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Response

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

from 9 to 18 June 2009

The Swedish Government has requested the publication of this response. The report of the CPT on its June 2009 visit to Sweden was published on 11 December 2009 and is set out in document CPT/Inf (2009) 34.

Strasbourg, 01 July 2010

Ministry for Foreign Affairs
Sweden

Department for International Law, Human Rights and Treaty Law

Response of the Government of Sweden 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 9 to 18 June 2009

A. CO-OPERATION

Recommendations

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

Sweden continuously works to improve, reform and develop the criminal justice system. As part of ongoing efforts, Sweden has in recent years established several new police academies to train police officers with a view to attaining the goal of 20 000 police officers by 2010. In addition, the Prison and Probation Service has been provided with increased budget to improve the capacity of the agency. The rule of law and the integrity and security of the individual are issues of paramount concern in reforming and developing the criminal justice system.

The imposition of restrictions on remand prisoners has been an area subject to criticism and recommendations by expert bodies in the United Nations and the Council of Europe. Such recommendations have targeted the overall use of restrictions as well as their length. The procedures for providing information on fundamental rights to persons deprived of their liberty, as well as for providing access to lawyers and public defence counsels, are other issues which have been areas of expert bodies' recommendations. When considering the use of restrictions for persons in custody, two important factors must be kept in mind.

Firstly, from an international point of view, Sweden has relatively short periods of detention. Secondly, in Swedish procedural law, the principle of immediacy applies. The Court may only base its judgment on what has been orally presented during the main hearing. This principle makes it important to ensure that a suspect does not undermine the investigation, for instance by talking to witnesses and victims in order to make them change their statements, since it is the statement made at the hearing in court that prevails.

According to the Swedish Prosecution Authority's statistics, 10 995 persons were detained in 2009. Of these persons, 7 542 were detained with restrictions. In 2008 the numbers were 11 245 persons in detention, 7 303 of whom were detained with restrictions.

In response to differences still existing between different parts of the country in the imposition of restrictions, the Government has expanded the Prosecution Authority's remit for 2010 to obtain an in-depth analysis of the situation. Accordingly, the Prosecution Authority has been tasked to provide more specific information on the number of detainees in the age groups 15–17 and 18–21, and on the extent to which restrictions have been imposed on these persons. In addition, with regard to persons in these age groups, particular attention is to be paid to the length of the period of detention as well as the period during which restrictions are imposed. Furthermore, the Prosecution Authority is to describe substantial differences between different parts of the country and to provide an analysis of the reasons for the differences.

The Government has presented a proposal for a new Act on Treatment of Persons Arrested or Remanded in Custody (Govt Bill 2009/10:135). The new Act will enter into force on 1 April 2011. In line with the recommendations from the CPT, the law includes a possibility to appeal a decision on specific restrictions to the Court of Appeal, and ultimately to the Supreme Court.

For more information regarding restrictions on remand prisoners, as well as other areas referred to in paragraph 6, please see the information below.

Comments

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

The National Police Board sent prior information to all local police authorities. This information explained the purpose of the CPT delegation's visit, the importance of granting the delegation immediate access to facilities etc.

Obviously there was some kind of problem in communications between the National Police Board and the local police authorities' units. The police authorities regret the delays and have taken measures to ensure that this communication problem will be remedied.

B. POLICE ESTABLISHMENTS

I. Ill-treatment

Recommendations

- the Swedish authorities to continue to deliver a firm message, including through ongoing training activities, that all forms of ill-treatment of detained persons are not acceptable and will be the subject of severe sanctions. As part of this message, it should be made clear once again that no more force than is strictly necessary should be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can never be any justification for striking them (paragraph 9).

All forms of ill-treatment of detained persons are unacceptable and no more force than is strictly necessary should be used. Swedish law is clear on this point (cf., e.g., Sections 8 and 10 of the Police Act).

At the beginning of 2009, the National Police Board adopted new core values for the police force. One important part of the core values is the principle of equal treatment. The core values are based on input from nearly 20 000 police employees. The employees gave their input during 2008, when they met in teams to discuss their mission, ways of working and values.

The long-term objective is that police core values should be used to make the police better and that they will characterise the entire organisation. In 2009 the police focused on using their core values to discuss how they can develop their ways of working and interacting with one another, their colleagues and the public.

In 2009, the local police authorities drew up action programmes for treatment and attitude issues. An external investigator identified and described how the police were working on treatment and attitude issues. The assignment was to submit proposals for appropriate improvement and development measures. These proposals are already being acted on in various development initiatives.

Special policing tactics have several individual components, of which the training of personnel is the most central. The training includes topics such as mental preparation, communication, law, spotting dangers and preventing injuries – without the use of shields and batons. Ethical considerations run through the entire training process. In addition to training, the police will also use a number of special vehicles in these types of situation, to give personnel greater protection against stone-throwing and other violent acts. Such vehicles have not been available previously, putting the police at considerable risk. As from January 2006, there are also 1 200 police officers, divided among the three metropolitan counties, who have been specially trained in the new policing tactics. These officers comprise a national reinforcement organisation that can be deployed all over the country. Since their inception, the special policing tactics have undergone continuous development and evaluation work.

The application of the special policing tactics is a good illustration of an ongoing organisational learning process within the Swedish Police, integrating central democratic concepts into operational practices.

Constant reflection on ethical questions is an important pre-condition for being able to improve the actions taken by the police in crisis, conflict and service situations. For this reason, the National Police Board established a working group in 2005 and tasked it to act as a support function to promote good ethics within the police. The working group is to develop proposals on how good ethics can be promoted strategically and methodically. It is also to propose activities that stimulate a broader discussion of ethical issues within the police. Knowledge gained from previous initiatives in the field of ethics is being utilised and highlighted.

- *the practice of taking blood or other samples from detained persons without the latter's consent to be stopped (paragraph 13).*

The possibility to take blood or other samples is an important method during the investigation process for the effectiveness of the police in solving crimes. Pursuant to Chapter 28, Section 12 of the Code of Judicial Procedure, a person reasonably suspected of an offence for which imprisonment may be imposed may be subjected to a bodily examination. However, there are regulations to protect the individual's rights. The practice of taking blood or other samples may be ordered only if the reasons for the bodily examination outweigh the consequent intrusion or other detriment to the suspect or to another adverse interest. The Government considers the balance between effectiveness and the protection of personal integrity in this area to be adequate.

Requests for information

- *statistics on the work of the Internal Investigation units in respect of 2008, with details concerning the types of convictions and disciplinary sanctions (paragraph 10).*

In 2008, there were 4 839 complaints/reports concerning police misconduct; 68 resulted in indictments, there were 45 convictions, 31 orders of summary punishment and 35 disciplinary sanctions.

- *information on developments in the area of police training and the integration of human rights concepts in that training, in particular as regards high-risk policing situations (e.g. crowd control, the use of force and firearms) (paragraph 11).*

Human rights issues are well integrated throughout the training process. The basic training is built on the international human rights framework, including UN and Council of Europe human rights standards. Constant reflection on ethical questions is important throughout the entire basic training.

In 2007, the National Police Board was instructed to report on measures taken regarding human rights training since 2003 and to provide a status report on how human rights training is being incorporated into police education and training. Employees at the various local police authorities have had continuing professional education in human rights as well as in ethnic and cultural diversity.

The National Police Board, in collaboration with the Prison and Probation Service, prosecutors and judges, has recently introduced a new four-day-long human rights training programme for officials from these agencies. The goal is to increase knowledge of human rights and of ethnic and cultural diversity, with a focus on the importance of professional treatment taking account of individuals' different cultural backgrounds.

An example of the impact of human rights training for police officers in reducing the use of force against suspects is the special policing tactics, referred to above in answer to paragraph 9.

- whether the regulations and practice followed in Sweden when drawing up a certificate in respect of persons displaying injuries in police custody are in compliance with the precepts referred to in paragraph 12 (paragraph 12).

The regulations concerning persons in police custody displaying injuries are to be found in the Act on the Treatment of Persons Arrested or Remanded in Custody(1976:371), in Chapter 5, Sections 1 and 2 of the Police Ordinance (1998:1558) and in the National Police Board's regulations (FAP 102-1) and (FAP 403-2). In addition, the local police authorities have drawn up instructions regulating these issues.

A person showing symptoms of illness or marks of injuries in police custody should be medically examined. The right to receive health and medical care as needed or to be examined by a doctor at one's own request is explained in the information sheet on rights. The police cannot require a doctor to only record the explanation the police offer for the injuries. It is also most unlikely that a doctor would accept such an order. The examining doctor is supposed to make an independent medical examination of the injured person and obtain information from the person concerned as well as from the police. If necessary, if it does not appear in the certificate drawn up following the medical examination, the doctor's opinion on the causes of the injuries will be obtained in the subsequent investigation.

Based on the framework described above, Sweden is of the opinion that the regulations and practice followed in Sweden in this area are in compliance with the CPT delegation's precepts. However, the National Police Board will consider whether more precise regulations are needed in this area.

II. Investigation of complaints of police ill-treatment

Comments

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

During the 2009 visit of the CPT, Sweden presented the report of the National Police Board, dated 15 May 2009. In the report the National Police Board proposes that internal investigation activities should be moved from the local police authorities to a separate unit within the National Police Board. According to the proposal, this unit would handle not only misconduct by police officers and some other persons who work for the police while on duty, but also offences committed by police officers and police students while off duty.

The Swedish Government does not share the view that the mandate of the body investigating police complaints should be limited to misconduct by police officers while on duty, but considers that the independence and impartiality of the investigative process are equally important in the other situations referred to above.

