COUNCIL OF EUROPE CONSEIL DE L'EUROPE

CPT/Inf (2011) 3

Report

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

from 25 January to 5 February 2010

The Government of Ireland has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2011) 4.

Strasbourg, 10 February 2011

CONTENTS

Copy of the letter transmitting the CPT's report

Mr James Martin
Assistant Secretary
Department of Justice, Equality and Law Reform
72-76 St. Stephen's Green
IRL - Dublin 2

Strasbourg, 23 July 2010

Dear Mr Martin,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Government of Ireland drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Ireland from 25 January to 5 February 2010. The report was adopted by the CPT at its 72nd meeting, held from 5 to 9 July 2010.

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

It would be most helpful if a copy of the response could be provided in a computer-readable form.

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

Yours faithfully,

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

Copy: Ms Margaret Hennessy, Ambassador Extraordinary and Plenipotentiary,
Permanent Representative of Ireland to the Council of Europe

I. INTRODUCTION

A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to Ireland from 25 January to 5 February 2010. The visit was organised within the framework of the CPT's programme of periodic visits for 2010; it was the Committee's fifth visit to Ireland.

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

- Mario FELICE, Head of delegation
- Celso DAS NEVES MANATA
- Eugenijus GEFENAS
- Pétur HAUKSSON
- Dajena POLLO.

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

- Hugh CHETWYND (Head of Division)
- Marco LEIDEKKER

and were assisted by:

- Andres LEHTMETS, Head of the Centre of Psychiatry, West Tallinn Central Hospital, Estonia (expert)
- Alan MITCHELL, former Head of Healthcare, Scottish Prison Service, United Kingdom (expert).

B. Establishments visited

3. The delegation visited the following places:

Establishments under the Ministry of Justice, Equality and Law Reform

An Garda Síochána:

- Bridewell Garda Station, Cork
- Mayfield Garda Sstation, Cork
- Bridewell Garda Station, Dublin
- Coolock Garda Station, Dublin
- Finglas Garda Station, Dublin
- Santry Garda Station, Dublin
- Sundrive Road Garda Station, Dublin
- Tallaght Garda Station, Dublin

Prison Service:

- Cork Prison
- Limerick Prison (female section)
- Midlands Prison
- Mountjoy Prison
- Portlaoise Prison
- St Patrick's Institution

Targeted visits were paid to Cloverhill and Wheatfield Prisons to examine care afforded to prisoners with a mental health disorder. It also visited the Dóchas Women's Centre to interview a particular prisoner.

Establishments under the Ministry of Health and Children

- Central Mental Hospital, Dundrum, Dublin
- St Brendan's Hospital, Dublin
- St Ita's Hospital, Portrane
- St Joseph's Intellectual Disabilities Services, Portrane

C. Consultations held by the delegation

4. In the course of the visit, the delegation held consultations with Dermot AHERN, Minister for Justice, Equality and Law Reform, John MOLONEY, Minister for Equality, Disability and Mental Health at the Department of Health, and Barry ANDREWS, Minister of State with responsibility for Children and Youth Affairs, as well as with Sean AYLWARD, Secretary General of the Department of Justice, Equality and Law Reform, Brian PURCELL, Director General of Prisons, and other senior government officials from the Ministries of Health and Children and of Justice, Equality and Law Reform. It also met Judge Michael REILLY, the Inspector of Prisons, Dermot GALLAGHER, Chairman of the Garda Ombudsman Commission, Dr Pat DEVITT, Inspector of Mental Health Service, and representatives of the Mental Health Commission and of the Irish Human Rights Commission.

Discussions were held with members of non-governmental organisations active in areas of concern to the CPT, and the Irish College of Psychiatrists.

A list of the national authorities and organisations met by the delegation is set out in Appendix II to this report.

D. Cooperation between the CPT and the Irish authorities

5. The degree of cooperation received during the visit from the Irish authorities was very good, both at the central and local levels. Information about a possible visit by the Committee, and the delegation's mandate and powers, had been provided to places used for holding persons deprived of their liberty; consequently, the delegation had rapid access to the establishments it wished to visit, to the documentation it wanted to consult and to individuals with whom it wished to talk. In particular, the delegation would like to thank the CPT liaison officers, and especially Mary BURKE, for the assistance provided both before and during the visit.

E. Immediate observations under Article 8, paragraph 5, of the Convention

6. At the meeting which took place at the end of the visit on 5 February 2010, the CPT's delegation made two immediate observations under Article 8, paragraph 5, of the Convention as regards the use of the special observation cells in prisons and the treatment of prisoners in Cork, Midlands and Mountjoy Prisons receiving medication. The Irish authorities were requested to provide by 18 May 2010 information on the action taken to:

- review the use of special observation cells, as well as on the steps taken to ensure an appropriate temperature in these cells and that, in those cases where the risk of self-injury warrants the removal of clothes, prisoners are provided with rip-proof clothing and footwear;

- review the treatment of all prisoners at Cork, Midlands and Mountjoy Prisons receiving medication (with priority given to those inmates receiving methadone) and, thereafter, to assess the health-care needs of all other prisoners.

7. By letter of 17 May 2010, the Irish authorities informed the CPT of measures taken in response to the afore-mentioned immediate observations, and to other issues raised by the delegation at the end-of-visit talks. This information has been taken into account in the relevant sections of the present report.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Law enforcement agencies

1. Preliminary remarks

8. The CPT's delegation visited a number of Garda Síochána (police) establishments in the Dublin area, as well as Bridewell and Mayfield Garda stations in Cork.

9. The legislative framework governing detention by the police remains essentially unchanged since previous CPT visits. Under the 1984 Criminal Justice Act, persons may be detained by the police for up to twenty-four hours. The 1996 Criminal Justice (Drug Trafficking) Act extended the time of detention to a maximum of seven days in the case of persons suspected of drug-trafficking offences; in such cases, detained persons must be physically brought before a judge within 48 hours and thereafter, if police custody is extended by the judge, within a further 72 hours (when the judge may order a further extension of police custody for up to 48 hours). Persons may also be held under the Offences Against the State Act 1939 for up to 48 hours on Garda authority, and a judge may authorise a further 24 hours of police custody.

Further, under established case law, persons under arrest and charged with offences not covered by the acts mentioned above may, in certain situations, be held overnight in a police station.

10. There have, however, been several legislative developments since the CPT's 2006 visit which impact upon policing. Notably, the Criminal Justice Act 2007 has expanded the circumstances under which inferences from silence can be drawn in relation to all arrestable offences (i.e. one carrying a term of imprisonment of five years of more). The Act has also broadened the categories of offences for which people can be held in Garda custody for up to seven days, with the same judicial safeguards in place as those for persons detained under the 1996 Criminal Justice Act (see paragraph 9 above).

Part 4 of the Criminal Justice (Amendment) Act 2009 introduces changes to the procedures for District Court hearings to extend the detention of persons arrested by the police. More specifically, at the judge's discretion and upon application by the Garda, such hearings may take place in private, including the exclusion of both the detained person and his or her legal representative. The CPT understands that this provision was introduced as a measure to combat attempts of organised crime networks, particularly in Limerick, to use their lawyers to obtain additional information about the sources of intelligence at the disposal of the Garda Síochána.

The CPT considers that in the interests of the prevention of ill-treatment, a person detained by the police must be physically brought before the judge tasked with examining a request for extension of police custody[1]. **The CPT would like to receive confirmation that all persons detained by the police are physically brought before the judge tasked with examining a request for the extension of their detention.**

[1] And compliance with Article 5 (3) of the European Convention on Human Rights would require that the detained person be brought before the judge if his police custody may be extended to 4 days or more.

11. The CPT has consistently stated that the existence of effective mechanisms to tackle police misconduct is an important safeguard against ill-treatment of persons deprived of their liberty. In those cases where evidence of possible wrongdoing emerges, the carrying out of an effective investigation and, when ill-treatment has been proven, the imposition of appropriate disciplinary and/or criminal penalties can have a powerful dissuasive effect on police officers who might otherwise be minded to engage in ill-treatment.

In its report on the 2002 visit to Ireland, the CPT was critical of the system of police complaints operating at the time. Subsequently, in its report on the 2006 visit the CPT commented favourably on the proposed new independent complaints system envisaged by the Garda Síochána Act 2005. In the course of the 2010 visit, the delegation had an opportunity to meet representatives of the Garda Síochána Ombudsman Commission.

12. The Commission, headed by three Commissioners[2], has been operating since May 2007 and now has a staff of around 100, including some 40 investigators (most of whom have worked in law enforcement in various other countries). As was noted in the report on the 2006 visit, for the most serious complaints, the Ombudsman Commission has been granted a broad range of powers, including those of arrest, detention and search of premises. For complaints of a less serious nature, the Commission may decide that the complaint should be dealt with by the Garda itself, whilst retaining the authority to supervise the investigation. In general, the CPT's delegation was told that the Ombudsman Commission enjoys a relatively high level of public confidence.

13. That said, some concern has been raised by certain interlocutors of the CPT concerning the Ombudsman Commission's proposals to amend section 94 of the Garda Síochána Act 2005 to allow for the "leaseback" of some cases involving criminal investigations. In particular, it is argued that no allegation concerning the commission of a criminal offence by a Garda member should be considered as a minor matter and that, moreover, a sequence of complaints regarding petty criminality may be indicative of a more major problem. For their part, the Ombudsman Commission points to several factors behind their recommendation, notably: the Commission's limited resources; the importance of the Garda management taking more responsibility in supervising investigations into less serious complaints; the fact that many of these complaints are very minor even if they do contravene the law. Further, the Ombudsman Commission is adamant that it will keep an eye out for any trends or patterns of complaint.

Further, some criticism has been voiced over, inter alia, the length taken to investigate complaints, the independence of Garda investigations into complaints of a less serious nature and the possibility of information concerning complaints which is entered into the PULSE (Police Using Leading Systems Effectively) database being accessible to all Gardai.

Maintaining public confidence in the Ombudsman Commission's work is vital to the success of its work. Initiatives such as the "lessons learned" consultations with the Garda Síochána are to be encouraged and similar such discussions with civil society and other relevant parties should also be pursued. It is equally important that the Ombudsman Commission continues to be provided with the necessary resources to carry out its tasks. **The CPT would appreciate the comments of the Irish authorities on the above remarks.**

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[2] A former senior civil servant, a former editor of the Irish Times newspaper and a former Director of Consumer Affairs.

2. Ill-treatment

14. The majority of the persons met by the CPT's delegation made no complaints about the manner in which they were treated while in the custody of the Gardai. Indeed, many persons with past experience of detention stated that the treatment by the Gardai had improved in recent years and that they had been treated correctly during their most recent period of custody. However, a number of persons did allege verbal and/or physical ill-treatment by Gardai. The alleged ill-treatment consisted mostly of kicks, punches and blows with batons to various parts of the body. The allegations concerned the time of arrest or during transport to a Garda station and, in one specific case, the period of custody in a station. Several of the persons interviewed had apparently submitted a complaint to the Garda Síochána Ombudsman Commission.

15. The delegation gathered little medical evidence of ill-treatment. However, this should not be interpreted as undermining the credibility of the allegations made. Most of the cases of alleged ill-treatment communicated to the delegation pre-dated its visit by several weeks and any injuries which might have been caused by the ill-treatment alleged would almost certainly have healed in the meantime.

One person interviewed (who did not wish to make a formal complaint) alleged that after being arrested by the police in front of members of his family, he was taken to a police station where he was ill-treated. Specifically, he stated that he was placed in a cell with his hands still handcuffed behind his back and, over the course of one and a half hours, was subjected to kicks, punches and baton blows by several Gardai. When examined by a prison doctor a couple of days later, the following was noted: "Bruised right wrist and swollen right hand. No movements. Bruise marks anterior upper arms bilaterally. Bruise marks anterior and posterior thighs. Tender right postero-lateral occipital area with no broken skin.".

