will address in further detail this ongoing problem.

¹ It has, in particular, noted that the Prosecutor General's Statute (RÅFS) 1998:7 of 18 December 1998 states that prosecutors are to record the grounds for imposing restrictions on the form "instructions re apprehended/arrested/remanded persons" ("anvisningar angående gripen/anhållen/häkted"), as well as a brief account of the concrete circumstances which justify the imposition of restrictions. It has also noted the 1998 amendments to the Code of Judicial Proceedings (Rättegångsbalk) and to the Law on the treatment of those remanded in custody, placed under arrest etc. (Lag (1976:371) om behandlingen av häktade och anhållna m.fl.) which seek to give effect to the CPT's recommendation on the subject of providing prisoners with the right to appeal against a court's decision to maintain restrictions which have been the subject of a review.

Psychiatric establishments

In the three mental health establishments visited, the delegation heard no allegations of ill-treatment of patients by staff and gathered no other evidence of such treatment. On the contrary, many patients spoke favourably about staff, and the delegation observed a caring and friendly attitude on the part of staff towards their patients.

Patient accommodation was generally of a high standard; it was particularly good at the **Department for Forensic Psychiatric Assessment** in Gothenburg. At **Sahlgrenska Psychiatric Clinic**, also in Gothenburg, the delegation noted efforts in several patients' rooms to create a welcoming and personalised environment. The overall positive atmosphere found both there and at the **Umeå Forensic and General Psychiatric Unit** could be enhanced further by replacing the hospital nursing beds with normal beds, unless compelling medical reasons dictate otherwise.

Staffing levels at the Department for Forensic Psychiatric Assessment in Gothenburg and at Umeå Psychiatric Unit were found to be sufficient, both in terms of medical and nursing staff. At Sahlgrenska Psychiatric Clinic, however, staff shortages, especially in respect of psychiatrists and nurses, are a cause of concern. This concern was fully shared by the management of the facility.

As regards the treatment of patients, no evidence of overmedication was found in the establishments visited. Sahlgrenska Psychiatric Clinic is a facility treating acute psychiatric cases; the vast majority of patients only spend short periods of time there. Nevertheless, a number of patients, in particular those admitted repeatedly and/or for longer stays, would clearly benefit from increased input by occupational therapists. Further, it would be desirable to strengthen the psychotherapeutic input at the clinic. In the acute ward at Umeå, the delegation also heard some complaints of a lack of activities during the day.

The CPT attaches great importance to all patients whose medical conditions so permit benefiting from at least one hour of outdoor exercise on a daily basis. At Sahlgrenska Psychiatric Clinic, the systematic provision of such exercise was hampered by the shortage of staff.

The delegation was pleased to note that, in all the establishments visited, resort to physical restraint of patients and to segregation was rare; their use was properly documented and reported.

The issue of legal safeguards for patients placed against their will, including the role of the so-called support persons, will be examined in greater detail in the CPT's report. At this stage, the delegation would only mention that it noted that staff in all of the establishments visited were aware of the applicable legal procedures and of patients' rights.

Various avenues of complaint were open to patients. However, the CPT also attaches importance to psychiatric establishments being visited on a regular basis by an independent outside body responsible for the inspection of patients' care. Such a body should be authorised to talk in private with patients, to receive directly any complaints and to make recommendations. The delegation would invite the authorities to consider setting up such a body in Sweden.

Institutions for young persons (LVU)

At **Bärby Home for Young Persons**, the delegation found a relaxed atmosphere, and many of the residents spoke positively of the way in which they were being treated by staff. However, the delegation received allegations of two episodes of excessive use of force by two different members of staff in connection with placements in the isolation cells at the end of 2002.

Staff should be reminded that no more force than is necessary must be used when seeking to control agitated residents. Further, the restraint of residents should be the subject of a clearly defined written policy available to all members of staff. Staff should receive training in both non-physical and manual control techniques vis-à-vis agitated or violent residents.

It might be added that the delegation has some misgivings about resort to the placement of young persons in conditions resembling solitary confinement. Such measures can compromise their physical and/or mental integrity and should be resorted to only under exceptional circumstances.

The material conditions at Bärby were found to be of a very high standard. Further, residents were offered a varied and individualised regime.

With respect to the provision of health care at Bärby, the practice of systematic medical screening on arrival, already introduced in one of the three units, should be extended to the rest of the establishment.

As in the context of psychiatric institutions, the delegation would encourage the establishment of an independent, outside body empowered to carry out inspections of homes for young persons, to receive any complaints directly from the young persons and to make recommendations.

Homes for drug addicts and other substance abusers (LVM)

At the **Rebecka Home** for drug addicts and other substance abusers, the delegation heard no allegations of ill-treatment of the residents by staff and it gathered no other evidence of such treatment. On the contrary, the atmosphere found was relaxed and residents spoke positively of their relations with staff. The material conditions were generally of a very high standard. Efforts were being made to offer the residents some organised activities. Nevertheless, many of the residents whom the delegation spoke to stated that they found their time at the home rather monotonous.

The arrangements for the provision of health care at the Rebecka Home do not call for detailed comments at this stage. However, mention might be made of the fact that both management and health care staff expressed concern at the difficulties experienced in gaining access to external psychiatric services.

The remarks made concerning the introduction of an independent inspection mechanism for psychiatric institutions and homes for young persons are equally relevant for LVM Homes.

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The CPT looks forward to pursuing the ongoing dialogue with the Swedish authorities on the issues raised here and on other matters of mutual interest.