According to the proposal from the National Police Board, all cases referred to above will be submitted to a prosecutor, who will determine whether a preliminary investigation into the complaint should be opened.

The operational conduct of the investigation will then be carried out by officers at the National Police Board, which is an authority separate from the local police authorities.

The Government considers that the proposed system will meet the requirements of being independent and impartial.

Requests for information

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

The Swedish Police Service and the Swedish Prosecution Authority are independent authorities. A special and nationwide organisation directly under the Prosecutor General – the National Unit for police cases – deals exclusively with reports of police misconduct. The unit consists of high-rank prosecutors. All investigative activities concerning police misconduct take place under the direction and control of a public prosecutor. All complaints of police misconduct from the general public are forwarded immediately to a prosecutor. The same procedure applies when a person has died or suffered serious injuries due to a police officer's actions.

It is also the prosecutors in this unit who decide whether a preliminary investigation shall be initiated. It follows from what has been stated above that complaints are also transferred to prosecutors to guarantee an impartial and independent review of the case. In cases where the prosecutor decides that a preliminary investigation is to be initiated, he or she has special investigation units at his or her disposal. It is the prosecutor who decides on all investigative measures and leads the investigation in an active way.

The procedure is governed by the same rules as in other preliminary investigations, with the exception that investigations concerning complaints of police ill-treatment are to be carried out with particular urgency. Against this background, the National Unit for police cases has entered into agreements with the investigative units concerning time limits in order to satisfy the requirement of urgency. There are also internal regulations for prosecutors concerning the requirement of urgency. When an investigation is completed the prosecutor decides within a short time limit on the issue of prosecution.

There is a special on-call organisation within the Swedish Prosecution Authority, which means there is always a prosecutor on duty who has the authority to make urgent decisions on, for instance, medical examinations or crime scene investigations, especially in cases concerning persons who have suffered serious injuries due to a police officer's actions, in order to ensure that important evidence is not lost.

III. Procedural safeguards against the ill-treatment of detained persons

Recommendations

- the possibility to delay the exercise of the right of notification of custody to be more closely defined and made subject to appropriate safeguards (e.g. any delay to be recorded in writing with the reasons therefor, and to require the approval of a senior police officer unconnected with the case at hand or a prosecutor) (paragraph 19);

- detained persons to be provided with feedback on whether it has been possible to notify a close relative or other person of the fact of their detention (paragraph 19).

As noted by the CPT, the issue of notification of custody is regulated through legislation. As stipulated in Chapter 24, Section 21a of the Code of Judicial Procedure (*rättegångsbalken)*, there is an obligation to notify the close relatives of persons who have been apprehended by the police. Furthermore, Section 17a of the Police Act stipulates an obligation to notify the close relatives of persons who have been taken into temporary custody or are otherwise obliged to remain with the police. Such notification is to be provided as soon as it may be done without detriment to the investigation. However, such notice may not be given against the wishes of the apprehended person without extraordinary reason.

The issue of whether notification may be detrimental to the investigation is decided by the person in charge of the investigation. The exception to the rule of notification is motivated by the risk of collusion (e.g. that the suspect will impede the investigation into the matter at issue by removing evidence or in another way).

It follows from Section 20 of the Preliminary Investigations Ordinance (*förundersökningskungörelsen* 1947:948) that information on whether or not close relatives have been notified shall be recorded in the official record.

The National Police Board has produced an information sheet listing the rights of persons deprived of their liberty by the police, including the right of notification of custody. The National Police Board is evaluating how this information sheet is used and will consider whether more precise regulations are needed in this area.

Sweden maintains that the framework ensures the right of notification of custody at as early a stage as is reasonable.

- steps to be taken to ensure that the right of all detained persons to have access to a lawyer is fully effective as from the very outset of deprivation of liberty (paragraph 20).

As previously reported – as a result of amendments that entered into force on 1 April 2008 – everyone has a right to have counsel *(biträde*) present when being questioned by the police, provided that this is not to the detriment of the investigation (Chapter 23, Section 10, paragraph 3, of the Code of Judicial Procedure). This right applies to everyone being questioned by the police including those being questioned as potential witnesses, apprehended or taken into care. Anyone who wishes to be counselled by a person fit for the purpose has a right to such counsel.

Pursuant to Chapter 23, Section 9 of the Code of Judicial Procedure, the general rule is that a person is not obliged to stay for questioning for more than six hours. In order to keep a person in custody for more than twelve hours, an order of detention (*häktning*) or arrest (*anhållande*) is required. The prerequisite for detention or arrest is in principle that the person is suspected on probable cause of a crime (Chapter 24, Sections 1 and 6 of the Code of Judicial Procedure). In some cases it is enough that the person is reasonably suspected of having committed the offence. In urgent cases the police may apprehend (*gripa*) a person without a formal decision. A decision to apprehend a person must normally be based on an assessment that there are grounds to institute detention.

Chapter 23, Section 18 of the Code of Judicial Procedure states that when a preliminary investigation has advanced so far that a person is reasonably suspected of having committed the offence, he or she shall be notified of his or her right to a defence counsel (*försvarare*) and of the conditions under which a public defence counsel (*offentlig försvarare*) may be appointed. The right to a defence counsel coincides with the formal notification of suspicion under Chapter 23, Section 18 of the Code of Judicial Procedure(see decision by the Swedish Supreme Court, NJA 2001 p. 344 and the travaux préparatoires SOU 1926:32, p. 49).

As reasonable suspicion is required for apprehension or arrest, in accordance with Section 12 of the Preliminary Investigations Ordinance, the apprehended or arrested person shall be informed of his or her right to a defence counsel during the preliminary investigation and of the conditions under which a public defence counsel may be appointed.

The National Police Board has produced an information sheet listing the rights of persons deprived of their liberty by the police, including the right of access to a lawyer. The National

Police Board is evaluating how this information sheet is used and will consider if more precise regulations are needed in this area.

Sweden is of the opinion that the framework described above contains sufficient safeguards to ensure that a detained person has access to a lawyer as from the very outset of deprivation of liberty.

- in cases when it is considered that a detained person's access to a particular lawyer of his choice would be detrimental to the investigation, access to another, independent, lawyer to be arranged (paragraph 20).

The basic assumption is that everyone is free to retain the services of any person as their legal counsel provided that the counsel is fit for the assignment. The issue of when the presence of a defence counsel can be regarded as detrimental to the investigation has been touched upon by the Parliamentary Ombudsman (*Justitieombudsmannen*) in the Annual Report (*Justitieombudsmannens ämbetsberättelse*) 1956, p. 96. The Parliamentary Ombudsman held that this issue must be determined with respect to the circumstances in the individual case. The Parliamentary Ombudsman further stated that the presence of a defence counsel may only be denied when there are objective reasons for doing so. With regard to the questioning of persons other than the suspect, the presence of the defence counsel may be considered detrimental since there is no professional secrecy between the defence counsel and the suspect. However, the presence of a defence counsel cannot be denied for this reason when the suspect is being questioned.

The Parliamentary Ombudsman concluded that the possibilities of denying the presence of a defence counsel when the suspect is questioned must be extremely limited. The Parliamentary Ombudsman stated that there might be exceptions. A denial may for example be imposed if the defence counsel is disturbing the questioning of the suspect or if the defence counsel has gone so far as to spoil the possibilities of conducting questioning. In the legal literature it has been added that the presence of a defence counsel may be denied if the defence counsel is regarded as inappropriate (cf. The Commentary to the Swedish Code of Judicial Procedure – Fitger, Rättegångsbalken, part 2, p. 23:45).

In the event that problems arise in relation to a detained person's access to a particular lawyer as potentially detrimental to the investigation, another counsel may be arranged. As far as possible, the detained person is asked whether he or she has any particular preferences with regard to an alternative legal counsel.

- the right of persons deprived of their liberty by the police to have access to a doctor to be made the subject of a specific legal provision (paragraph 22).

(See also answer above, Requests for information, paragraph 12)

Persons deprived of their liberty by the police have the same right to health and medical care as any other citizen. Medical assistance is provided in all cases of obvious need. If a person apprehended by the police or held in police custody shows symptoms of illness or marks of injuries, or if he or she is in a state of intoxication that may cause health problems, the police will escort such a person to a public hospital. Persons held by the police can also see a doctor upon request.

The regulations concerning persons in police custody displaying injuries are to be found in the Act on the Treatment of Persons Arrested or Remanded in Custody(1976:371), in Chapter 5, Sections 1 and 2 of the Police Ordinance (1998:1558) and in the National Police Board's regulations (FAP 102-1) and (FAP 403-2). In addition, local police authorities have drawn up instructions regulating these issues.

Sweden is of the opinion that the existing system works well and ensures that persons deprived of their liberty by police have access to a doctor.

- steps to be taken to ensure that medical intervention is always sought when persons with longstanding histories of drug or alcohol abuse are detained (paragraph 23).

(See answer above, Recommendations, paragraph 22)

- steps to be taken to ensure that juveniles deprived of their liberty are not subjected to police questioning without the benefit of a trusted person and/or a lawyer being present (paragraph 24).

Section 3 of the Young Offenders (Special Provisions) Act (*lagen med särskilda bestämmelser om unga lagöverträdare*, 1964:167) stipulates that a preliminary investigation on a person younger than 18 years of age is always to be conducted by a prosecutor, if the person is reasonably suspected of an offence for which the minimum punishment is imprisonment for at least six months.