16. The information gathered by the CPT's delegation in the course of the 2010 visit indicates that progress continues to be made in reducing ill-treatment at the hands of police officers; nevertheless, the persistence of some allegations makes clear that the Irish authorities must remain vigilant. **The CPT recommends that senior police officers remind their subordinates at regular intervals that the ill-treatment of detained persons is not acceptable and will be the subject of severe sanctions.**

3. Safeguards against ill-treatment of detained persons

17. Generally speaking, the main safeguards advocated by the CPT - namely the right of those concerned to inform a close relative or another third party of their choice of their situation; the right of access to a lawyer; and the right of access to a doctor - continue to operate in a satisfactory manner as from the very outset of custody.

That said, the CPT continues to consider that a detained person should, in principle, be entitled to have a lawyer present during any interview conducted by the police. The presence of a lawyer has taken on added importance given the expanded circumstances under which adverse inferences from silence can now be drawn. Naturally, this should not prevent the police from questioning a detained person on urgent matters, even in the absence of a lawyer (who may not be immediately available), nor, if exceptionally the circumstances so require, replacing a lawyer who impedes the proper conduct of an interview. In their response to the report on the 2006 visit, the authorities stated that they would keep this issue under review. **The CPT would like to be informed of the current thinking of the Irish authorities on this issue, having regard in particular to the most recent case law of the European Court of Human Rights concerning access to a lawyer.**

18. The delegation also noted that other important safeguards against ill-treatment were in place, such as the video-recording of all interviews and the progressive installation of CCTV cameras in the detention areas and public spaces of police stations visited in the Dublin area. **The CPT encourages the authorities to pursue their stated intention to equip all police stations with such cameras.**

As regards the video recording of all interviews, the delegation did receive allegations from at least one person that in the course of the interview Gardai had stopped the video-recording and issued verbal threats to the interviewee. Subsequently, the formal interview was resumed with the video-recording. **The CPT would like to be informed whether there are security features surrounding all video-recordings, such as running time and date stamp, to counter any manipulations of recordings.**

4. Conditions of detention

19. As was the case in 2006, material conditions at the police facilities visited were in general satisfactory for the periods of detention involved; usually less than 24 hours and only rarely exceeding 48 hours. The cells were of adequate size, equipped with toilet facilities, possessed adequate artificial lighting and sufficient ventilation and could be properly heated.

However, the cells in Cork Bridewell and Mayfield Garda Stations did not possess a call bell and in Coolock Garda Station the call bell in cell no. 3 was not functioning. Further, several of the cells at Cork Bridewell Garda Station were filthy. **The CPT recommends that these deficiencies be remedied.**

20. Certain of the smaller police stations visited, such as those of Dublin Sundrive Road and Cork Mayfield did not possess shower facilities but prisoners could use a sink to wash themselves; it should be noted that the registers showed that persons were rarely kept overnight in these stations.

Some - but not all - police facilities visited were equipped with a yard for outdoor exercise. At Dublin Bridewell Garda Station, where it was not uncommon for persons to be detained for more than 24 hours, the delegation was told by staff that detained persons were allowed out onto the detention area landing for at least one hour each day. **The CPT recommends that the necessary measures be taken to ensure that persons detained by the Garda for more than 24 hours are offered the opportunity of outdoor exercise every day.**

B. Prison establishments

1. Preliminary remarks

a. overcrowding

21. In the three and a half years since the CPT's last periodic visit to Ireland the prison population has expanded considerably, rising from some 3,150 in October 2006 to over 4,000 by the end of January 2010. At the same time, the Irish Prison Service has struggled to provide sufficient capacity to accommodate the increasing prison population. The official operational capacity of some 4,100 belies the very real overcrowding that exists in a number of prison establishments, such as Cork and Mountjoy Prisons and the female unit at Limerick Prison, where many inmates have to sleep on mattresses on the floor due to insufficient beds and a lack of space. As was the case in 2006, the de facto overcrowding, combined with the conditions in certain of the old and dilapidated prisons, raises real concerns as to the safe and humane treatment of prisoners.

22. The Irish authorities have long recognised the necessity to modernise and expand the prison estate. To this end, new accommodation blocks have recently been constructed at Castlerea, Loughan House, Portlaoise and Shelton Abbey Prisons, providing some 370 additional places. A further 250 places are envisaged to come into service at Mountjoy and Wheatfield Prisons in the course of 2010. However, the primary project to increase the capacity of the Irish Prison system remains Thornton Hall prison complex, which should include sentenced adult male and adult female sections, and an adult male pre-release unit. The complex is projected to have a design capacity of 1,400 with a flexible operational capacity of up to 2,200 inmates. In 2006, the Irish authorities stated that the construction of the complex would be completed by 2010. Such a deadline always appeared optimistic and, further to mounting costs, a new concept for the project was proposed in 2009; the current projection is for construction work to begin in late 2010 and for the prison to become operational in 2015.

In the meantime, **the CPT strongly encourages the Irish authorities to invest the necessary resources into the existing prison estate to ensure that all prisoners are kept in decent conditions of detention.**

23. The CPT also wishes to place on record that it has serious misgivings about the construction of very large prison complexes, which have historically proven difficult to manage and unable to deliver the targeted services required of the various population groups within them. The information relating to the design and functioning of the Thornton Hall complex remains unclear and much will depend on whether the individual units (male, female, training unit, etc.) will be run as separate entities or under one management. An emphasis on economies of scale is understandable but the possible negative implications for day-to-day contact between prisoners and staff, opportunities for the delivery of a purposeful regime and prisoners contacts with the outside world need to be carefully considered. Recent debates in other European countries[3] on large prison complexes have pointed to their unsuitability for catering to the needs of a diverse population of more than 2,000 inmates.

[3] See inter alia the debate on 'titan' prisons in the United Kingdom (CPT/Inf (2009) 30 and CPT/Inf (2009) 31).

The CPT would like to receive details on the design and future functioning of the Thornton Hall complex. Further, it would like to be informed whether planning for staffing levels and activity programmes is being carried out under the assumption of the design capacity or the much greater figure of operational capacity (i.e. more than 2,000 inmates).

24. The CPT has repeatedly stated that the building of additional accommodation is unlikely, in itself, to provide a lasting solution to the challenge of overcrowding. In this respect, the CPT has noted the recent adoption of the Fines Bill by the Dail which, if passed into law, will significantly reduce the number of fine defaulters being admitted to prison. Although the overall numbers of fine defaulters in prison at any one time is relatively low, they have a significant impact on certain establishments; for example, Mountjoy Prison estimated that some 2,000 or 50% of committals in 2009 were fine defaulters.

Within the adult male prison population, the greatest increase concerns prisoners serving sentences of less than six months, rising from around 3,000 in 2005 to 5,000 in 2008 out of a total of some 8,000 committals under sentence for the whole year. In certain European jurisdictions every effort is made to avoid sending persons to prison for short periods, as less than six months is considered too short to tackle criminogenic behaviour yet sufficient to disrupt social and family ties. In the light of figures attesting to multiple convictions of this group of persons in Ireland (39% of these prisoners re-offend within two years of leaving prison and rates of recidivism are much higher among persons who have already been imprisoned more than once[4]), it would appear that imprisonment is not achieving its purpose in respect of these people. Instead, more might be achieved through devising programmes for such persons to serve their sentences in the community. Further, a reduction in the number of inmates serving shorter sentences would free up resources to address the needs of prisoners with longer-term sentences. **The CPT would appreciate the comments of the Irish authorities on this matter.**

25. The impact of overcrowding in the prisons visited was not limited to cramped accommodation space but had considerable repercussions on hygiene, out-of-cell activities and other services provided by the prison, including the ability to allocate prisoners according inter alia to risk, needs, attitude and behaviour. The high turnover of inmates in certain of the prisons visited exacerbated the problem. The CPT would like to draw the attention of the Irish authorities to Recommendation No. R (99) 22 of the Council of Europe's Committee of Ministers, which besides laying down some basic principles, also suggests a number of specific tools which can be used to reduce prison overcrowding or to control prison population inflation. Reference should also be made to Recommendation No. R (2000) 22 on improving the implementation of the European rules on community sanctions and measures, Recommendation No. R (2003) 22 concerning conditional release, and Recommendation No. R (2006) 13 on the use of remand.

The CPT, therefore, recommends that the Irish authorities continue to pursue vigorously multi-faceted policies designed to put an end to overcrowding in prisons, having regard inter alia to the principles set out in the Recommendations referred to above.

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[4] Recidivism in the Republic of Ireland – lessons for International research by Johnny Connolly (9th Meeting of the Pompidou Group Expert Forum on Criminal Justice, Croatia 2nd – 3rd October 2008).

b. juveniles

26. One of the cardinal principles enshrined in the United Nations Convention on the Rights of the Child and the Beijing Rules is that juveniles should only be subjected to a measure of deprivation of liberty as a last resort and for the shortest possible period of time. The CPT fully subscribes to this position. The CPT also considers that juveniles who are deprived of their liberty ought to be held in detention centres specifically designed for persons of this age, offering regimes tailored to their needs and staffed by persons trained in dealing with the young.

In Ireland, following the adoption of the Children's Act 2001, the official policy is to place children in custody only where no alternative is appropriate. Further, the Criminal Justice Act 2006 made provision for all juveniles under 18 years to be placed in Children Detention Schools; however, until this was feasible it made an interim provision for the detention of 16 and 17 year olds in St Patrick's Institution for Young Offenders. At the time of the 2010 visit, St Patrick's Institution continued to hold 16 and 17 year olds with no clear timetable as to when they would be transferred to a Children Detention School. Further, the findings of the 2010 visit demonstrate that St Patrick's Institution does not provide a suitable environment for the detention of juveniles (conditions, regime, staffing). **The CPT recommends that the Irish authorities take the necessary steps to ensure that juveniles deprived of their liberty in Ireland are held in appropriate detention centres for their age group.**

c. prisons visited

27. In 2010, the CPT's delegation carried out follow-up visits to Cork and Mountjoy Prisons, as well as to St. Patrick's Institution for Young Offenders and the female section of Limerick Prison. It also visited Midlands Prison, for the first time, and Portlaoise Prison following the latter's recent expansion. Targeted visits were also undertaken to Cloverhill and Wheatfield Prisons to examine care afforded to prisoners with a mental health problems, and to the Dochas Women's Centre to visit a particular prisoner.[5]

28. **Cork Prison** is a former military detention centre which started operating as a prison in 1972; the establishment's main building dates back to 1806. It is a committal prison and has a design capacity of 146 (on the basis of single cell occupancy). The three main accommodation wings each have three levels and together contain 138 cells: A and B wings are adjacent to one another and each have 46 cells, while C wing is in a separate building and is used to accommodate long-term prisoners as well as those inmates on protection. The segregation unit (D Wing) is used to accommodate prisoners on disciplinary punishment from Cork or other prisons in Ireland for up to two months, and consists of eight ordinary cells and two special observation cells. At the time of the visit, the prison was holding 309 male prisoners for an operational capacity of 257.

[5] Cork Prison was previously visited by the CPT in 1993, 2002 and 2006, Limerick Prison was visited in 1998 and 2006; Mountjoy Prison was visited in 1993, 1998, 2002 and 2006; Portlaoise Prison was visited in 1998; and St. Patrick's Institution was visited in 1993 and 2006. Cloverhill Prison was visited in 2002 and together with Wheatfield Prison was the subject of a targeted visit in 2006. The Dochas Centre was visited in 2002.

Limerick Prison was built in 1821 to a radial design with four main wings; two of the original wings (A and B), with no in-cell sanitation, are still in use; the other two wings (C and D) were completely rebuilt in 2004 and 1998 respectively. A small separate female unit comprising nine cells and one special observation cell was opened in 2002. Since the CPT's visit in 2006, a new central gymnasium, school and medical unit have been constructed and opened. On 30 January 2010, the prison's female section was accommodating 22 inmates for an operational capacity of 18.

Midlands Prison, adjoining Portlaoise Prison, was opened in November 2000 and is built to a radial design with four accommodation wings (A to D), with a design capacity of 515 and an operational capacity of 539. Each wing has three landings, with some 70% of prisoners accommodated in single-occupancy cells, and the remainder in either double or quadruple occupancy cells. The prison originally only accepted prisoners from other establishments but since September 2006 it takes committal prisoners sentenced in the surrounding six counties. The prison places an emphasis on work, training and education. On 27 January 2010, the prison held 519 inmates.