The parent or guardian responsible for the care and upbringing of the juvenile is to be immediately informed and invited to the police questioning, unless this would be of detriment to the inquiry or there are otherwise special reasons not to do so (Section 5 of the Young Offenders (Special Provisions) Act).

Examples of situations in which it could be of detriment to the investigation (see Govt. Bill 1994/95:12, p. 97) are that it could be feared that the juvenile would become less communicative if his or her parents or guardians were present. However, notification to parents or guardians should only be considered of detriment to the inquiry in exceptional cases.

Examples of situations in which there could otherwise be special reasons not to provide notification include when the suspected offence is a very minor matter or when there is reason to assume that it would be of more harm than good for the young person if the guardian were notified. Another example is the case that the parent or guardian himself or herself is a suspect

in the investigation. A further possible reason could be that the questioning needs to take place immediately and the parent or guardian cannot be reached.

According to the National Police Board, limited use is made of exceptions to the obligation to inform the parent or guardian responsible for the care and upbringing of the juvenile and invite them to police questioning.

It should, however, be emphasised that everyone has a right to have counsel present when being questioned by the police provided that the presence of counsel would not be of detriment to the inquiry (Chapter 23, Section 10 of the Code of Judicial Procedure).

Furthermore, a suspect under the age of 18 has the right to a public defence counsel, unless it is clear that he or she has no need of counsel. The person in charge of the investigation has a duty to notify the court when a public defence counsel is to be appointed (Section 24 of the Young Offenders (Special Provisions) Act). A public defence counsel is to be appointed by the court without delay.

In light of the above, Sweden maintains that the framework contains sufficient safeguards to ensure that juveniles deprived of their liberty enjoy the right to have a trusted person or a lawyer present at police questioning at as early a stage as is reasonable.

- steps to be taken to ensure that all persons apprehended by the police – for whatever reason – are fully informed of their fundamental rights as from the very outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with the police). This should be ensured by the provision of clear oral information at the very outset, supplemented at the earliest opportunity (that is, immediately upon their arrival on police premises) by the provision of the information sheet on the rights of detained persons. The persons concerned should be asked to sign a statement attesting that they have been informed of their rights, and they should also be given a copy of the information sheet (paragraph 25).

The information sheet listing the rights of persons deprived of their liberty by the police was finalised and made available to the police authorities in December 2008. The information sheet has been translated into 42 languages and is provided upon arrival at police premises. If the person is not able to read or speak any of the languages the information sheet is translated into, the information will be provided with help of interpreters.

To ensure that all persons apprehended by the police are fully informed of their fundamental rights, the National Police Board is evaluating how this information sheet is used by the police. In 2009, all the police authorities were required to report their routines for providing this information. The National Police Board will consider measures to ensure that all persons apprehended by the police are fully informed of their fundamental rights.

When handing over the information sheet, it may be necessary in many cases to provide supplementary oral information. The sheet should therefore be seen as an extra service to a detained crime suspect. It should therefore not be seen as fulfilment of the statutory

obligations to inform as laid down for example in the Code of Judicial Procedure or the Preliminary Investigations Ordinance, nor as a replacement for these obligations.

- custody records to be introduced at police stations which do not possess cells (such as Klara Police Station in Stockholm) (paragraph 26).

Under Chapter 27 of the Police Act, a written record is to be made of any intervention involving the turning away, removal, taking into temporary custody or arrest of a person.

These records should be available at all police stations where a large number of persons are taken into custody. The National Police Board intends to investigate the situation at Klara Police Station in Stockholm more closely.

Comments

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

There are no national statistics available on this issue. However, the issue of notification of custody is, as mentioned before, regulated through legislation. (See also answer above, Recommendations, paragraph 19.)

Requests for information

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

As stated above, it is laid down in Chapter 23, Section 18 of the Code of Judicial Procedure that when a preliminary investigation has advanced so far that a person is reasonably suspected of having committed the offence, he or she shall be notified of his or her right to a defence counsel during the preliminary investigation and the conditions under which a public defence counsel may be appointed. The right to a defence counsel coincides with the formal notification of suspicion under Chapter 23, Section 18. The right to a public defence lawyer does not exist before the person has been formally notified of being reasonably suspected.

As reasonable suspicion is a prerequisite for apprehension or arrest, the apprehended or arrested person shall, in accordance with Section 12 of the Decree on Preliminary Investigations, be informed of his or her right to a defence counsel during the preliminary investigation and the conditions under which a public defence counsel may be appointed. Under Swedish legislation, there is also a minimum requirement of reasonable suspicion of a

crime being committed in order for a person to be apprehended. This means that a person being arrested shall be formally notified of being reasonably suspected of having committed a crime. Consequently, the right to a defence counsel in most cases exists from the very outset of the deprivation of liberty.

IV. Conditions of detention

Recommendations

- the shortcoming at Örebro Police Department referred to in paragraph 27 to be remedied (paragraph 27).

At the time of the CPT's visit, several cells were unusable at Örebro Police Department. For that reason they had to use cells with only mattresses for criminal suspects. Since the ordinary cells for criminal suspects are now back in use this shortcoming has been remedied.

- the holding cubicles at Söderort Police Department to be formally taken out of service for the purpose of holding people (paragraph 28).

The Stockholm County Police has informed us that the holding cubicles at Söderort Police Department are no longer in use.

- persons held for 24 hours or more in police custody to be offered outdoor exercise every day. Further, steps to be taken to equip exercise yards with a shelter against inclement weather (paragraph 29).

According to Section 8 in the Act on the Treatment of Persons Arrested or Remanded in Custody(1976:371), persons in police custody should be offered at least one hour outdoor exercise every day, unless there are special reasons against this.

The Government will take the recommendation regarding shelters against inclement weather into future consideration.

C. PRISONS

I. Ill-treatment

The Government has noted the comments made by the CPT.

II. Imposition of restrictions on remand prisoners

Recommendations

- the envisaged legislation on the treatment of persons arrested or remanded in custody to ensure that:

in every case where a court is called upon to authorise a prosecutor to impose/prolong restrictions, the prosecutor is formally required to provide the judge with (i) an account of the specific restrictions which he/she intends to impose upon a person remanded in custody, (ii) the reasoned grounds which justify those restrictions in the circumstances of the case, and (iii) the period of time for which the restrictions are requested;

court decisions regarding the initial imposition and, subsequently, the prolongation of restrictions are individualised and fully reasoned;

persons remanded in custody are informed in writing of the grounds for the imposition of restrictions and the possibility to appeal against specific restrictions;

the necessity to continue to impose restrictions is periodically reviewed by a court as a separate issue, rather than as part and parcel of the consideration of continuation of remand custody. Restrictions should be lifted immediately when the grounds for their imposition no longer exist (paragraph 38).

In addition to what the Government has stated in its comments on the CPT's preliminary observations, the Government would like to add the following.

The prosecutor has an obligation to provide the judge with the reasoned grounds that justify restrictions in the circumstances of the case each time the Court tries the case on remand custody. Permission to impose restrictions is lifted immediately when the grounds for their imposition cease to exist. Permission to impose restrictions automatically lapse if the Court does not prolong the permission when it tries the case for the continuation of remand custody.

Furthermore a decision by the prosecutor to impose restrictions is to be reviewed whenever there is reason to do so. A decision by the prosecutor can also be examined by a regional prosecutor in charge of supervision.

The Government has presented a bill to the Riksdag on the right to appeal against specific restrictions (see Govt Bill 2009/10:135). It is proposed that the legislation enter into force on 1 April 2011. The proposed legislation will introduce a possibility to appeal a decision on restriction, in general or specifically, to the Court of Appeal and ultimately to the Supreme Court.

It is however the Prosecutor General who has the ultimate responsibility to control whether the prosecutors' application of the rules fulfils fundamental demands on legality and homogeneity. The Government has tasked the Swedish Prosecution Authority with accounting for:

• the total number of individuals held in remand prisons during 2010
• the number of juveniles held in remand prisons aged 15–17
• the number of juveniles held in remand prisons aged 18–21
• the time spent in remand prisons in appropriate intervals (aged 15–17 and 18–21 to be disclosed).

The statement shall also indicate
• the total number of pre-trial prisoners during 2010 who have been subject to restrictions
• the number of pre-trial prisoners aged 15–17 and 18–21 who have been subject to restrictions
• the time pre-trial prisoners have been subject to restrictions in appropriate intervals (aged 15–17 and 18–21 to be disclosed).

Differences between different parts of the country are to be commented and analysed in detail with regard to the application of, and time persons have been subject to, restrictions.

The Prosecutor General has initiated a project to fulfil the Government's assignment. The result of the review will be presented in a report in January 2011.

The Government intends to closely monitor developments in this field.

III. Prisoners held in conditions of high security or control

Recommendations

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

Under Swedish law it is possible for a prisoner to appeal decisions regarding where to serve his or her sentence, including decisions on placement in high-security units. The Government's assessment of this issue is that Swedish regulations are in accordance with our international obligations.

- the Swedish authorities to take steps to establish a clear distinction between segregation for administrative reasons and segregation on disciplinary grounds, and to review the regime for prisoners placed in administrative segregation (paragraph 46).

By law, solitary confinement is not used in the prison system as a disciplinary punishment. However, solitary confinement can be resorted to under special circumstances. These situations are regulated in detail by law (e.g. disturbing the general order, being under the influence of intoxicating substances, attempts to escape, investigations into breach of discipline).

The law allows for two sanctions to be imposed upon a prisoner for violating prison rules, though serious violations which constitute a criminal offence can be brought before a court. The principal sanction available is postponed conditional release. The second sanction is a formal warning.

Requests for information

- a copy of the regulations for the functioning of the new high-security units (paragraph 42);

A copy of the regulations for SKI-units is forwarded.

- confirmation that the exercise yards in the new high-security buildings have been equipped with shelters against inclement weather (paragraph 42);

The exercise yards are constructed in a way that protects prisoners from inclement weather.

- information on the number and categories of inmates placed in the new high-security units (paragraph 43);

In late April 2010, the high-security units had 16 inmates. Ten inmates were placed there under the Prison Treatment Act and six inmates were under investigation or in the process of being transferred to other prisons.

- information on the future of the "SKI" programme (paragraph 45);

The "SKI" programme is in the process of being phased out. A new programme has been launched with the focus on inmates being able to associate with other prisoners.

- the avenues open to prisoners for the purpose of challenging a decision for placement or extension of placement in an isolation unit or under the "SKI" regime (paragraph 46).

The right to appeal to a court against a decision made by the Swedish Prison and Probation Service is extensive. This right includes decisions on placement or extension of placement in an isolation unit or under the "SKI" regime.

IV. Conditions of detention for prisoners in general

Recommendations

- in the context of the construction/renovation work at Gothenburg and Gävle Remand Prisons, steps to be taken to ensure that outdoor exercise yards are not of an oppressive design and are sufficiently large to enable inmates to exert themselves physically (paragraph 48);

- the Swedish authorities to rethink the design of outdoor exercise yards in all newly built (or renovated) prisons in the country. Outdoor exercise facilities should be sufficiently large to allow prisoners to exert themselves physically (as opposed to pacing around an enclosed space) and, as far as possible, should be located at ground level (paragraph 48).

Swedish remand prisons are often located in the same building as the police, which enables the authorities to co-operate more efficiently. Therefore some exercise yards are located on the roofs of the facilities. When new remand prisons are built the aim is to build exercise yards at least thirty square metres in size. The renovations of Gothenburg and Gävle remand prisons aim to meet this requirement. The remand prison in Kronoberg has a new, larger exercise yard. The existing remand prisons for inmates without restrictions are built like prisons, i.e. with exercise yards at ground level. Possibilities for prisoners to exercise indoors must be considered in this context. All remand prisons are equipped for indoor running, cycling and gym training.

- for as long as cells have no integral sanitation, steps to be taken to ensure that inmates at Gothenburg and Gävle Remand Prisons have ready access to a toilet at night (paragraph 49).

All new remand prisons, including Gothenburg Remand Prison, have integral sanitation. While awaiting the new buildings in Gothenburg, the night personnel has been increased by two, which has minimised the waiting time for toilet visits.

Gävle Remand Prison has been closed for renovation since the end of 2009/beginning of 2010. Only two rooms have integral sanitation and this will remain the case after the renovation; because of the construction of the building, it is not possible to let all cells have integral sanitation. Gävle Remand Prison provides ready access to toilets at night.

- steps to be taken to improve the variety of food at Gothenburg Remand Prison and to review the hours at which food is distributed, in particular as regards dinner (paragraph 50).

When the costs of meals are compared with different institutions in Sweden, it is clear that the prisons and remand prisons have a higher standard than most institutions. The standard of food at the Swedish Prison and Probation Service, according to this data, maintains a high level. At Gothenburg Remand Prison two cooked meals, besides breakfast, are served every day. If an inmate wants alternative food, for instance for religious or health reasons, this is offered. Vegetables are always included in cooked meals and fruit is served three times a

week. Dinner is served between 16.00 and 16.30. Inmates are allowed to take a thermos flask with hot water with them and to take bread, butter and cheese.

- the Swedish authorities to reconsider the design of waiting cells at prisons with a view to ensuring that they are larger, equipped with a seat and allow visual contact with staff. In the meantime, the current temporary waiting cells at Gothenburg Remand Prison should be equipped with seats (paragraph 51).

The time spent in a waiting cell in Gothenburg Remand Prison is short, between 5 and 30 minutes. The cell does not have a window but does have an opening in the door measuring 1.20 x 1.20 metres and a plank bed to sit on. These cells are temporary. The waiting cells in the new remand prison will be larger and equipped with speech communication facilities.

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

- the Swedish authorities to develop programmes of activities designed specifically to meet the needs of young prisoners (paragraph 54).

The target for association time between inmates, according to the Swedish Prison and Probation Service, is three hours a day, including a walk, for prisoners without restrictions. For those with restrictions the target is one hour a day and a walk. The ambition is to move inmates as soon as possible to sections or remand prisons where they are together with other inmates. During 2009 prisoners without restrictions had on average 3.95 hours of association per day. For those with restrictions the average time was 1.16 hours per day. Overall the results are better than in 2008. There is some variation between different remand prisons and the extent to which prisoners use association opportunities varies as well. During 2009 attendance in programme activities such as work and studies has increased.

In addition to visits taking place as a normal routine during periods of detention, such as medical visits, prisoners may also receive visitors from e.g. non-governmental organisations.
The Swedish Prison and Probation Board pays special attention to meeting the needs of young prisoners. Special sections for juveniles have been established in remand prisons with a juvenile attendant service to support the juvenile during the remand period. Juveniles in remand prisons are also given priority when it comes to programme activities and studies. Every region in Sweden employs a special psychologist to support prison staff working with juveniles.

- appropriate steps to be taken to improve access at night to toilet facilities for prisoners at Hall and Kumla Prisons (paragraph 58).

Sweden is of the opinion that access to toilets at Kumla and Hall is provided in an appropriate manner. All newly built prisons have cells with integral sanitation.

Comments

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

The Government emphasises that inmates shall have access to occupation during time in prison. The Prison and Probation Service's work aims to ensure that prisoners have access to education, training or other occupation.

Requests for information

- whether the installation of integral sanitation in the cells is envisaged at Gävle Remand Prison (paragraph 49).

Gävle Remand Prison has been closed for renovation since the end of 2009/beginning of 2010. Only two rooms have integral sanitation and this will remain the case after the renovation; because of the construction of the building, it is not possible to let all cells have integral sanitation. Gävle Remand Prison provides ready access to toilets at night.

- a copy of the assessment of the system of association time at Gothenburg Remand Prison (paragraph 52).

According to the Prison and Probation Service there is no completed assessment.

V. Persons detained under aliens legislation

Recommendations

- urgent steps to be taken to ensure that persons detained under aliens legislation are not held on prison premises (paragraph 64).
A detention order is executed only if other, less coercive measures, cannot be applied. Detention is used only on certain grounds, as stipulated by the Aliens Act. The majority of aliens detained are persons who are about to be expelled and where there is reason to assume that the alien may otherwise go into hiding.

Detained aliens are kept in special premises – detention centres – run by the Swedish Migration Board. The detention centres are specially designed not to look like institutions for correctional treatment. The detainees enjoy a considerable degree of freedom within the centres and they have substantial access to contacts with the outside world. They also have access to a range of activities.

However, detainees who are considered to be a danger to themselves or other persons may be transferred to a correctional institution, remand centre or police arrest facility. Such transfer may also be ordered if the alien has been expelled for a criminal offence or if there are some

other exceptional grounds. Children may not be transferred to a correctional institution, remand centre or police arrest facility.

The Commission of Inquiry on Detention will carry out a thorough examination of the legal framework on detention under the Aliens Act.
Apart from reviewing the formal laws and regulations, and proposing necessary amendments, the Commission is free to present any possible suggestions aimed at improving the current system of detention.

Requests for information

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

The Commission of Inquiry will submit its proposals on 15 June 2010.

VI. Health care

Recommendations

- *steps to be taken at Hall and Kumla Prisons to: increase the attendance hours of the doctors; reinforce the nursing staff resources(paragraph 66);*

Since the time of the CPT's visit, Kumla Prison has employed another nurse and the staff now consists of four full-time nurses. In view of the expansion of Kumla Prison, the plan is to have a staff consisting of five full-time nurses by 2011.

Hall Prison has also increased its nursing staff by one and now has a staff consisting of three full-time nurses.

At Kumla Prison the attendance hours of a doctor (specialising in psychiatry) have been extended to eight hours per week. The size of the medical staff at Kumla will be given careful consideration during the process of expanding Kumla. At Hall Prison the attendance hours for doctors have not changed and remain 8.5 hours per week.
- *steps to be taken to ensure that prison officers do not seek to screen requests to consult a doctor and that prisoners can approach the health-care service on a confidential basis, for example, by means of a message in a sealed envelope (paragraph 67).*

The clients can approach the nurses on a confidential basis, for example, by means of a sealed envelope. Knowing the medical condition of a client with an urgent need can, however, be of importance in order to provide the correct type of medical expertise with a minimum of delay. All personnel handling these matters are obliged to adhere to patient confidentiality.

- *steps to be taken to ensure that there is appropriate supervision of the distribution of medicines to prisoners at Hall and Kumla Prisons (paragraph 67).*

For secure handling of medicine, the Swedish Prison and Probation Service uses a pharmaceutical service system. Pre-packed medicine pouches marked with personal data such as name and ID number, together with the date and exact time when the clients are to take the medicine, are delivered to the prisons. The system guarantees coordination between prescriptions and dosage and minimises errors. At prisons that are not open the pouches are distributed to clients according to the schedule printed on the pouch. Nurses are responsible for distributing medicine to clients who have diagnoses such as senile dementia or who show signs of being confused.

- the Swedish authorities to reinforce the provision of psychiatric and psychological care for prisoners at Hall and Kumla Prisons. As a first step, the attendance of a psychiatrist at Hall Prison should be increased to one day a week. Further, the transfer of mentally ill inmates to an appropriate psychiatric facility should be treated as a matter of the highest priority (paragraph 68).