Mountjoy Prison in Dublin remains the prison with the largest inmate population in Ireland. The main prison building dates from 1850 and is built to a radial design, with four main wings (A to D). In addition, the drug detoxification unit has six wards of ten cells each. There is also a separate accommodation area in the basement of B wing, used for new arrivals and persons seeking protection from other prisoners. A separate unit (E Wing) was expected to become operational in the near future to accommodate prisoners on protection. On 2 February 2010, the prison was holding 632 male prisoners[6] for an operational capacity of 573[7].

Portlaoise Prison is the highest security establishment within the Irish Prison Service, with external and roof-top security provided by army personnel. The prison was opened in 1830 but the last remaining accommodation wing dating from this period (D Block) was taken out of service in January 2010 and will now be demolished. The Prison currently consists of three accommodation areas: E Block, built in 1902, consists of 152 single-occupancy cells on four levels (cells do not have integral sanitation) and, at the time of visit, was accommodating 51 "subversive" prisoners sentenced by the Special Criminal Court[8]; C Block, opened in November 2009, consists of 135 cells with a bed capacity of 201 and at the time of the visit was holding 190 inmates; A Block, built in 2003, consists of five units each containing eight single-occupancy cells, of which four of the units are used for inmates undergoing disciplinary punishment from different prisons in Ireland while the fifth one is used to house prisoners who cannot for a variety of reasons be accommodated in other areas of the prison; at the time of the visit, A Block held 22 prisoners. The recent opening of C Block has resulted in the prison's population expanding from 118 to 263 in the two months prior to the delegation's visit for an operational capacity of 361.

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6 Irish Prison Service figures for the month of May 2010 show that occupancy numbers at Mountjoy Prison were consistently above 660 and reached as high as 690 .

7 In his report on Mountjoy Prison of August 2009, Judge Reilly, Inspector of Prisons, provides precise details on the number of cells and beds in the prison and concludes that the prison has a design capacity of 489 and a bed capacity of 573 but should accommodate no more than 540 prisoners (see www.inspectorofprisons.gov.ie).

8 The Special Criminal Court, established by the Offences Against the State Act 1939, sits as a three-judge panel with no jury for cases defined as terrorism and offences against the State. The remit of the Special Criminal Court was extended by the Criminal Justice (Amendment) Act 2009 to certain offences under Part 7 (Organised Crime) of the Criminal Justice Act 2006.

St Patrick's Institution is part of the Mountjoy Complex and is located in the former women's prison in buildings dating back to 1850. It accommodates young persons between the ages of 16 and 21, and it is the only prison establishment in Ireland for children of 16 and 17 years, of whom there were respectively 14 and 44 at the time of the visit. The majority of younger prisoners were accommodated in B Block (B2 and B3) and while attempts were made to separate them from older prisoners, in practice the main criterion for placement was to keep conflicting groups apart. On 3 February 2010, the prison held 210 inmates, of whom 15 were on remand, for an operational capacity of 216.

Cloverhill Prison is a remand establishment and on 2 February 2010 it was holding 443 inmates, for an operational capacity of 431. **Wheatfield Prison**, located next door to Cloverhill, was built in 1989 with an operational capacity of 430 and an occupancy rate, on 2 February 2010, of 367 sentenced prisoners. The **Dochas Centre**, opened in 1999, is an establishment for female sentenced and remand prisoners and is part of the Mountjoy Complex; it has an operational capacity of 85 and was holding 115 inmates at the time of the visit.

2. Ill-treatment and accountability

29. The majority of the inmates interviewed by the delegation considered that they were being treated correctly by prison officers, and the atmosphere and relations between staff and prisoners seemed, on the whole, to be relaxed and quite positive in most of the prisons visited**.**

However, in certain of the prisons visited, the delegation received a number of allegations of verbal abuse (particularly at Cork Prison, in relation to prisoners from the traveller community and foreign nationals, which on occasion was of a racist nature) and of physical ill-treatment of inmates by certain members of the prison staff. The alleged ill-treatment consisted mostly of punches and kicks to the body; such treatment seemed to be particularly prevalent during removal to the segregation unit.

30. One incident relates to the forced removal of four prisoners from separate holding cells on the first floor of A Block at Portlaoise Prison, on 30 June 2009. The decision to authorise officers wearing full body protection and equipped with shields to remove these prisoners was taken after they had refused an order to sit on a Body Orifice Security Scanner (BOSS) chair and had started to flood their cells and begin a dirty protest. All four prisoners suffered a number of injuries which were consistent with their allegations of having received punches and kicks to the face and body. One of the prisoners concerned alleged that he was punched in the face while being escorted down the stairs by three officers after having been handcuffed and brought under control. The injuries to this prisoner and the others involved in the incident were clearly recorded in their medical records. One of the prisoners also made an allegation of sexual assault against the officers who strip-searched him after his removal from the holding cell.

In another case, a prisoner at Mountjoy Prison alleged that on 15 October 2009 he was physically assaulted in his cell by several prison officers, in the course of which he claimed he was thrown on the floor and repeatedly stamped and hit on the chest, arms and head. He also alleged that he was punched in the ribs while being escorted down the stairs to the basement of B Block[9]. The photographic evidence of the injuries contained in the medical record is consistent with repeated injury to the chest wall; extensive bruising of the outer aspect of the left arm is not consistent with simply having been restrained.

At Cork Prison, the delegation received allegations that a prisoner was punched in the face and body by several prison officers while being held in a cell in the reception area on 16 December 2009. The prisoner alleged that he had requested to be permitted to go to the toilet after having spent a long time being transported from another prison. However, he was not let out of the cell and had to defecate in the corner of the cell. When the prison officers opened the cell and observed this, they allegedly assaulted him with punches to the head and body.

At Midlands Prison, an inmate alleged that on 7 November 2009, after a heated exchange, a prison officer had deliberately slammed the gate of B2 wing into his face while he was exiting the landing, and thereafter punched him several times. The results of an x-ray from Portlaoise Hospital five days later showed that he had a fracture of the nose.

31. In its reports to the Irish authorities, the CPT has consistently highlighted the importance of the Ministry of Justice, Prison Service and prison governors delivering the clear message that ill-treatment of inmates is not acceptable and will be dealt with severely[10]. In the light of the information gathered during the 2010 visit, the **CPT reiterates its recommendation that the Irish authorities continue to deliver at regular intervals the message that all forms of ill-treatment of prisoners, including verbal abuse, are not acceptable and will be the subject of severe sanctions.** More specifically, **prison officers must be made fully aware that the force used to control violent and/or recalcitrant prisoners should be no more than is strictly necessary and that once a prisoner has been brought under control there can be no justification for him being struck.**

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9 The prison officers entered the cell to escort the two occupants to a holding cell while a search of the cell was carried out. The prisoner allegedly grabbed his prescription medication, at which point he was apparently assaulted. From reviewing the CCTV video footage of the incident, it could be observed that eight prison officers entered the cell (8m²) on A Wing, remained in the cell for 2 minutes and 44 seconds until the arrival of the Chief Officer and then emerged from the cell escorting the prisoner. The CCTV shows the prisoner being escorted downstairs to the central hall and entering the stairs leading down to the basement of B Block. However, the CCTV recording of the stairs shows no movements at the time indicated.

10 See inter alia the report on the 2006 visit (CPT/Inf (2007) 40, paragraph 33).

32. The Committee is also very concerned when it discovers a culture which is conducive to inter-prisoner intimidation and violence. In the report on the 2006 visit, the CPT stated that "at least three of the prison establishments visited can be considered as unsafe, both for prisoners and for prison staff (notably, Limerick and Mountjoy Prisons and even St Patrick's Institution)."[11] In the intervening period, the CPT's delegation noted that a number of measures have been taken to address safety concerns, and this was particularly noticeable at St Patrick's Institution where the levels of violence have reduced considerably. However, the situation in Mountjoy Prison remains worrying and the prison, in the view of the CPT's delegation, remains unsafe for prisoners and prison staff alike. The increasing number of persons seeking the protection of the prison management from other prisoners is a symptom of this development. Stabbings, slashings and assaults with various objects are an almost daily occurrence.

The contributors to the continued high rates of inter-prisoner violence in *Mountjoy Prison* remain those identified in the report on the 2006 visit; availability of drugs, lack of purposeful activities, existence of feuding gangs, continued lack of an individualised risk and needs assessment for all prisoners, and lack of space and poor material conditions. In addition, the design of the facilities combined with overcrowding do not permit an appropriate classification and separation of prisoners.

Interestingly, at *Cork Prison* where the poor material conditions and lack of purposeful activities are equally pronounced there is little inter-prisoner violence, apparently because inmates are more concerned about remaining in close contact with their families and not being transferred to another more distant prison as a disciplinary sanction. Further, there is less of a drug abuse problem and an apparent absence of feuding gangs. That said, the delegation did receive many allegations from the traveller community that they were consistently subjected to acts of intimidation by other prisoners.

33. The CPT must stress once again that the duty of care, which is owed by the prison authorities to prisoners in their charge, includes the responsibility to protect them from other prisoners who might wish to cause them harm. In particular, prison authorities must act in a proactive manner to prevent violence by inmates against other inmates.

Addressing the phenomenon of inter-prisoner violence requires that prison staff must be alert to signs of trouble and both resolved and properly trained to intervene. The existence of positive relations between staff and prisoners, based on the notions of dynamic security and care, is a decisive factor in this context; this will depend in large measure on staff possessing appropriate interpersonal communication skills. It is also obvious that an effective strategy to tackle inter-prisoner intimidation/violence should seek to ensure that prison staff are placed in a position to exercise their authority in an appropriate manner. In addition, the prison system as a whole may need to develop the capacity to ensure that potentially incompatible categories of prisoners are not accommodated together.

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[11] See CPT/Inf (2007) 40, paragraph 38.

Further, prison staff are unlikely to be able to protect prisoners if they fear for their own safety or if they lack effective management support. Tackling effectively the problems posed by inter-prisoner violence requires the implementation of an individualised risk and needs assessment, the availability of sufficient members of staff and ensuring that staff of all grades receive the requisite initial and ongoing training throughout their careers, including in the management of inter-prisoner violence. Moreover, it is imperative that concerted action is taken to provide prisoners with purposeful activities.

The CPT recommends that the Irish authorities intensify their efforts to tackle the phenomenon of inter-prisoner violence in Mountjoy Prison, in the light inter alia of the above remarks.

34. In the report on the 2006 visit, the CPT stated that it had serious concerns as to the effectiveness of the investigations carried out into allegations of ill-treatment of prisoners by staff. The inadequate investigation of complaints has also been raised by Judge Michael Reilly, the Inspector of Prisons, who examined 67 complaints at Mountjoy Prison made between 1 January 2008 and 14 May 2009. His concerns led to the authorities setting up, on 20 February 2009, a special Garda investigation team under the supervision of a senior officer to examine these cases; the Irish Prison Service also initiated its own internal investigation. **The CPT would like to be informed of the outcome of these investigations.**

35. In the course of the 2010 visit, the CPT's delegation looked into the investigations of several cases of alleged ill-treatment that had been brought to the attention of the authorities.

As regards the incident at Portlaoise Prison of 30 June 2009 referred to in paragraph 30 above, the delegation noted that the injuries to the prisoners were recorded but not photographed despite the medical officer requesting it[12]. Further, the CPT's recommended practice for recording injuries was not followed (see paragraph 71 below) and the electronic prison medical records were incomplete; for example, the results of an x-ray in the case of a suspected fracture of a wrist of one of the prisoners were not annotated. In spite of claims by the inmates, noted in the medical records, that they had been assaulted by prison officers, no internal prison investigation was initiated. However, complaints were made by two prisoners directly to the Garda on 15 July 2009 (i.e. two weeks after the incident). An undated Garda memo with a prison stamp date of 30 August 2009 informed the prison of the complaints and requested that the Governor of the Prison be informed with a view to obtaining CCTV footage in relation to the alleged assault. In response to a further request by the Garda for a copy of the CCTV footage to be produced, an internal prison memo of 13 November 2009 stated "Please inform the Garda that a copy of the CCTV footage is no longer available. CCTV footage is only available within 28 days of the actual recording". In sum, on the basis of the information presently available to the Committee, neither the Garda nor the prison authorities acted promptly to preserve evidence of the alleged assault or to carry out an effective investigation into the incident.