Inmates with an urgent need of psychiatric care that can not be met by the health care provided within the prison are always taken with top priority to a psychiatric emergency care facility.

At Kumla Prison there has been an extension of the hours during which a doctor specialising in psychiatry is present to 8 hours per week. The size of the medical staff at Kumla will be given careful consideration during the process of expanding Kumla. At Hall Prison access to doctors specialising in psychiatry has increased from two to three times a month, i.e. 24 hours per month. Since 2007 there has generally been increased access to doctors specialising in psychiatry .

Comments

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

A reinforced suicide prevention programme is running and is expected to have substantial preventive effects. The number of suicides in remand prison has dropped from 12 in 2007 to 2 in 2009. Suicide attempts are also decreasing but to a lesser extent than completed suicides. The suicide prevention programme includes:
- training for all staff who are in daily contact with clients (one day),
- training specifically for all nurses (three days),
- annual practice in CPR,
- all institutions have been equipped with heart-saving equipment,
- the four biggest remand prisons have appointed a coordinator responsible for following suicide prevention work. The coordinator is to take part in planning and follow-up of the programme to ensure professionalism in preventing, stopping and handling suicide attempts.

Requests for information

- the conclusions of the autopsy reports and of any inquiries carried out into the two deaths of inmates at night, one at Hall and one at Kumla Prison (paragraph 67).

The death of an inmate at night at Hall Prison in 2009 had a natural cause. The death of an inmate at Kumla Prison in 2008 was regrettably a suicide. The number of suicides is considerably lower in prisons than in remand prisons. The above-mentioned suicide in a prison was the first in two years. Although suicides in jail are rare, it is nevertheless of great importance that all possible measures to avoid suicides are taken.

- the conclusions of the internal inquiry into the recent suicide of an immigration detainee at Gävle Remand Prison and any follow-up action taken (paragraph 69).

The incident has been reported to the National Board of Health and Welfare (*Socialstyrelsen*) for further investigation. The Swedish Prison and Probation Service has carried out internal inquiries at three different levels of the organisation, i.e. at Gävle Remand Prison, at the regional office and at the central office. The disciplinary board (*personalansvarsnämnden*) at the Swedish Prison and Probation Service has formally turned over the incident to the public prosecutor, who has not yet decided whether or not to start a preliminary investigation.

VII. Other issues of relevance to the CPT's mandate

Recommendations

- the Swedish authorities to reconsider the issue of prison staffing levels at night as a matter of urgency, with a view to increasing substantially the level of staffing in the prisons visited and in other prisons where similar low levels of staffing occur (paragraph 70);

- the Swedish authorities to review the regulations on prisoners' phone calls and strive to ensure that prisoners (including those whose families live abroad) are in a position to maintain good contact with the outside world (paragraph 73).

Prisoners in Sweden are in a position to maintain good contact with the outside world, e.g. by telephone. This is an essential right for every prisoner, granted under the law. However, the right to have contact with the outside world is not without exceptions.

The right of prisoners to maintain contact with the outside world through IP telephony is currently under consideration by the Supreme Administrative Court.

- steps to be taken to improve the provision of information to foreign national prisoners and to ensure that written information on the internal regulations is systematically provided to all prisoners, upon their arrival at a prison, in a language which they can understand (paragraph 76).

The Prison and Probation Service has an ongoing project for providing written information on the internal regulations in several languages. The first step of this project will be completed by the summer of 2010.

Requests for information

- the comments of the Swedish authorities on the issue of prisoner uniforms (paragraph 74).

The Swedish Prison and Probation Service provides clothes to all prisoners. However, every prisoner is allowed to keep private training shoes and underwear. In certain cases, a prisoner can also be given permission to keep other clothing and shoes.

The reasons for this arrangement are primarily safety. It must be easy to distinguish the prisoners from the staff and the clothes are designed so as not to facilitate suicide and violence or prevent strip searches. But there are also practical reasons. In prisons where the prisoners are unable to wash their own clothes, laundry is facilitated by a uniform collection of clothes.

- clarification of the issue of prisoners' preparation for release, in particular as regards inmates held in maximum-security ("class A") establishments (paragraph 75).

Only a small number of prisoners were released directly from maximum-security prisons during 2009. There are various reasons why this is so but it is often due to severe security reasons. During preparation for release, the Prison and Probation Service is always to aim for "phase down" arrangements, which will also be in focus in the new Prison Act that has been proposed to the Riksdag.

D. MIGRATION BOARD ESTABLISHMENTS

I. Preliminary remarks

Requests for information

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

In accordance with Directive 2008/115/EC concerning the return of illegally staying third-country nationals, Sweden will adopt new provisions concerning a maximum detention period of six months. The detention period may be extended to 18 months under certain circumstances, in accordance with Article 15 of the Directive. The new provisions are expected to enter into force in December 2010.

II. Ill-treatment

Requests for information

- the outcome of the inquiry carried out into allegations of excessive or improper use of means of restraint in the context of a recent mass expulsion by air of some 45 Iraqi nationals (paragraph 80).

Following the allegations, the police authority of Västra Götaland reported the incident to a public prosecutor. The public prosecutor later closed the case without pressing charges. The investigation established that there were no grounds for the accusations.

- a copy of the instructions on the procedure to be followed in the context of deportation operations, in particular as regards the use of force and/or means of restraint (paragraph 80).

The basic principles for use of force are regulated in the Police Act, Section 8. This section is to be seen as a general authorisation for the police to take any measure justifiable in the exercise of their law enforcement duties, provided that it does not limit one of the constitutional rights or contravene any other act or ordinance:

"Section 8

A police officer exercising an official duty shall, with due observance of the provisions of acts and other statutory instruments, intervene in a way that is justifiable in view of the object of the intervention and other circumstances. If he has to use force, the form and level of force used shall be limited to that required to achieve the intended result.

An intervention that limits one of the basic freedoms and rights of Chapter 2 of the Instrument of Government must not be founded solely on the provisions of the first paragraph."
A copy of the relevant parts of the National Police Board's Code of Statutes is attached.

- the comments of the Swedish authorities concerning the expulsion of persons to Greece (paragraph 81).

Under the Dublin Regulation (Council Regulation (EC) No 343/2003 of 18 February 2003), EU Member States have to assess which Member State is responsible for examining an asylum application lodged on their territory on the basis of the criteria laid down in the Regulation. One of the objectives of the Regulation is to identify as quickly as possible the Member State responsible for examining an asylum application. According to Recital 2 of the Preamble to the Regulation, all Member States are considered to be safe third countries, i.e. they all adhere to the principle of non-refoulement.

The question whether or not transfers to Greece under the Dublin Regulation are in accordance with international refugee law, or if asylum-seekers being sent back to Greece risk refoulement, has been examined both by Swedish national courts and the European Court of Human Rights.

In a ruling on 24 September 2008 (MIG 2008:42), which concerned a transfer of an Iraqi asylum-seeker to Greece, the Swedish Migration Court of Appeal came to the conclusion that the transfer was not contrary to the principle of non-refoulement and Sweden's obligations under Article 3 of the European Convention on Human Rights and Fundamental Freedoms (ECHR). In its assessment, a starting-point for the Court was that all EU Member States are able to, and wish to, adhere to common European legislation on asylum.

In a decision of 2 December 2008 (K.R.S. v. the United Kingdom, Application no. 32733/08), the European Court of Human Rights concluded that the United Kingdom would not breach its obligations under Article 3 of the Convention by removing Iranian asylum seekers to Greece. The Court recalls that a transfer according to the Dublin Regulation does not deprive the transferring state of its responsibility to ensure that the alien is not subjected to treatment contrary to Article 3 of the ECHR. The Court stresses that Greece, which has ratified numerous agreements on asylum, is also bound by the Asylum Procedures Directive (Council Directive (EC) No 85/2005 of 1 December 2005) and the Reception Conditions Directive (Council Directive (EC) 9/2003 of 27 January 2003). As a party to the ECHR, Greece is required to meet commitments under the Convention, including Article 3. The Court therefore considered that the applicant's complaints before the European Court concerning his possible deportation to Iran should be raised against Greece and not against the transferring state.

- *information on any monitoring or follow-up carried out by the Swedish authorities as regards the situation of persons following their expulsion from Sweden (paragraph 81).*

Monitoring or follow-up of the situation of expelled persons after return is not carried out by Swedish authorities. However, the Ministry of Justice has funded a project by the Swedish Red Cross supporting return and social reintegration of asylum-seekers from Iraq, Serbia and Kosovo. The project started in April 2008. One of the six aims of the project is follow-up of individuals after return.

- *information on the practical measures taken by the Swedish authorities to ensure compliance with Guideline 12 (4) of the Council of Europe's Guidelines on forced return adopted by the Committee of Ministers on 4 May 2005 (paragraph 81).*

Guideline 12 (4): "The host state shall exercise due diligence to ensure that the exchange of information between its authorities and the authorities of the state of return will not put the returnee, or his/her relatives, in danger upon return. In particular, the host state should not share information relating to the asylum application".

The general provisions concerning secrecy and Chapter 7, Section 20 of the Aliens Ordinance (2006:97) regarding the possibility to provide certain information to other states concerning return ensure compliance with the Council of Europe's Guidelines. The practical procedures are in accordance with these provisions. The National Police Board has not received any reports indicating that information that could put the returnee in danger upon return is shared with the authorities in the states of return.

III. Health care

Recommendations

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

systematic medical screening of all foreign nationals as soon as possible after their admission;

increasing the nurse's attendance hours at the Gävle centre and ensuring regular attendance by a doctor;

- *ensuring that custodial staff do not seek to screen requests to consult a doctor/nurse and that detained foreign nationals can approach health-care staff on a confidential basis;*

- *ensuring the confidentiality of medical data;*

- *appropriate supervision of the distribution of medicines to detained foreign nationals, using only trained or qualified staff, and introducing formal record-keeping for dispensing medication;*

- *ensuring appropriate psychological and psychiatric assistance and stepping up psycho-social interventions;*

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

- *development of appropriate hunger strike assessment and management programmes (paragraph 87).*

The county councils are responsible for medical care in Sweden. If an alien who is being held in detention needs hospital care during the period of detention, such treatment is provided. The Swedish Migration Board cooperates with the relevant county councils concerning the provision of medical care.

Concerning confidentiality, the Swedish Migration Board would like to emphasise that the medical staff are responsible for the confidentiality of medical journals. The detention staff do not have access to this kind of data and receive information regarding a detained person's state of health only if the medical staff consider it necessary. New medical staff have been recruited to the Gävle centre since the visit of the CPT.

The distribution of medicines to detained persons is carried out under the appropriate supervision of qualified staff.

The development of suicide risk assessment and management programmes, as an alternative to removal to remand centres, is not handled by the Swedish Migration Board. However, the Swedish Migration Board will enhance its cooperation with the Swedish Prison and Probation Service, which has great expertise in this area.

Concerning hunger strike assessment, the detention centre in Gävle has developed routines for how to act if a hunger strike occurs.

Questions regarding systematic medical screening, availability of medical staff and ensuring appropriate psychological and psychiatric assistance are under scrutiny within the framework of the ongoing Commission of Inquiry on Detention.

Requests for information

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

Concerning the detention centre in Märsta, the county council has given responsibility for medical care at the detention centre to the Health Centre in Vallsta, since November 2009. A nurse visits the detention centre twice a week and a doctor visits the centre once a week.

IV. Safeguards for persons detained under aliens legislation

Requests for information

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

An alien in detention has the right to a public counsel in cases concerning the enforcement of a refusal-of-entry or expulsion order if the alien has been held in detention for more than three days. According to a recent court ruling a person who is to be returned under the Dublin Regulation and who is detained has the same right to a public counsel. The majority of aliens detained are persons who are about to be expelled.

E. PSYCHIATRIC ESTABLISHMENTS

I. Patients' living conditions

Recommendations

- arrangements to be urgently made to enable all patients placed on wards 77 and 79 of the Psychiatric Clinic South-West in Huddinge to have at least one hour of outdoor exercise every

day, unless there are medical reasons to the contrary. Steps should be taken to provide these wards with a secure outdoor area equipped with a means of rest and protection against inclement weather (paragraph 97);

- the courtyards of the Huddinge Department for Forensic Psychiatric Assessment and wards 113 and 114 of the Psychiatric Clinic South-West to be equipped with protection against inclement weather (paragraph 97);

- efforts to be made at wards 77 and 79 of the Psychiatric Clinic South-West to replace hospital beds with normal beds, unless medical reasons dictate otherwise (paragraph 97).

According to the Psychiatric Clinic South-West, a process is ongoing to prepare for a situation that allows all patients outdoor exercise and experience every day. A new building for forensic psychiatry is under construction close to the present site with completion planned during the second half of 2012. The new building will comprise about 16 500 sqm and allow 92 in-bed patients. There will be outdoor areas for all patients with a total area of more than 6 500 sqm. Due to this new building process no other buildings are planned, though the Psychiatric Clinic South-West does provide every patient in ward 113-114 with outdoor clothes suitable for the weather conditions. In planning the new facility, the clinic hopes to find beds that meet the current Stockholm County Council standards while at the same time looking like normal beds.

The Huddinge Department for Forensic Psychiatric Assessment has started to plan for protection in the yards against inclement weather and is now waiting for a description of costs from potential builders.

Requests for information

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

The Huddinge Department for Forensic Psychiatric Assessment has started to plan for a survey of patients' satisfaction with the food arrangements.

II. Treatment of patients and staff resources

Recommendations

- the Swedish authorities to take urgent steps to ensure that the individual treatment plans of patients placed at the Psychiatric Clinic South-West include a psycho-social rehabilitation component. This implies the ecruitment of qualified staff in appropriate numbers, starting with a full-time psychologist and a full-time occupational therapist (paragraph 101).

Among other activities, at the one-day inventory of all compulsory psychiatric care on 6 May 2008, the National Board of Health and Welfare collected data on all efforts and activities directed towards each patient. The inventory yielded two reports, one of which was an in-depth report focusing on the content of compulsory psychiatric care. Data from the inventory was analysed with reference to *"God vård – en vägledning till föreskriften (SOSFS 2006:12)*

om ledningssystem för kvalitet och patientsäkerhet i hälso- och sjukvård" (the National Board of Health and Welfare's guidelines for the regulation on governance for quality and security in health care). In this report the National Board of Health and Welfare indicated that there was a lack of variation and that medication was the dominant treatment, while few received treatment of a psychosocial nature. These reports provide the basis for future development and have been highlighted in discussions with the Swedish Association of Local Authorities and Regions.

All patients are entitled to a personal treatment plan and for patients undergoing compulsory psychiatric care the plan has to follow a structure described in the manual for compulsory care published by the National Board of Health and Welfare. The principals are responsible for ensuring the presence of the right kind of staff with relevant competence to meet existing needs.

According to the Psychiatric Clinic South-West, the need for changes in staff composition to meet the needs of the clinic's patients is continuously examined. A process to recruit an occupational therapist has been started in co-operation with the National Board of Forensic Medicine, RMV. Occupational therapy assessments are of importance to extend the capacity for rehabilitation including psychosocial aspects. In addition, the Psychiatric Clinic South-West would like to recruit a psychologist and arrange for psychologists in training to do internships in the forensic care setting starting during 2011.

- the Swedish authorities to address as a matter of urgency the shortage of appropriate psychiatric facilities for prisoners and irregular migrants requiring specialist hospital treatment (paragraph 102).

The National Board of Health and Welfare stresses the fact that everyone in need of health care has a right to have those needs met regardless of place of residence, a right which is also regulated in the Swedish Health and Medical Services Act. For a number of years the Swedish Prison and Probation Service has pursued development work at a number of locations in Sweden concerning patients suffering from neuropsychiatric conditions, where investigation and treatment have been carried out and studied with satisfactory results. The development work has been pursued within the framework of the Swedish Government's efforts directed towards development in the field of psychiatry.

Information on the ongoing construction of a new building for forensic psychiatry at the Psychiatric Clinic South-West is provided above.

According to the Huddinge Department for Forensic Psychiatric Assessment, all seriously ill inmates receive proper treatment and care, the department has access to senior consultants for somatic care and psychiatric care 24 hours a day and when needed inmates are transferred to Karolinska University Hospital in Huddinge, which is near the forensic psychiatric assessment unit. All nurses and senior consultants are trained in emergency heart and lung resuscitation and this training is updated at regular intervals.

III. Means of restraint /seclusion

Recommendations

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

The National Board of Health and Welfare has been commissioned by the Swedish Government to develop data in the area of psychiatry. Under Swedish law, all principals are obliged to send reports of compulsory measures under the Compulsory Mental Care Act and the Forensic Mental Care Act and cases in which resort has been had to means of restraint and seclusion to the patient database of the National Board of Health and Welfare, which has also published regulations and a guide on compulsory care in general. The National Board of Health and Welfare has repeatedly informed principals of their obligation to report on compulsory measures. A report on the results of the Government's commission will be submitted to the Government on 1 July 2010.

According to the Huddinge Department for Forensic Psychiatric Assessment, all cases of restraint and seclusion are noted in the case files and reported to the medical director and to the National Board of Health and Welfare, but in line with the legislation, restraint for less than 4 hours and seclusion for less than 8 hours are not reported to the National Board of Health and Welfare.

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

The National Board of Health and Welfare considers it to be the responsibility of the principal to ensure satisfactory and safe care for each patient based on his or her needs concurrently with respect for individual integrity. This calls for a balance between maintaining the integrity of the patient and guaranteeing the safety of the patient. The National Board of Health and Welfare has published guidelines for compulsory care to provide support in interpreting the law.

In general it is important to enable all patients to have at least one hour of outdoor exercise every day; normal beds; and outdoor areas with means of rest and protection against inclement weather.

In planning for the new forensic psychiatry building described above, the Psychiatric Clinic South-West has taken CPT recommendations into consideration. Thus when constructing the new observation rooms it is planned to provide patients with some privacy in the toilets. The

blinds will be repaired and the Huddinge Department for Forensic Psychiatric Assessment plans to have a curtain installed in front of the toilets.

IV. Safeguards in the context of involuntary hospitalisation

Recommendations

- the Swedish authorities to draw up a comprehensive information brochure for involuntary psychiatric patients and ensure that it is issued to all such patients on admission, as well as to their families/representatives. Patients unable to understand this brochure should receive appropriate assistance (paragraph 112).

Section 2b of the Compulsory Mental Care Act and Section 2b of the Forensic Mental Care Act state that individually adapted information is essential in order for the patient to understand and give an opinion. In an emergency it can be difficult both to give and to receive information, which indicates the need to provide this at a later point in time. In addition, next-of-kin are to be given the option of consultation unless this is inappropriate. The law also clearly lays down that, as soon as the patient is sufficiently capable, the Chief Medical Officer has to inform him or her about the possibility of appealing and also the possibility of obtaining an independent support official. Section 48 of the Compulsory Mental Care Act and Section 48 of the Forensic Mental Care Act state that the Compulsory Mental Care Act and the Forensic Mental Care Act are to be displayed in clear view of the patient.