[12] Apparently the Governor did not give authorisation for a camera to be brought into the prison.

In relation to the case of alleged ill-treatment at Mountjoy Prison on 15 October 2009 referred to in paragraph 30 above, there was no information available to suggest that a proper investigation was being carried out. Another case at this prison brought to the attention of the delegation concerns an altercation between a prisoner and an officer on 12 January 2010 at the gate leading onto B1 landing; the prisoner alleged that the officer put him in an arm lock and escorted him to the basement of B Block where the officer punched the inmate several times in the ribs, while the officer claimed that the prisoner spat in his face and acted aggressively. Again, there was no indication that an effective investigation had been carried out.

In a case at Midlands Prison, relating to an allegation of ill-treatment of an inmate by a prison officer on 7 November 2009 in which the prisoner's nose was fractured, the delegation noted that the internal investigation did not include interviews with prisoners who had witnessed the incident. Further, the Garda only carried out interviews with these prisoners on 28 January 2010. It is also regrettable that the prison officer concerned had not been transferred to other duties which did not bring him into regular contact with prisoners pending the outcome of the ongoing investigations. In this respect, the delegation noted that the report of the Chief Officer on this incident stated that the prison officer's account of events did not tally with the CCTV recording; further, the fact that the inmate in question was only cautioned for his alleged act of aggression against a prison officer would appear to indicate that the prison management recognised that the prisoner was not entirely at fault.

The CPT would like to be informed about the ongoing investigations concerning each of the above cases and, in due course, the final outcome. Further, the Committee recommends that when allegations of ill-treatment by prison staff are brought to the attention of the prison management, the staff members concerned be transferred to duties not requiring day-to-day contact with prisoners, pending the results of the investigation.

36. The attention of the CPT's delegation was drawn to the fact that the Irish Prison Service issued a new policy document on the Investigation of Prisoner Complaints/Allegations, which entered into effect on 20 January 2010. The new document sets out that "all complaints and allegations (including verbal complaints) must be acted upon and afforded due process". The document calls for an efficient and effective system to be put in place to record all complaints from start to finish in a new standardised Complaints Journal. Monthly updates with the Gardai are to be put in place and a prisoner should also be updated every month. The prison management are also instructed to continue to investigate allegations which are withdrawn or concern prisoners who are released from custody. Further, the Governor of a prison is requested to have a more visible role in the establishment, such as daily inspections of the prison, conducting disciplinary hearings and reviewing the various registers once a week.

The document also includes procedures for "dealing with prisoners who allege injury by assault". In the event of injury by assault the Chief Officer must alert health care staff, who should objectively document on the electronic Prison Medical Record System (PMRS) the nature and extent of injuries sustained and action taken. Injuries should also be photographed with the permission of the prisoner. Importantly, the document states that prisoners must be assured of the protection of the Governor so they can make allegations without fear of repercussions and that disciplinary action against prison officers should be initiated in any case where there is evidence of any kind of threat or inducement relating to a particular allegation or complaint.

At the time of the visit, it was too early to observe the practical implications of the new policy. Nevertheless, the CPT welcomes this positive development to improve the investigation of allegations of ill-treatment within prisons; **it recommends that a timeframe for the internal investigations be incorporated into the new policy. Further, the Committee recommends that the effectiveness of the new policy be assessed after an appropriate interval.**

37. From the cases examined by the CPT's delegation, it appeared that prison management was reluctant to take action against prison officers when, according to the evidence available, they were implicated in acts of ill-treatment of inmates. Resolute leadership from senior managers in combating ill-treatment is essential, as recognised in the above-mentioned policy document on the Investigation of Prisoner Complaints.

By letter of 17 May 2010, the Irish authorities informed the CPT that the Inspector of Prisons had been requested to examine the effectiveness of the investigation into the alleged incident at Mountjoy Prison on 15 October 2009 (see paragraphs 30 and 35 above). The Inspector concluded that the internal Irish Prison Service investigation had not been thorough. However, the Inspector also found that after interviewing the complainant on 27 February 2010, the Garda Síochána carried out the investigation professionally and that the file prepared for the Director of Prosecutions was of a high standard.

Further, the letter advises that the Department of Justice, in consultation with the Irish Prison Service, would review whether new procedures were required to ensure effective and impartial investigation of serious complaints. The CPT appreciates the measures taken by the Irish authorities; **it would like to be informed of the adoption of any new procedures.**

3. Staffing issues

38. The CPT has repeatedly emphasised that the climate in a prison is largely dependent on the quality and resources of its personnel. Ensuring a positive climate requires a professional team of staff, who must be present in adequate numbers at any given time in detention areas and in facilities used by prisoners for activities. Prison officers should be able to deal with prisoners in a decent and humane manner while paying attention to matters of security and good order. The development of constructive and positive relations between prison staff and prisoners will not only reduce the risk of ill-treatment but also enhance control and security. In turn, it will render the work of prison staff far more rewarding.

39. The Irish authorities informed the CPT's delegation of the measures taken since the previous visit to recruit additional prison officers (some 265), particularly for the new Operational Support Group which is responsible for enhancing security measures in each prison. Information was also provided on the year on year savings of up to 30 million Euros due to the Organisational Changes that entered into force in 2006 to eliminate overtime, and on the reduction in sick-leave of prison staff[13]. Further, although the issue of numbers of staff is complex, the overall staffing ratio for the Irish prison system can still be considered as favourable, in spite of the rapid increase in the prison population, with a little less than one staff member for one prisoner[14].

That said, the delegation heard in the various prisons visited that services were often disrupted due to a lack of staff; this was particularly the case at Cork, Limerick and Mountjoy Prisons where inmates frequently arrived for their educational or work activities late and had to leave them early. Further, at the time of the visit, public service pay talks had recently broken down and the possibility of industrial action by the Prison Officers Association was being mooted. At Cork Prison, a work to rule approach by prison officers was already impacting negatively on the provision of services, including weekly access to a shower as well as many out-of-cell activities.

The delegation was also informed that the early retirement of a considerable number of long-serving staff at the end of 2010 might have an impact on the operation of prisons.

The CPT would like to receive the comments of the Irish authorities on these matters.

40. As regards staff working with juveniles in St Patrick's Institution, the CPT has emphasised in the past that the custody and care of this age-group is a particularly challenging task. The staff called upon to fulfil that task should be carefully selected for their personal maturity and ability to cope with the challenges of working with - and safeguarding the welfare of - this age group. More particularly, they should be committed to working with young people, and be capable of guiding and motivating the juveniles in their charge. All such staff should receive professional training, both during induction and on an ongoing basis, and benefit from appropriate external support and supervision in the exercise of their duties.

Given that many of the juveniles at the time of the visit came from disruptive families, some of whom had been in care and a number had mental health problems, it is evident that staff working at St Patrick's Institution have a challenging role. Not all prison officers are necessarily suited to working with young people and it is important that a rigorous selection process is in place. Further, all staff should undergo a specific juvenile awareness training programme, with frequent follow-up courses.

The CPT recommends that the Irish authorities take the necessary steps to ensure that a rigorous selection and training programme is in place for all staff allocated to St. Patrick's Institution.

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13 Sick leave per capita was down from 26.5 days in 2005 to 19.8 days in 2008, and was down further in 2009.

14 3,385 prison staff for a prison population of around 4,100.

4. Conditions of detention

a. material conditions

41. The poor physical fabric of **Cork Prison** was described in the CPT's report on its first visit to Ireland in 1993, and few improvements have been made over the years. Cork Prison is limited in space and as the numbers of inmates have risen there has been no corresponding increase in the facilities – workshops, showers, toilets; visiting and medical facilities; - to cope with the additional burden. In sum, the overall conditions of detention have deteriorated further.

The 138 operational cells, originally designed for single occupancy, measured between 7.5 and 9 m² and were equipped with two beds (usually a bunk bed), one small cupboard and a desk and chair(s). At the time of the visit, most cells were accommodating two inmates; however, at least 25 cells were holding three inmates with one person having to sleep on a mattress on the floor. During the day, these prisoners had to stow away their mattresses and had no place where to sit or to store their personal belongings. Further, most cells benefited from very little natural light and had poor artificial lighting, and a number of cells on the third level of A and B Wings had water leaking into them from the roof. The poor conditions were exacerbated by the lack of in-cell sanitation. The situation was particularly bad in those cells being used to hold two or three prisoners on protection, as they could spend up to 23 hours locked up together in the cell. The air in a number of these cells was rank and humid. In one cell in C Block, three prisoners on protection who were accommodated together did not possess a chamber pot[15] and had to share a bottle for the purpose of urinating; if necessary, they defecated into a plastic bag. In the CPT's view, apart from representing a health hazard, such treatment is degrading (see also paragraph 48 below) .

Many prisoners also complained that they did not possess adequate cleaning products to maintain their cells in a suitable hygienic state. Further, prisoners complained that they were only offered one shower a week and were not permitted to change their underwear more than once a week. In view of the poor living conditions, enabling prisoners to maintain good personal hygiene is essential.

The CPT recommends that the 7.5 m² cells cease to be used to accommodate more than one prisoner and that efforts be made to avoid as far as possible placing two prisoners in the 9 m² cells; none of the cells should hold three inmates. Further, **the Committee recommends that Cork Prison be kept in a satisfactory state of repair (including adequate lighting in the cell i.e. sufficient to read by outside of sleeping hours) and that prisoners be provided with the necessary cleaning products to maintain their cells in a suitably hygienic state.** Further, **the Committee invites the Irish authorities to consider increasing the frequency of showers for inmates, in the light of Rule 19.4 of the revised European Prison Rules[16].**

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15 Another cell on C Block visited by the delegation also possessed no chamber pot, and the delegation was told by prisoners in A Block that when the prison was even more overcrowded there were insufficient chamber pots for all the prisoners.

16 European Prison Rule 19.4 reads: Adequate facilities shall be provided so that every prisoner may have a bath or shower, at a temperature suitable to the climate, if possible daily but at least twice a week (or more frequently if necessary) in the interest of general hygiene.

42. The facilities in the two-storey female unit of **Limerick Prison** do not offer good living conditions for the number of persons held there. The "single occupancy cells" always appeared to accommodate two women and frequently held three, with the third inmate either sleeping on a mattress on the floor or sharing a bed with a cell-mate[17]. The nine cells (each approximately 9m²) all contained one set of bunk beds, a table, a cupboard, a sink and a toilet. A sliding modesty screen for the toilet provided prisoners with a degree of privacy from officers looking into the cell; however, it provided no privacy from other inmates with whom they shared the cell. Further, inmates complained about the state of hygiene in the cells, notably: the toilets had no cover seats and, in some cells they did not flush properly; the lack of detergent products hindered efforts to keep cells clean (especially given the bubble-like plastic flooring). The two showers were flooded due to drainage problems and only dispensed tepid water, deficiencies which had apparently been brought to the attention of the prison management on numerous occasions. Further, the washing machines and dryers were inadequate for the needs of the unit.

The CPT recommends that efforts be made to avoid as far as possible placing two prisoners in one cell; none of the cells should hold three inmates. Further, it recommends that the other deficiencies highlighted above be remedied.

43. The delegation visited the planned extension to the female unit, which will consist of 14 cells (each approximately 8m²), designed for single occupancy, along two corridors in the adjoining former E Block, and two workshops. The additional capacity will enable the occupancy level in the existing unit to be reduced substantially and should provide for improved living conditions. The work was scheduled to be completed by mid-April 2010. **The CPT would like to be informed of the date when the extension to the female unit was opened, its current occupancy levels and of any additional facilities it possesses.**

44. The cellular accommodation in the **Midlands Prison** provides good living conditions: all cells were suitably equipped, of an adequate size[18], and possessed partitioned in-cell sanitation; cells had good access to natural light and the artificial lighting and ventilation were sufficient. Moreover, the state of repair on the detention wings was good and the landings were kept clean.