The Psychiatric Clinic South-West has responded that the information required by the Compulsory Mental Care Act (LPT; SFS 1991:1128) and the Forensic Mental Care Act (LRV; SFS 1991:1129), respectively, is available to patients in the forensic psychiatric wards. Brochures are available in more then five languages providing information about the local patients' board and describing the complaint process for patients. When required, the ward staff are instructed to contact a trained and authorised translator in the patient's own language, allowing all patients to obtain all information needed in their own language.

The Huddinge Department for Forensic Psychiatric Assessment has informed the Government that all these measures will be applied in the very near future.

- the management of the Psychiatric Clinic South-West to ensure that all staff receive accurate and detailed information about patients' rights, with a view to being in a position to help patients understand their rights (paragraph 112).

The staff are trained to provide clients at the Psychiatric Clinic South-West with appropriate information on their rights and on safety matters. In the spring of 2010 the clinic is preparing for a "risk week" during which the staff are encouraged to report every risk in the patient's safety area. The Psychiatric Clinic South-West is also providing the staff with specific training on trans-cultural aspects of psychiatry during 2010. All staff at the clinic have on-line access to a database on the intranet specifically designed for legal matters including the rights of patients as well as local instructions on patients' rights. This database is continuously updated.

Comments

- in the interest of performing proper assessment, the imposition of restrictions on remand prisoners undergoing psychiatric assessment should be avoided as far as possible (paragraph 111).

In 2008 the Government appointed an inquiry chair to make a review of the legislation on compulsory psychiatric treatment. The inquiry chair will analyse the safety rules that should be made in compulsory psychiatric care and forensic psychiatric care, such as searches of visitors and the general prohibition against mobile phones. The inquiry chair will report by 30 April 2011.

- the Swedish authorities are invited to set up a mechanism for visits to psychiatric establishments by an independent outside body, meeting the requirements set out in paragraph 114 (paragraph 114).

The National Board of Health and Welfare is a government authority independent of the health service authorities, which is responsible for supervising health and medical services and social services. As an additional task, the Government has given the National Board of Health and Welfare an assignment to exercise intensified supervision in the area of psychiatric care. Every patient has the option of appealing decisions to the Medical Responsibility Board as well as to the National Board of Health and Welfare. Patients under compulsory care also have the option of receiving support from an independent support official.

According to Chapter 2, Section 5 of the National Board of Health and Welfare's regulation SOSFS 2008:18, it is the responsibility of the Chief Medical Officer to ensure that activities based on the Compulsory Mental Care Act and the Forensic Mental Care Act are independently reviewed on a regular basis.

The Association of Local Authorities and Regions (SALAR) and the Ministry for Health and Social Affairs made an agreement in 2008 under which, over the last two years, a SALAR working group has been visiting all psychiatric wards – those for children, those for adults and those for forensic cases. The purpose is to obtain an overview of how many beds there are, what kind of patients we have in these wards and the costs. A report will be presented to the Ministry for Health and Social Affairs shortly and all the psychiatric wards will receive their own report from the visiting group.

The next step is a national project carried out under an agreement similar to the one mentioned above. The project invites all wards to take part in an educational programme to improve their own quality and to create a development plan for how to conduct compulsory care with a focus on reducing the number of compulsory measures. The project will look at access to skilled personnel and methods, as well as procedures and organisation. This project will specifically concentrate on

1. the use of restraint and seclusion and forced medication,
2. getting all psychiatric wards to report all cases of resort to restraint and seclusion,
3. systematic improvement work.

Requests for information

- the existing legal possibilities for an external psychiatric opinion to be requested in any case where a patient does not agree with the treatment proposed by the establishment's doctors (paragraph 108).

Section 3a of the Health and Medical Service Act lays down that "the county council shall give a patient with a life-threatening or specially serious illness or injury the possibility of obtaining, within his or her own county council area or outside it, a renewed medical assessment in the event of science and proven experience not affording unambiguous guidance and the medical decision possibly entailing special risks to the patient or being of great importance for the patient's future quality of life. The patient shall be offered the treatment which the renewed assessment may occasion."

In compulsory psychiatric care, treatment will be carried out after consultation with the patient (when possible). However, the Chief Medical Officer decides on the treatment. Nonetheless, as far as possible, the doctor must meet the patient's wishes regarding treatment.

- the comments of the Swedish authorities on the issue of the appointment of support persons for patients in wards 113 and 114 of the Psychiatric Clinic South-West in Huddinge (paragraph 109).

Section 30 of the Compulsory Mental Care Act and Section 26 of the Forensic Mental Care Act lay down that support persons are appointed for patients by the local patients' board, either at the request of the patient or at the initiative of the establishment. It is therefore correct that there is no distinction between civil or forensic commitment to a psychiatric facility in this case.

F. FAGAREDS HOME FOR YOUNG PERSONS

I. Preliminary remarks

Requests for information

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

The average number of juveniles (under the age of 18) held in remand prison at any one time was 12 during 2008 and 11 during 2009. Measuring the total number of juveniles, 148 were held in remand prison in 2008 and 140 in 2009.

II. Ill-treatment

Recommendations

- staff at the Fagareds Home to be reminded that when force has to be used to control violent and/or recalcitrant residents, no more force than is strictly necessary should be used and resort should always be had to safe techniques (paragraph 118).

In its report the CPT has highlighted two cases in which a young person states that staff used excessive violence in a segregation situation. The CPT therefore recommends that all staff at the Fagared young people's unit be reminded that they must not use more violence than is required and then exclusively using safe holding techniques.

It is not uncommon for staff at the National Board of Institutional Care's (SiS) institutions to have to deal with young people who behave aggressively or violently. It is of utmost importance that they do not use more coercion than is absolutely necessary. The authority's internal regulations state that when staff have to confine a young person or make him or her calm down, staff may have to hold on to the young person, lay him or her down on the floor, etc. There must not be any blows or kicks. When the young person has calmed down, no physical coercion may be used at all.

All staff who are employed at the Fagared young people's unit undergo an introduction process with their department manager, at which they are informed about the current regulations. They are also informed about SiS's ethical policy, and in 2009 all personnel underwent a training course on ethics.

The Fagared young people's unit also uses a conflict management model that has been developed within SiS: No power – no lose. The model is based on preventing threats and violence by means of communication and by using self-protection instead of self-defence. Self-protection is about avoiding physical contact and confrontation, in contrast to self-defence, in which one person takes action against another. Staff are trained to use safe holding techniques in situations where they need to use force. The training programme also deals with issues relating to the working environment, conflicts and conflict resolution, ethics, crises and crisis programmes, and legislation.

- steps to be taken to improve the recording and reporting of incidents at the Fagareds Home for Young Persons, in the light of the remarks in paragraph 121 (paragraph 121).

The CPT's report states that certain deficiencies were observed in dealing with incidents at the Fagared young people's unit. The report states, among other things, that incidents were often reported in a cryptic way with an inadequate description of the course of events. In two serious cases that involved police intervention, the incident reports could not be found. Some information relating to the incidents could only be found in the clients' personal files. The CPT therefore *recommends* that action be taken to improve the reporting of incidents.

SiS can confirm that the two incidents described in the CPT's report were not registered in the incident reporting system. One of these incidents was reported to the authority as a report of a serious event.

For several years, SiS has had clear guidelines on how incidents and serious events must be documented and reported within the authority.

An incident report must be filled in when an incident has occurred at an institution. There is an incident reporting system for this purpose. An "incident" in this context means a situation in which there has been a threat and/or violence from one or more clients directed at one or more member of staff. The incident reporting system focuses on the staff's working environment.

The incident reports are analysed at both institution level and authority level. The purpose of incident reporting at institution level is to ensure that every institution has a procedure for highlighting, analysing and following up on all incidents in order to be able to take supporting and preventive measures. The purpose of incident reporting at authority level is to ensure that data are compiled and analysed in order to provide a comprehensive view of the situation within the authority and to present the material on a regular basis in an easily understandable form. If necessary, measures must also be taken at authority level.

In addition to the incident report, which is only used in situations where there has been a threat and/or violence towards staff, the authority has also drawn up procedures for the reporting of other serious events. A report of a serious event must be produced if situations involving events of a more serious nature occur, such as serious injury to a client or staff member, death, riot, fire, escape situations, etc. If a serious event has occurred at one of SiS's institutions, the event must be reported by phone as soon as possible to SiS duty management and emailed to parties including the authority's Director-General, Senior Legal Counsel and the Head of the Audit Unit within 24 hours. This is to ensure that the authority can act immediately.

Comments

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

In its report, the CPT comments on an event in which a boy was handcuffed by the police. The CPT states that even in situations where it is necessary to seek police assistance, it is care staff who must assume responsibility for the situation. As mentioned above, SiS staff are as a rule used to handling violent situations. In cases where the situation has escalated to the extent that staff at the institution are unable to cope with the situation and police assistance is necessary, it is not within SiS's mandate to instruct the police on how to perform their tasks. However, the staff at the institutions and the police must of course cooperate and seek a solution to the situation on the basis of their respective mandates and competence.