45. The physical fabric of **Mountjoy Prison** has been described in previous CPT reports[19]. While there have been a number of improvements and refurbishments over the years – the most recent being the renovation of A Block (but without the introduction of in-cell sanitation) – the overall conditions of detention remain poor. In-cell sanitation has still not been installed in any of the main accommodation blocks, and this despite the fact that they continue to accommodate two prisoners in cells of 8m², originally designed for single occupancy; this is totally unacceptable.

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17 Several inmates alleged that in December 2009 four women had been accommodated in one cell for a few nights. An examination of the records showed that occupancy levels in early December reached 27 prisoners on one night (i.e. equivalent to three women in each of the nine cells) but otherwise hovered between 23 and 25 for most of the month.

18 Cells designed for single occupancy measured 9m² and were accommodating only one person.

19 See inter alia the report on the 1998 visit (CPT/Inf (99) 15, paragraph 34).

The equipment of a standard cell on one of the four main wings consists of one set of bunk beds, a television, a table and chair and a cupboard for personal belongings; there is no lockable space for inmates despite the fact that most cells are occupied by two prisoners. In a number of the cells visited, the chamber pots had no cover. Further, the increased overcrowding in the prison placed more stress on the already defective infrastructure. There was need for a much more vigorous rolling programme of maintenance: the delegation observed problems of broken or leaking pipes; toilets that were out of order, which placed even more pressure on the remaining ones; an absence of warm water in the shower unit in the basement of B Block; overflowing rubbish bins and dirty landings and toilet areas. Indeed, many of the deficiencies identified by the Inspector of Prisons in his report on Mountjoy Prison of August 2009 remained valid at the time of the CPT's visit.

The CPT recommends that efforts be made to avoid as far as possible placing two prisoners in a cell (8m²) designed for single occupancy. Further, the Committee recommends that greater efforts be made to keep Mountjoy Prison in an appropriate state of repair, including as regards hygiene on the landings and in the toilet areas.

46. The situation in **Portlaoise Prison** is one of contrasts between the old E Block, where "slopping out" continues, and the modern build accommodation units of A and C Blocks, the latter having been opened in November 2009.

In A Block, each of the 40 single-occupancy cells (7m²) was equipped with a bed, table, chair, cupboard and television, and possessed integral sanitation. The conditions in the C Block were even better, with every cell[20] equipped with a bed, table, chair, shelving unit, television and screened shower as well as integral sanitation. Access to natural light and artificial lighting in both accommodation blocks was adequate, and the ventilation was sufficient.

The conditions in E Block were far less favourable. The cells were small (6m²) and some of them were dilapidated with broken windows and dirty walls. None of the cells had in-cell sanitation and, at night, if a prisoner had to defecate he was likely thereafter to wrap up the faeces in a parcel and sometimes throw it out of the window. **The CPT recommends that the necessary measures be taken at Portlaoise Prison to keep E Block in a suitable state of repair.**

47. At **St Patrick's Institution,** cells were suitably equipped, with adequate access to natural light and sufficient ventilation; all cells had integral sanitation. Nevertheless, **there is a need for a rolling programme of refurbishment.**

[20] C Block contains 71 single-occupancy cells (each 12m²), 60 double-occupancy cells; three triple-occupancy cells and one ground floor cell adapted to accommodate a disabled prisoner.

48. The CPT has repeatedly stated that it considers the act of discharging human waste, and more particularly of defecating, in a chamber pot in the presence of one or more other persons, in a confined space used as a living area, to be degrading. It is degrading not only for the person using the chamber pot but also for the persons with whom he shares a cell.

The other consequences of such a state of affairs - the hours spent in the presence of chamber pots containing one's own excreta and that of others and the subsequent "slopping out" procedure - are scarcely less objectionable. The whole process is extremely humiliating for prisoners. Moreover, "slopping out" is also debasing for the prison officers who have to supervise it.

The CPT had recommended in the past that either a toilet facility should be located in cellular accommodation (preferably in a sanitary annexe) or means should exist to enable prisoners who need to use a toilet facility to be released from their cells without undue delay at all times (including at night). In response, the Irish authorities have pointed to the construction of new prisons or new units within existing prisons, in which all cells have integral sanitation[21]. Nevertheless, that still leaves nearly one-quarter of the prison population (some 980 prisoners) having to "slop out" every day, with little prospect of the situation changing radically over the next five years[22].

The findings of the 2010 visit show that prisoners are not being let out of their cells to use the toilet when in need. The delegation also heard from many inmates that if they persistently requested to be let out of their cells in order to go to the toilet, they would be the subject of verbal abuse.

The CPT calls upon the Irish authorities to eradicate "slopping out" from the prison system. Until such time as all cells possess in-cell sanitation, concerted action should be taken to minimise the degrading effects of slopping out; the authorities should ensure that prisoners who need to use a toilet facility are released from their cells without undue delay at all times (including at night), and the implementation of this measure should be monitored by senior management.

b. regime

49. The CPT is conscious of the investment made by the Irish Prison Service to develop the opportunities for education, work, recreation and sport for prisoners. According to the information provided by the authorities, for the academic year 2009/2010, the Department of Education and Science provided for an allocation of 220 whole time teacher equivalents for the prisons, and figures from the end of 2008 show that 48% of prisoners were involved in education, with approximately 25% involved for ten hours or more in the week. Further, the delegation was able to observe for itself the modern classroom facilities available to prisoners in Limerick and Midlands Prisons. As regards work and vocational training, prison service training department has a complement of some 250 prison officers who run over 90 workshops catering for in excess of 800 prisoners each day; in 2008, 381 prisoners participated in accredited courses.

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21 Regrettably, no in-cell sanitation was installed during the recent renovation of A Wing in Mountjoy Prison.

22 Even should Thornton Hall start operating by 2015, permitting prisoners from Mountjoy Prison to be relocated, there is no timetable for the replacement of Cork Prison.

50. These above-mentioned achievements are to be welcomed and encouraged; however, they have not yet led to the fulfilment of the stated aim under Prison Rule 27 (3) for each convicted prisoner to be engaged in a structured activity for "not less than five hours on each of five days in each week". Offering a satisfactory programme of activities to all prisoners is important both to enable meaningful use of time spent in prison and to prepare inmates for life in the community.

The delegation observed that the general regime within the Irish Prison Service continues to provide for a reasonable out-of-cell time of some seven-and-a-half hours per day. However, as was the case in 2006, in several of the prisons visited, the nature of the regime is limited; opportunities for purposeful work or access to educational and sports activities remain insufficient, and for those prisoners on protection (see section c. below) there are still almost no organised activities available.

51. At **Cork Prison**, the delegation noted that 208 inmates were enrolled in some sort of activity (kitchen, laundry gym, fabric shop, industrial cleaning, etc.) and 137 were attending classes in the school. However, many prisoners only participated in these activities a few times a week and, it appeared that the two-hour morning sessions and one-and-a-half-hour afternoon sessions were frequently curtailed due to prison staff not being available to escort prisoners to and from the workshops or school.

The lack of space within the female unit at **Limerick Prison** restricted the range of activities (English language, computer) that could be offered and, as the classes took place in the association room, a number of women complained about the constant disruption to classes. Access to the modern main school facility and gym were limited due to the low numbers of women concerned as compared to the needs of the much larger male prisoner population. In particular, inmates complained that they had not been offered the weekly one hour in the main gym for some six weeks prior to the delegation's visit due to an apparent shortfall in staffing levels.

In **Mountjoy Prison**, the situation does not appear to have evolved since the CPT's visit in 2006[23]. The number of prisoners actively engaged in a purposeful activity remains limited for the size of the prison; some 50 prisoners attended educational classes at any one time (morning or afternoon) and some 150 prisoners were involved in one of the workshops (fabric, joinery, computer, industrial cleaning) or worked in catering or on maintenance activities. Further, in many cases the work activity only amounted to a few hours a day and there were many complaints that inmates did not manage to get to their activities on time or at all[24]. Otherwise, inmates spent their time in the exercise yards (which had no shelter from inclement weather) and, between 5.30 and 7.20 p.m., in the recreational areas.

The range of activities offered to inmates in **Midlands Prison** was good. That said, the number of prisoners involved in some sort of vocational or work activity (92 prisoners for the third quarter of 2009) or who attended the school facilities (118 prisoners following 280 different subject modules) was still below 50% of the prison's population. Although the school facilities were very good, there was insufficient space to accommodate more prisoners. For prisoners who could not leave their landing, such as those on C1, the delegation noted that weekly educational courses were organised on the wing.

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23 See CPT/Inf (2007) 40, paragraph 58.

24 See also Report on an Inspection of Mountjoy Prison by Judge Reilly, Inspector of Prisons of August 2009 - Chapter 3, Existing programmes and facilities, pages 14 to 20.

At **Portlaoise Prison**, the so-called "subversive" prisoners located on E Block undertook their activities on the wing; in the main these consisted of language classes, music, woodwork and cookery. Prisoners on C Block were particularly critical of the lack of activities being offered; many inmates also expressed their frustration that no booking system had been put in place for the gym, that had limited spaces and access to which was on a first come basis. The Governor of the prison acknowledged the lack of existing work opportunities but he informed the delegation that a number of workshops were under preparation, such as industrial cleaning, laundry and information technology. On the other hand, it appeared that some 70% of inmates were attending educational courses and that a wide range of subjects were on offer; however, the greatest challenge was tackling basic literacy skills.

The CPT recommends that the Irish authorities strive to develop the prison regimes at Cork and Mountjoy Prisons by offering a broader range of purposeful activities and to increase at Midlands Prison the number of prisoners engaged in such activities. Additional efforts should also be made to provide female inmates at Limerick Prison with a range of diverse and meaningful activities.

Further, the Committee would like to receive information on the work and vocational opportunities currently available to prisoners in C Block of Portlaoise Prison and the numbers of prisoners engaged in such activities.

52. As regards **St Patrick's Institution**, the delegation observed that despite an increase in the number of workshops and educational courses available, the majority of inmates were spending far too much time locked up in their cells; indeed, some 35 prisoners were not assigned to any educational or vocational courses. One explanation for this state of affairs was the staff's concern to keep the various inmate factions apart. However, the delegation also noted that more needed to be done to ensure that inmates are offered, and are encouraged to participate in, a programme of educational and vocational activities where they can learn skills to assist them upon their release and which is specifically designed to meet their requirements. To this effect, a system of incentives might be considered to encourage participation in such activities.

The CPT recommends that the Irish authorities take the appropriate measures to provide young offenders at St Patrick's Institution with a full regime of activities (particularly as regards educational and vocational training) and other rehabilitative services, and to actively encourage their participation in these activities.

53. In the response[25] of the Irish authorities to the report on the 2006 CPT visit, reference was made to the piloting of the Integrated Sentence Management (ISM) system in two prisons, which was to be rolled out progressively thereafter. Under this new system, prison officers nominated as Personal Officers would receive training which, it was envisaged, would include a mentoring role in assisting prisoners to engage with the development, implementation and review of their individual sentence management plans and to act as a conduit between the prisoner and the multi-disciplinary team.

However, at the time of the 2010 visit, ISM was still only being run on a pilot basis in a few establishments, one of which was Midlands Prison (where only some 20 prisoners were involved in the ISM system). A number of prisoners serving life sentences at this and other prisons visited complained to the delegation about the lack of any structured sentence plan, which they believed made it very difficult to know what was required of them when they went before the Parole Board. Further, they stated that they were given no assistance in coming to terms with their sentence or encouragement to study or learn a vocation. Other prisoners serving long-term sentences also complained about the lack of a sentence plan and of the absence of any assistance in preparation for release into the community.

The CPT recommends that a sentence plan be drawn up for all prisoners, with particular attention paid to the needs of persons sentenced to life-imprisonment and other prisoners serving lengthy sentences. Further, it would like to be informed whether the Integrated Sentence Management system will be extended to all prisons in 2011, as foreseen.

c. prisoners on protection

54. The CPT recognises that it may, at times, be necessary to remove prisoners from the general prison population and place them in separate accommodation for their own protection[26]. As a rule, such separation should be for as short a period as possible; all appropriate measures should be taken to facilitate the reintegration of the inmate into the general prison population, either in the same establishment or in another one.

55. The basement of B Wing at **Mountjoy Prison**, a dedicated unit for prisoners on protection, had an official capacity of 38 but was accommodating 54 prisoners at the time of the visit. The bulk of the unit's accommodation consisted of eight multi-occupancy cells (18m²), each containing two sets of bunk beds and a partitioned area with a toilet and sink; each cell was holding up to seven prisoners, with three of them having to sleep on mattresses on the floor. At the time of the visit, there were apparently five separate groups in the B Base who could not associate together, with corresponding consequences for the time out of cell. A considerable number of the inmates spent up to 23 hours locked in their overcrowded cells. Prisoners on protection were also accommodated in cells on the first floor of C Block (C2), which has a capacity of 35. The conditions of detention in B-Base were poor in all respects.

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25 See CPT/Inf (2007) 41, page 24.

26 According to the figures provided by the Irish Prison Service, on 20 January 2010 some 20% of all prisoners in Ireland were on protection; these figures include sex offenders and other prisoners at risk who would normally be allocated to a dedicated landing or wing for vulnerable prisoners upon admission to prison.

However, the delegation was told that the recently refurbished Separation Unit (E Wing) at Mountjoy Prison, intended for the accommodation of up to 50 prisoners on protection in five self-contained units, was soon to enter into service. All the cells in the new unit possessed in-cell sanitation and had good access to natural light. The unit also contained recreation rooms, a gym, a laundry facility, three exercise yards and several rooms for activities.

By letter of 17 May 2010, the Irish authorities informed the Committee that the Unit had become operational and was currently being used to accommodate prisoners previously held in the B-Base and on C2 landing.

The CPT welcomes the opening of this unit; **it would like to receive detailed information on the number of prisoners held in the unit and on the regime in place (including the opportunity for purposeful out-of-cell activities).**

56. In **Cork Prison**, the 66 prisoners on protection at the time of the visit were held on the first and second floors of C Wing (C2 and C3). The regime for these prisoners in principle included access to the main gym one night a week and opportunities to attend the school and crafts workshops. Outdoor exercise was offered every morning at 8.30 a.m. However, as many of these prisoners could not associate with one another, a considerable number of them spent up to 23 hours locked in their cells. Further, none of the 9m² cells possessed integral sanitation and several of them accommodated three persons, with one inmate sleeping on a mattress on the floor. On this last point reference is made to the recommendation already made in paragraph 48..

At **Midlands Prison**, one side of the ground floor of C Wing (C1) was used for accommodating up to 13 prisoners on protection. Efforts were being made to provide the inmates with a few hours of educational and recreational classes every week as well as access to the gym and outdoor exercise every day.

At **Portlaoise Prison**, the fifth unit of A Block accommodated up to eight prisoners who could not be located elsewhere in the prison. The three prisoners in the unit at the time of the visit spent much of the day outside of their cells and could freely access the newly opened unit gym, watch television and play pool. However, they had no access to workshops and limited opportunities for educational classes.

At **St Patrick's Institution**, 41 inmates were being held on protection, 27 on C3 and 14 in the basement unit of C Block. The prisoners in the basement unit were generally considered more vulnerable and included those with a propensity to self-harm and persons with mental health issues; these prisoners could access the outdoor exercise yard for two hours every morning and afternoon, and were offered maths and arts lessons on the unit three times a week; they also had access to a gym twice a week and could have individual sessions with a psychologist. By contrast, the regime for the inmates on C3 was far more limited as many of them could not associate together and, other than access to outdoor exercise, they spent most of the day locked up in their cells.

57. The CPT recognises that a primary duty of the prison authorities is to prevent harm coming to the prisoners under their ward, and that the need to take protective measures in favour of certain inmates may inevitably have negative repercussions on the activities they can be offered. However, the prisoners concerned should not be left to languish in their cells on "23-hour lock-up".

For those prisoners placed on protection for more than a few weeks, additional measures should be taken in order to provide them with appropriate conditions and treatment; access to activities, educational courses and sport should be feasible. Moreover, there needs to be a more proactive approach by the prison health-care service towards prisoners on protection, particularly as regards psychological and psychiatric care, especially as some of them might spend a year or more in conditions akin to solitary confinement. There should also be an individual assessment of their needs at regular intervals and, where appropriate, transfer to another prison should be considered. More generally, 23-hour lock-up should only be considered as a temporary respite, whereas in the Irish prison system it has developed into a general measure.

The CPT recommends that the Irish authorities take appropriate steps to provide prisoners placed on protection for more than a short period with purposeful activities and proper support from the health-care service.

5. Health-care services

58. A prison health-care service should be able to provide medical treatment and nursing care, as well as physiotherapy, rehabilitation or any other necessary special facility, in conditions comparable to those enjoyed by patients in the outside community. Provisions in terms of medical, nursing and paramedical staff, as well as premises, installations and equipment, should be geared accordingly[27].

The findings of the 2010 visit illustrate that efforts made to improve the provision of health-care in Irish prisons in order to meet the objective of equivalence of care have slowed. There remain a number of important structural deficiencies which combine to undermine the provision of health care to prisoners.

a. staff and facilities

59. The health-care service in prisons has continued to evolve since the previous visit, with the further development of the Healthcare Standards, the introduction of nurse managers and of nurse-led initiatives, the development of in-reach mental health services and the provision of a professional pharmaceutical service in each prison. These are positive developments. However, the CPT's delegation found that the central management of prison health care services as well as the provision of the health care in at least certain individual establishments remain weak and that there was still too little synergy between the different medical specialisations. The lack of any epidemiological information on the prison population hampers the ability to evaluate prisoners' real health needs as regards medical and nursing care. The CPT continues to consider that in order to better identify the health-care needs within the prison service, the **compiling of an annual report on the state of the medical services in the Irish Prison Service would be beneficial.**

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[27] See the 3rd General Report on the CPT's Activities (1992), standards which are reflected in the Health Care Standards, Irish Prison Service (January 2009).

60. At **Mountjoy Prison**, there were two general practitioners who attended the prison typically for a couple of hours during weekday mornings, far fewer than their 27.5 weekly contracted hours, which even if worked would not be an adequate medical presence for an establishment the size of Mountjoy.

The situation was much better as regards nursing resources. The nursing team consisted of a chief nurse, 25 trained nurses, of whom six were specialised in addiction, and five medical orderlies; during the day, nine nurses were on duty in the surgery, including two addiction nurses, and two in the medical unit. At night, two nurses were on duty.

A mental health in-reach team from the Central Mental Hospital provided a number of weekly sessions. Further, an addictions general practitioner was contracted for 16 hours a week and a psychiatrist specialising in addiction attended on a part-time basis. Two pharmacists were employed to undertake methadone dispensing. A dentist was also present several days a week. At weekends, a locum general practitioner was on call to see any new committals or deal with any problems that arose, while out-of-hours services were provided by one of the doctors working in the four establishments that make up the Mountjoy Complex on a rota basis.

As for the prison's new medical centre, it was well-equipped and offered good facilities.

The health-care team at **St Patrick's Institution** comprised one doctor, present for one-and-a-half hours every morning, supported by five nurses and two medical orderlies; a full-time psychologist (highly appreciated by inmates met by the delegation) was also present. Given the size and nature of the inmate population, the attendance time of the doctor should be increased, and the psychological support reinforced. A specialist in adult psychiatry visited three times a week and a psychiatrist specialising in addictions attended the prison once a week. A Central Mental Hospital in-reach psychiatrist visited once a week. However, young persons with mental health problems should be treated by psychiatrists and psychologists specialising in child and adolescent mental health. Also there was a need for the presence of a community psychiatric nurse.

61. In **Cork Prison**, there was one doctor, who was present from 7 a.m. to 9 a.m. on weekdays. Once again, this is an inadequate attendance time for an establishment of the size of Cork. Moreover, the doctor could only see inmates as from 8 a.m. for one hour, once the cells were unlocked. At weekends, a locum general practitioner sees any committals and deals with any emergencies. The nursing team consisted of a chief nurse, three trained nurses and three medical orderlies, with two nurses on duty during the day and one at night. A psychiatrist visits three times a week and a dentist once a week; an optician and a podiatrist visit periodically.

The health-care centre, located in the main prison on the first floor, consisted of a dental room, consulting room, dispensary and chief nurse's office; the conditions were extremely cramped.

62. At **Midlands Prison**, there were two general practitioners engaged on full-time contracts. This is in principle sufficient for a prison of the size of Midlands. However, the doctors' actual hours of clinical time were much less[28]. A locum doctor provides medical cover at weekends. A consultant forensic psychiatrist and psychiatric registrar from the Central Mental Hospital each visit the prison once a week, and there were two full-time and one part-time clinical psychologists. An optician and a chiropodist visit periodically. A Healthcare Manager is responsible for overseeing nursing care in both the Midlands and adjoining Portlaoise Prisons. The nursing team is made up of a Clinical Manager and 14 trained nurses; four nurses are on duty during the day (8 a.m. to 8 p.m.) and one nurse at night.

The health-care team at **Portlaoise Prison** consisted of a general practitioner who is present Monday to Friday (9 a.m. to 1 p.m.) but who provides on-call services 365 days per year. The time of attendance by a doctor should be increased now that the new C Block has opened. A locum doctor sees new committals on Saturdays and Sundays. A consultant forensic psychiatrist and psychiatric registrar from the Central Mental Hospital each visit every Tuesday afternoon and a forensic mental health nurse visits on Friday afternoons. A physiotherapist visits the prison fortnightly and a dentist periodically. The nursing team is made up of a Clinical Manager, six trained nurses and two medical orderlies; three nurses are on duty during the day (8 a.m. to 8 p.m.) and one nurse at night. One particular concern of the delegation was the length of time it takes in an emergency for an ambulance to access the prison and transport E Block inmates to Portlaoise General Hospital. The CPT is aware of the security arrangements in place for these prisoners but **urges the authorities to put in place the necessary procedures to facilitate the timely emergency transfer to hospital of inmates in E block as required.**

In both establishments, the health-care facilities were well equipped and sufficient in size.

63. Regrettably, the delegation came across many cases of prisoners not receiving proper health care, particularly at Cork, Midlands and Mountjoy Prisons. This is scarcely surprising given the inadequate attendance time of doctors in these establishments. In addition to inadequate admission interviews, there was an absence of rigour in following up on recommendations made in hospital letters or in reviewing prisoners after their discharge from hospital back to prison; there was also a lack of follow-up of those persons with chronic diseases; at Cork Prison, medication was often not being given to prisoners at the required times, with little explanation as to the reason.

In one particular case at Mountjoy Prison, despite a prisoner having been assaulted (bitten and stabbed) by another prisoner who was known to be hepatitis C positive, no discussion or risk assessment was undertaken regarding post- exposure follow-up as to whether he required treatment to prevent him having becoming infected with any other blood-borne viral infections which might co-exist with hepatitis C (while there is no post-exposure drug prophylactic treatment available for hepatitis C, it is available in the case of suspected hepatitis B or HIV transmission).

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[28] An audit carried out by the Prison Service on the working practices of these two doctors during the last three months of 2008 showed that they conducted surgery on average for one and half hours every weekday morning during which time they each saw 14 prisoners, while 7.5 prisoners whose names were on the daily list were not seen by the doctors.

64. The CPT was pleased to note that nursing staff no longer came under the authority of a senior prison officer and that a nursing manager had been appointed in each prison to coordinate the work of nurses. However, in a number of the prisons visited the health-care service was not operating smoothly and relations between the nursing team and doctors were strained, due to one or a combination of the following: the limited hours of presence of the doctors in the prison health-care centre and their refusal to attend during the out-of-hours periods when called. In addition, nursing staff perceived that there was excessive prescribing of medication for prisoners by doctors. The lack of trust between the nursing team and doctors at Midlands Prison adversely affects the care provided to prisoners. For their part, the doctors in all the prisons visited felt unsupported by the prison health-care directorate, isolated from their colleagues within and outwith the prison system and lacking a programme of structured continuing personal development.

The CPT recommends that the Irish authorities review the resources of the health care services in the prisons visited, particularly at Cork, Midlands and Mountjoy Prisons, in the light of the above remarks. As a first step, the time of attendance of the general practitioners at Cork, Mountjoy, and Portlaoise Prisons and at St Patrick's Institution should be increased and appropriate action taken to ensure that the two general practitioners at Midlands Prison effectively work there on a full-time basis. Further, an accountable line-management and support system for general practitioners working in prisons should be put in place.