III. Regime and staff

Recommendations

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

The CPT's report comments on the staffing of the "Fyren" department at the Fagared young people's unit, which takes in young people with neuropsychiatric disabilities. The CPT deems that the number of employees is sufficient, but that their qualifications do not correspond to the needs of the young people. The CPT *recommends* that the selection of staff and the further education of staff be adapted to the target group in this department. The CPT also *recommends* that the authority consider appointing a full-time nurse with psychiatric competence.

Staff working in the "Fyren" department come from varying backgrounds. Most have adequate higher educational qualifications. They are qualified as social workers, social educationists, recreational instructors, autism educationists, preschool teachers, etc. Staff in the department also include treatment educationists, assistant nurses and mental health carers. Many of the employees have also spent a long time working with the target group of people with neuropsychiatric disabilities. They also have experience of work in the field of psychiatry.

The department's staff undergo continuous education, and those that do not have adequate higher educational qualifications have been educated during paid working hours. They have studied social pedagogy, psychiatric illness, relapse prevention, risk assessment, etc. Four employees have also completed stage 1 training in cognitive behavioural therapy and short courses on Asperger's, Autism, ADHD, etc. A general course on psychiatry is planned for staff in spring 2010.

The Fagared young people's unit has a nurse on duty three days a week. This nurse has extensive experience of psychiatry, prison and probation services, and social youth care. The Fagared young people's unit also has two consulting psychiatrists who oversee medication and general healthcare planning with regard to young people in the "Fyren" department. If the "Fyren" department receives a group of young people with more specific psychiatric problems, SiS deems it necessary to consider the employment of a full-time psychiatric nurse.

The young people are never medicated by force, but medication takes place on a voluntary basis. All members of staff are trained in dispensing medicine once a year and the young people's medications are handled by staff in the department under the supervision of the nurses and doctors there. SiS therefore considers that at the present there is no need for a full-time psychiatric nurse.

IV. Health care

Requests for information

- the comments of the Swedish authorities on the case of the resident referred to in paragraph 127 (paragraph 127).

The CPT wishes to be provided with *information* about a boy they met during the visit. The boy in question has a history of extremely aggressive and violent behaviour. Among other things, he has been placed in a number of different institutions and family homes. None of the homes has been able to keep him in so that treatment could be undertaken. Upon arrival at the "Fyren" department he was heavily medicated with a number of different preparations. The institution's doctor discontinued these medicines so that the boy would not be over-medicated. But he became so uncooperative, violent and dangerous to himself and others that the doctor made the assessment that some form of medication was needed after all, and this was given. The boy currently has a functional life by his own standards. The frequent outbursts of violence he used to experience have been minimised. The medicine has had the effect of stabilising the boy's attitude and he has responded well to the treatment and structure of the department. He has resumed contact with his family. He works in the institution's kitchen and greenhouse. He also has regular, productive excursions accompanied by staff.

- the comments of the Swedish authorities on the suitability of the "SafeDoc" computerised system for recording medical data (paragraph 128).

According to the CPT's report, during the visit to the Fagared young people's unit they received indications from healthcare staff at Fagared that the SafeDoc record-keeping system does not work satisfactorily and is not adapted to the activities at the institution. CPT wishes to be provided with *information* on the matter.

The data-based SafeDoc record-keeping system has been used at the authority since 2007, having been purchased following a procurement process. There were certain problems with the system initially, and the authority is aware that members of staff have not been and still are not fully satisfied with SafeDoc. The problems that existed have largely been rectified, and the system is undergoing continuous improvements.

SiS is of the view that SafeDoc satisfies the requirements specified in current legislation.

V. Segregation / "Care in isolation"

Recommendations

- the Swedish authorities to set up a system for the systematic recording of episodes of segregation at the Fagareds Home, as well as in all other institutions for young persons in Sweden. The recording system should include the time at which the measure began and ended, the person deciding on the measure, the circumstances of the case and the reasons for

resorting to the measure; it should also indicate the frequency of observation (paragraph 130).

A system for the registration of segregation episodes is already in use at SiS. SiS institutions use a joint authority record-keeping system, KIA (administrative client and institution system), which includes the registration of all episodes of segregation. The information that must be entered is when segregation commenced and ended, who made the decision, which members of staff were involved in the segregation and the circumstances of the segregation. The young person receives written notification of the segregation order, against which he or she has a right to appeal to an administrative court. This notification is printed from KIA. As regards the extent of supervision of the young person, which must take place at least every 15 minutes, this must be registered on a separate form, which is added to the journal upon completion of the segregation. It is possible to extract various kinds of data from the system, e.g. for follow-up purposes. The authority is also in the process of reviewing a technical solution for the registration of supervision of a young person in segregation.

It can also be mentioned that SiS is currently working on the development of a new version of KIA to facilitate the obtaining of data. A project is also under way within the authority to produce different kinds of key ratios. In its appropriation directions for 2010 the authority has also been commissioned by the Government to report on the use of specific powers in such a way that it is possible to track usage over time, including the reporting of key ratios.

Wide-ranging work is also under way at the authority to review the episodes of segregation that took place during 2008 and the first half of 2009. As regards the segregation episodes that have taken place as from the second half of 2009, the authority has introduced a procedure that requires all segregation episodes to be reported to the relevant regional office within 24 hours. A regular forum has also been set up at regional level within the authority, at which all segregation episodes are reviewed. The regional manager, heads of institutions and a legal counsel take part in these meetings.

- the segregation rooms to be equipped with appropriate furniture (e.g. a bed, table and chair) (paragraph 130).

The CPT *recommends* in its report that rooms that are used for segregation be provided with furniture, e.g. bed, table and chair. The most common reason why young people are segregated is that they are violent. It is not at all unusual for a young person in such a context to use items as weapons, e.g. chairs. To put the young person in a room with furniture in such situations would constitute a risk to both the young person and to staff. SiS therefore deems that the risks outweigh the benefits of giving the rooms a more furnished impression. As soon as the young person has calmed down, segregation must be terminated. In can also be noted that the average length of a segregation episode in the second half of 2009 was approximately two hours.

VI. Means of restraint

Recommendations

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

The CPT *recommends* in its report that SiS set up a specific register in which the use of all kinds of manual, mechanical and chemical instruments of restraint against internees is registered. SiS would like to point out in this context that mechanical and chemical instruments of restraint are not used at the authority's institutions. As mentioned above, SiS is in the process of developing the KIA record-keeping system, and the CPT's comments will be taken into consideration in this task.

Requests for information

- the comments of the Swedish authorities on the issue of handcuffing of residents while awaiting the arrival of the police (paragraph 132).

The CPT wishes to be provided with *information* about a situation in which a young person was handcuffed while awaiting the arrival of the police. SiS may not use instruments of restraint such as handcuffs. Handcuffs may only be used by, for example, the police and the prison and probation service. If a serious, violent situation arises in which the institution's staff are forced to call for police assistance, the police may handcuff a young person in connection with the said young person being taken by the police to another institution or authority. If a young person was handcuffed, it can only have been the police or the prison and probation service's transport staff who fitted these in connection with transport (cf. paragraph 119).

- information on the policy followed at the Fagareds Home as regards chemical restraint (paragraph 132).

The CPT wishes to be provided with *information* about the Fagared young people's unit policy regarding chemical restraint. SiS institutions have no legal right to use forced medication or restraint using belts. This applies no matter how violent the young person is. Young people and their carers are always informed by the doctors and nurses at the Fagared young people's unit about which medication is considered suitable in order to improve the young person's quality of life as well as the positive effects and side-effects of these. The young person is never, however, medicated against his or her will.

VII. Other issues of relevance to the CPT's mandate

Requests for information

- a copy of the report of the National Board for Institutional Care (SiS) published in 2009 concerning the Fagareds Home (paragraph 135).

The inspection report of the inspection visit conducted on 15-16 April 2009 is attached (ref. 34-191-09).

- more information on the new system for inspections, including on the qualifications and powers of the officials performing inspections (paragraph 135).

The National Board of Health and Welfare is developing a system for inspecting SiS homes for young persons. By direction of the Swedish Government (*regleringsbrev*) the Board will be focusing on segregation/separation in 2010. A project has been set up to develop an "inspection package" for guidance on how to inspect SiS homes for young persons. The package will consist of criteria and questionnaires to be used in the inspection process. The aim is to guide inspectors to make uniform and equivalent judgements all over the country. The package will be developed during this spring, tested in early summer and completed in October 2010.

Developing and using criteria in inspections is a method which has been used since 2002/2003. The method was developed together with the County Administrative Board, which was responsible for inspecting social services until 31 December 2009. Since the inspection package will not be in use until October 2010, some overall guidelines for inspections will be developed during the early spring of 2010. These guidelines will include a description of the legal aspects of the inspection domain and some other basic instructions.

The inspectors inspecting the "social part" of the homes are senior advisers. A majority of inspectors have experience of leading positions in social services. The inspectors inspecting the "health care part" are mainly nurses, but other professional categories are also represented. These inspectors also have experience of leading positions in health care services.

By direction of the Swedish Government (*regleringsbrev*) the Board will start an inspection training programme in May 2010. Staff at all levels working with social care and health care inspections will take part in the training programme. Some basic legal aspects of the inspection of SiS will be brought up in the programme, as well as techniques for interviewing children. It has not yet been decided if there will be any special training programme for inspectors inspecting SiS homes.

Since 1 January 2010, the National Board of Health and Welfare has been responsible for inspecting services including SiS homes. During an inspection the Board should be given access to relevant material that is needed to accomplish the inspection as well as access to different localities. If the Board finds unsatisfactory conditions in a service, it has the power to "put an injunction on the service". The injunction can be associated with a penalty fee. If necessary action is not taken by the service, the Board can prohibit the service.