65. As regards medical confidentiality, the CPT's delegation again received a number of complaints, particularly as regards external consultations, concerning the presence of custodial staff as a matter of policy.

At Portlaoise General Hospital, prisoners requiring in-patient treatment could be held in a secure room, with an adjoining sanitary facility. Nevertheless, prisoners held in this room were attached on a permanent basis to a prison officer via a chain measuring a little more than a metre, including during medical consultations and when the prisoner had to go to the toilet or take a bath. Such a practice is unacceptable.

The CPT recognises that due account needs to be taken of security considerations but the principle of confidentiality requires that all medical examinations of prisoners be conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of prison officers**.** For external medical consultations, this requires undertaking a robust risk assessment of the prisoner concerned, the provision of an escort detail sufficient to secure the area where the prisoner will be examined and, of necessity, an identified room/space in each hospital setting whereby a prisoner can be examined without his medical confidentiality being compromised. Such an approach would also obviate the need for inmates to be attached to prison officers during consultations.

The CPT reiterates its recommendation that the principle of medical confidentiality be respected, taking due account of the above remarks[29].

[29] See also CPT/Inf (2007) 40, paragraph 77.

66. More generally, the hospitalisation of prisoners also raises the issue of the availability of secure rooms. The lack of secure rooms in the hospitals located near to prisons meant that inmates were required to be permanently attached to a prison officer. The CPT considers that the chaining of prisoners in a hospital setting is not appropriate **and invites the Irish authorities to establish secure rooms in the hospitals to which prisoners are routinely sent.**

67. The CPT's delegation noted that the quality of the medical records remained in too many instances inadequate. In general, the doctors' notes were scant[30] while the nurses' notes were much more comprehensive. In Cork Prison, the records were in a state of confusion and doctors' consultations with prisoners there as well as at Midlands and Mountjoy Prisons often took place without having the benefit of the paper medical records to hand, which include copies of hospital results and letters. Also, at these prisons there was a lack of disease registers and summaries of past medical histories within the medical notes, as well as a paucity of information generally in the notes. Moreover, there was a failure to record the findings of each health-care consultation episode within the notes.

The electronic prisoner medical records system (PMRS), which is in principle a good tool and operated in all the prisons visited, enables health care professionals to access a prisoner's medical record regardless of the prison in which he or she is being held. However, the information entered into the system was at times rather limited; for example, in most instances the recording of injuries was somewhat scant and gave no reference to the allegations or any detailed description of how the injuries occurred. There was also some confusion as to where injuries should be recorded (i.e. in the trauma register, on PMRS under the injuries section or in the doctor's or nurse's narrative section). The result is that there is no single comprehensive medical record for prisoners as some data is held electronically, and other information is held within the prisoner's paper medical file, while many hospital records and test results appear to be simply ignored for the purposes of the medical record.

The CPT recommends that in order for a single comprehensive health-care record to be maintained, steps be taken to ensure that all relevant medical information pertaining to a prisoner is incorporated within PMRS, and that paper copies of a prisoner's hospital records and test results are scanned into PMRS. In addition, PMRS should include the functionality to generate a report on all injuries. Further, doctors should be reminded of the importance of recording their findings following a consultation with a patient.

[30] By contrast, the doctor's notes at Portlaoise Prison were very good.

b. medical examination on admission and recording of injuries

68. In the majority of the establishments visited, the CPT noted that prisoners were being medically screened promptly upon arrival. However, at Cork and Mountjoy Prisons, many prisoners were not being examined upon admission by a nurse or a doctor on the day of their admission and in some cases, not at all. Moreover, it appeared that the committal interviews were often extremely cursory and the notes on committal were of poor quality; at Mountjoy Prison, the words "fit and well" were often the only narrative for a number of prisoners newly admitted to prison.

Further, in a number of cases appropriate steps were not taken to verify newly arrived prisoners past medical history; for example, an inmate in Cork Prison with a history of blood clots in the leg and who had an impending operation for gallstones, which put him at risk of developing further clots, had not been prescribed blood-thinning tablets (warfarin). In another case, an inmate in Mountjoy Prison with a history of splenectomy was only detected by the health care service eight months after admission and no subsequent action was taken to prescribe antibiotics long-term (patients who have had their spleen removed are vulnerable to infection). There was also a need for this prisoner to be vaccinated against, for example, the pneumococcal bacterium.

In another case, an inmate at Cork Prison who suffered from constant headaches following a car accident four years previously was only seen by the locum doctor eleven days after his admission and the action subsequently taken was not adequate[31].

The CPT recommends that the Irish authorities take the necessary steps to ensure that all prisoners admitted to prison (whether as new committals or transfers) are subject to a comprehensive medical examination by a medical doctor (or a fully qualified nurse reporting to a doctor) as soon as possible after their admission.

69. The updated 2009 Irish Prison Service Health Care Standards recognise the importance of a thorough medical screening upon entry to the prison system for, among other things, transmissible diseases, risk of self-harm and suicide, and injuries. These standards need to be rigorously applied, all the more so given that the population of the Irish prison system is increasingly characterised by a high prevalence of drug users. The existing practice of screening should be further enhanced by a physical examination and voluntary blood testing for HIV and Hepatitis B and C, as appropriate, and as is laid down in the 2009 Health Care Standards[32]. These blood tests should be accompanied by appropriate pre- and post-test counselling. It is also essential that there is a continuity of care for persons entering the prison system, inter alia through the timely transmission of information from community health services to the establishments concerned.

The CPT recommends that the 2009 health-care standards relating to screening upon admission be systematically applied in all prisons.

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[31] The locum doctor, thinking the man might have temporal arteritis, advised that a specific blood test be carried out. However, the test was not done and medical entries in the health care record several weeks later state "referred to migraine clinic" and "complains of headaches/solpadol". Nothing was noted in the medical record in relation to the nature of the headaches, their frequency, character or duration, information which may have suggested a diagnosis of either cluster headache or temporal arteritis.

[32] See Health Care Standard 1 on Health Assessment on Initial Reception into Prison from the Community - Doctor's Examination (1.3.11) and Health Care Standard 6 on Communicable Diseases.

70. The CPT remains concerned that injuries upon arrival as well as those sustained in prison were often not correctly recorded, or even recorded at all in the prisons visited. At Cork Prison, practically no narrative information was recorded in the medical files pertaining to two prisoners who had made allegations of sexual assault to medical and nursing staff; nor was there any mention of injuries in the medical files in relation to several prisoners with visible injuries with whom the delegation met (caused either by an alleged assault or a self-harming incident). At Mountjoy Prison, the doctor's notes in cases of alleged assaults or self-harm were particularly scant; for example, in the case of alleged ill-treatment by staff mentioned above in paragraph 30 the doctor had noted "bruising inner aspects of both biceps" and yet the injuries were far more extensive as was clear from the photographic evidence.

The CPT has highlighted in the past the significant contribution that prison health-care services can make to the prevention of ill-treatment of detained persons, through the systematic recording of injuries and, when appropriate, the provision of general information to the relevant authorities. The updated health-care standards for the Irish Prison Service of July 2009 emphasise the importance of conducting a thorough initial screening process and reference is made to the health care policy of 2004 on "medical assessment of new receptions". However, in none of these documents are the criteria for recording medical findings explicitly laid down.

71. The CPT considers that it is necessary to recall that the record in PMRS (see paragraph 67 above) drawn up following a medical examination of a newly admitted prisoner should contain:

i) an account of statements made by the person concerned which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment),

ii) an account of objective medical findings based on a thorough examination, and

iii) the doctor's conclusions in the light of i) and ii).

Further, the result of the medical examination referred to above should be made available to the prisoner concerned.

The CPT reiterates its recommendation that steps be taken to ensure that the practice in Ireland is brought into line with the above considerations.

c. drug-related issues

72. The CPT's delegation observed that drug misuse remains a major challenge in all the prisons visited. The management and health-care staff in most prisons visited acknowledged both the rising numbers of prisoners with a substance abuse problem and the widespread availability of drugs. Drugs were a significant element in making Mountjoy Prison an unsafe place for inmates and staff.

The CPT recognises that providing support to persons who have drug-related problems is far from straightforward, particularly in a prison setting. The assistance offered to such persons should be varied; detoxification programmes with substitution programmes for opiate-dependent patients should be combined with genuine psycho-socio and educational programmes. The setting up of a drug-free wing in prisons for certain categories of prisoners, inter alia those having completed treatment programmes prior to or during imprisonment, might also be considered.

73. The Prison Service drugs policy and strategy paper, "Keeping drugs out of prison" of May 2006 remains the reference document, and provides a clear statement as to the approach being adopted by the Irish authorities in respect of drugs in prisons. The CPT has noted that it is part of a national drugs strategy aimed at four main areas: eliminating the supply of drugs into prisons; dealing with drug abuse through identifying and engaging illicit drug users, providing them with treatment options and ensuring there is appropriate throughcare; developing standards, monitoring and research on drug issues; and the provision of staff training and development.

In the period since the previous CPT visit in October 2006, further investment has been made to implement the strategy, notably through initiatives such as the provision of detoxification, methadone maintenance, education programmes, addiction counselling and drug therapy programmes. Additional measures were also in the process of being taken to prevent drugs entering prisons, such as security checks on staff and visitors entering the prison, the deployment of canine drug detection units, the introduction of mandatory drug testing, booked visits and better intelligence through the work of the newly established operational support group in each prison. All these measures were in evidence to varying degrees in the prisons visited by the CPT's delegation. However, the effectiveness of their application should be carefully monitored; for example, security checks on staff should be as rigorous as they are for visitors, which was not the case at Mountjoy Prison.

The CPT recommends that all necessary steps be taken to ensure the implementation of the various elements of the drug strategy programme throughout the prison system. The Committee would also like to be informed about the steps that are being taken to set up drug-free units.

74. As regards the methadone treatment programme in operation in most of the prisons visited, the CPT has taken note of the Irish Prison Service's "Methadone Treatment Programme Guidelines", with its emphasis on individual assessment and the necessity for counselling where appropriate. However, it has serious concerns over the manner in which methadone prescribing is carried out in Cork, Midlands and Mountjoy Prisons.

It is recognised by health professionals that methadone should only be prescribed as part of a comprehensive drug treatment programme which will include engagement with addictions services (addiction counsellors, addiction nurses and as required an addiction psychiatrist).The dose of methadone prescribed as maintenance should be that required to stabilise a prisoner's drug use to the extent that the inmate injects or uses opiates less frequently and remains in contact with prison addiction services.

Regrettably, at both *Midlands* and *Mountjoy Prisons* those prisoners admitted to prison on a methadone prescription often merely had the dose continued and were not required to engage with the addictions counsellor. Further, many of the methadone prescriptions were illegible and there was a lack of medical review of the prescription. There was also no reference to the frequency of drug use, including injecting, or to the nature of illicit drugs consumed; for example, monitoring through regular analysis of urine. At Midlands Prison, urinalysis results were not annotated in prisoners medical records; apparently, they were not even kept at the prison.

A further concern identified by the delegation was the prescription of methadone as a detoxification agent either upon admission to prison or when an inmate identified himself as having an illicit drug use. No assessment was made upon admission as to whether a prisoner was likely to suffer from drug withdrawals subsequent to admission. Instead, a prisoner who gave a history of drug abuse would typically be placed on a methadone detoxification programme (starting at 20 ml per day, increasing to 35 ml per day before being reduced to zero over a three-week period). During detoxification there was no routine follow-up of prisoners to assess whether they were withdrawing from drugs and the symptoms they were experiencing, or indeed whether the prisoners concerned were continuing their illicit drug misuse on top of their prescribed methadone detoxification. For a number of prisoners in receipt of a methadone detoxification prescription it could be stated that this was simply "free petrol".

The delegation was also concerned that a number of prisoners had been offered a methadone maintenance prescription upon entry to prison and thereafter it was never properly reviewed. One prisoner at Mountjoy Prison whom the delegation met had been on 80 ml per day since his arrival in the prison at the end of 2007 and had continued to take illicit drugs; he was also hepatitis C positive. In the six months prior to the delegation's visit, the prisoner's urine had been tested for drugs on 21 occasions, and each time his urine had tested positive for benzodiazepines, on ten occasions for illicit opiates and on five occasions for cannabis. However, his methadone had been continued without apparent reference to the urinalysis results. Further, his health-care record contained entries which suggested that he was intoxicated through the ingestion of illicit substances on a number of occasions, and yet no action was taken to review the appropriateness or otherwise of his methadone prescription. In addition, he was not in contact with addiction services as apparently this was not required as the delegation was told that he had an addiction worker in the community who would pick up his care upon release (which was not scheduled until 2018 at the earliest).

75. At *Cork Prison*, methadone is only prescribed for those prisoners transferred temporarily from other prisons to undergo a disciplinary sanction in D Block. Otherwise prisoners suffering from opiate withdrawal are offered a prescription of high dose chlordiazepoxide (usually the drug of choice in treating alcohol withdrawal but which has a limited effect on the symptoms of opiate withdrawal). However, the delegation came across a number of cases of prisoners at Cork Prison who had not been provided with any support as they underwent drug withdrawal and who were clearly suffering. In several cases, the prisoners in question were sharing a cell with one or two other persons which, given the symptoms of withdrawal (including vomiting and diarrhoea) and the lack of in-cell sanitation, made the process all the more unpleasant.

The CPT recommends that all prisoners admitted while on a methadone maintenance programme in the community should be able to continue such maintenance within prison as part of a comprehensive drug treatment programme. Further, prisoners undergoing drug withdrawal should be provided with the necessary support to alleviate their suffering and should not be placed in a cell without integral sanitation.

76. The delegation was also concerned that in a number of instances the dosage of methadone was varied by nursing staff without reference to the prescriber if, for example, a prisoner failed to provide a urine sample as requested. Additionally, at Midlands Prison, a prisoner on a methadone maintenance programme could only continue to receive the same dose of methadone he was being prescribed prior to his admission to that establishment. There was no possibility of the dose being modified other than for his methadone prescription to be stopped altogether. Moreover, at Cork and Midlands Prisons, there was no doctor sufficiently competent in methadone prescribing on the staff.

The CPT recommends that the authorities take the necessary steps to remedy these deficiencies.

77. By letter of 17 May 2010, the Irish authorities informed the CPT of their arrangements for a review of Primary Care Practice in Cork, Midlands and Mountjoy Prisons, by a professional who previously worked as a prison doctor for the Scottish Prison Service. This professional together with a pharmacist from Northern Ireland was also to carry out a review of prescribing practices in the above-mentioned prisons. Further, a review of drug treatment services in Cork, Midlands and Mountjoy Prisons, with a particular focus on prisoners methadone substitution treatment, by two professionals from the United Kingdom was also to be carried out. It is expected that the final report on the above-mentioned reviews will be submitted by end September 2010. The CPT is concerned that the review has still not considered the prescribing of methadone as part of the review of prescribed medication (it is not possible to review a prisoner's pharmacotherapy without considering *all* of the medicines that are being prescribed concurrently).

The Committee trusts that in the context of the review of medication being prescribed to individual prisoners, including the inmates referred to in paragraphs 74 above and 78 below, the dose of methadone will be considered as an integral part of the review. The CPT looks forward to receiving a copy of the review reports.

78. At *Midlands Prison*, the delegation was concerned (as was the prison nursing staff) by the number of prisoners on psychotropic medication without a clear rationale for this being noted in the medical records[33]. Additionally, the delegation met a number of prisoners who were still clearly suffering from the effects of drug withdrawal despite them having been seen by medical staff and having been prescribed insufficient medication to relieve the effects of the same.

One prisoner who was being prescribed 120 mls of methadone had also been prescribed a diazepam detoxification on three occasions in order to wean him off the illicit diazepam he was using. Although the medical records noted that he had used illicit diazepam since 1999, there was no note of how much diazepam he was using. Therefore, it was not possible to evaluate whether the prescribed diazepam detox would reduce his illicit diazepam dependence. Further, no action was taken when the nurse noted that the prisoner attempted not to swallow his prescribed methadone or diazepam. In addition, the prisoner had been prescribed an anti-psychotic (olanzapine 10mgs) "for a few weeks to help come to terms with drug problems"; yet there was no note or evidence that the prisoner had a dual psychiatric and addiction diagnosis. At the time of the visit, eleven months later, the prescription for the anti-psychotic medication did not appear to have been reviewed.

The CPT recommends that the prescribing of psychotropic drugs at Midlands Prison be reviewed.

d. use of special observation cells

79. According to Rule 64 of the Prison Rules 2007, a prisoner shall be accommodated in a special observation cell only if "it is necessary to prevent the prisoner from causing imminent injury to himself or herself, or others and all other less restrictive methods of control have been or would, in the opinion of the Governor, be inadequate in the circumstances"[34]. Placement in such a cell should not exceed 24 hours unless the Governor receives authorisation from the Director General of Prisons to extend the placement for a maximum of four further periods of 24 hours.

Paragraph 8 of Rule 64 states that the Governor may require a prisoner's clothing to be removed prior to placement if it is considered that "items or parts of prisoner's clothing may be used by the prisoner to harm himself or herself, or others, or to cause significant damage to property". However, paragraph 9 states that no prisoner should be left unclothed. Also, a prisoner placed in a special observation cell should be visited at least daily by the Governor and by the doctor.

Rule 64 ends by making it clear that "under no circumstance shall a prisoner be accommodated in a special observation cell for purposes of punishment".

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[33] It should be noted that some 210,000 Euros (approximately 60% of the annual expenditure on prescribed medication at Midlands Prison) was being spent on anti-psychotic and sedative anti-depressant medication.

[34] See paragraph 2 of Rule 64.

80. In the course of the 2010 visit, the CPT's delegation was deeply concerned by the situation of prisoners placed in special observation cells[35], which resulted in it making an immediate observation (see paragraph 6 above). To begin with, prisoners who had been placed in a special observation cell complained of the cold temperature[36] and the delegation observed for itself the cells were generally cold (for example, the special observation cell in B Wing of Midlands Prison measured 12°C at the time of the visit). It should be noted that in most instances an inmate's clothes were removed and that only one, maybe two, small blankets were issued; at times, an inmate was permitted to keep his underwear.

81. Prison Rule 64 is designed to enable management to remove a prisoner in an emergency to a cell where he or she will be safe and can be closely observed by staff. However, in the prisons visited, inmates were being placed in special observation cells not only in such situations but also for accommodation, disciplinary and good order purposes; further, regardless of the reason for the placement, prisoners were in most cases being subjected to the same procedures.

In a number of instances documented by the CPT's delegation, prisoners judged to have disobeyed a legitimate order or who were being refractory, were transferred to a special observation cell, sometimes using control and restraint measures. On each occasion the prisoner's clothing was removed; in many instances, it was apparently either ripped off or cut off, while the inmate was restrained lying prostrate on the floor of the cell. Other than being provided with a rip-proof blanket or poncho, these prisoners were in each instance kept naked (apart from prison-issue underpants) in the special observation cell for 24 hours or longer[37]; they were not offered outdoor exercise or provided with any reading material or permitted to watch television. Such placement could not be described as other than for the purpose of punishment.

Indeed, at Midlands Prison the delegation noted that the special observation cells were not infrequently used for disciplinary purposes. In one instance, after visiting a prisoner in a special observation cell, the doctor wrote "no medical problem, in strip cell for disciplinary reasons. Can go back to cell". The prisoner in question remained in the special observation cell for three days before being transferred to A Block in Portlaoise Prison where he spent 42 days on a disciplinary punishment of loss of all privileges. Further, a number of prisoners alleged that they were actually served with a P19 disciplinary charge while in the special observation cell and that, on one occasion, the disciplinary hearing actually took place in the special observation cell (with the prisoner wearing nothing but underpants).

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35 In general, these cells are some 8m², lined with a resistant spongy material, and equipped with a washable mattress on a raised plinth, in-cell sanitation and a mounted television in a protective casing; access to natural light was adequate. The top half of the cell door is transparent to enable staff to have better vision into the cell. All the special observation cells visited had a functioning call bell.

36 The complaints related to special observation cells in Midlands, Mountjoy, Portlaoise and Wheatfield Prisons

37 At Midlands Prison, one prisoner was kept in a special observation cell from 13 January 2010 (11.40 a.m.) to 18 January 2010 (2.30 a.m.) – i.e. beyond the maximum period provided for under Rule 64 – with the stated reason being "disruptive on Cell C2".

82. If a prisoner is placed in a special observation cell for medical reasons, rip-proof clothing should only be provided where necessary (e.g. in cases of self-harm but not for someone who initiates a hunger-strike). Such a placement and its continuation should only be made upon the authorisation of the medical doctor, when all other measures are inadequate; and the removal of clothes should follow an individual risk assessment, and be authorised by the doctor. Further, the doctor should attend prisoners placed in observation on a daily basis as required by the Prison Rules 2007 (see also section e. below) and record his findings; this was often not the case in most of the prisons visited, notably at Cork Prison. Likewise, the standard 15 minute observation by prison officers of persons placed in a special observation cell should be clearly recorded in the register.

Where there is a need for a disruptive or violent prisoner to be rapidly transferred to a special observation cell, the person concerned should only be kept in such a cell until such time as he has calmed down, whereupon he should placed in an ordinary cell and, if appropriate, managed through the disciplinary process or Rule 62 governing removal from association. Further, the prisoner's clothing should not be removed unless this is found to be justified following an individual risk assessment.

83. By letter of 17 May 2010, the Irish authorities informed the CPT that, following the immediate observation made by its delegation at the end of the visit, on 2 March 2010 the Inspector of Prisons was asked to carry out a review of the use of special observation cells, and in his preliminary findings in relation to Mountjoy Prison he found that these cells were used for a variety of purposes "and in the majority of cases not for the uses that they were intended". A comprehensive review of the practices and procedures in place, and of the physical conditions of the cells, is underway; further, consideration is being given to amending Rule 64 of the Prison Rules 2007. The CPT welcomes the review; **it is an opportunity to clearly identify the purpose of the special observation cells and to ensure that there are clear operating procedures governing the placement of inmates in them. The CPT would like to receive a copy of the review report and to be informed of any measures taken in the light of that report.**

e. psychiatric care in prison

84. The CPT's delegation undertook targeted visits to a number of prisons to examine the care offered to prisoners suffering from a mental illness[38].

In principle, prisoners suffering from a mental illness either remain in prison or are transferred to the Central Mental Hospital under the terms of Article 15 of the 2006 Criminal Law (Insanity) Act.

Further, on occasion, some prisons managed to transfer low risk mentally-ill prisoners on a temporary basis to a regular psychiatric hospital.

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[38] It concerns Cork, Cloverhill, Midlands, Mountjoy, Portlaoise and Wheatfield Prisons and St Patrick's Institution.

85. At Cloverhill Remand Prison, there was a "Court diversion scheme" in operation under which mentally-ill prisoners suspected of having committed a minor offence could be transferred to such regular psychiatric setting. In 2008, a total of 67 prisoners were admitted to a psychiatric hospital. The CPT welcomes this initiative.

This Court diversion scheme, as well as the regular psychiatric care for prisoners, was carried out by the Central Mental Hospital's "In Reach Service", which screens all incoming remand prisoners for mental disorders. The Service consists of six healthcare professionals: a consultant psychiatrist, two registrars and three community mental health nurses.

Midlands, Mountjoy, Portlaoise, and Wheatfield Prisons and St Patrick's Institution, were also regularly visited by a CMH "In Reach Service", comprising a psychiatrist and a nurse.

86. The activities of the CMH "In Reach Service" do not include Cork Prison which, as mentioned in paragraph 61 above, was visited by a psychiatrist three times a week. Due to scant record keeping, it was rather difficult for the CPT's delegation to assess in detail whether the care for mentally-ill prisoners at this prison has evolved since the last time the CPT examined the issue in 2002. However, it appeared that psychiatric care was mostly reliant on pharmacotherapy.

Further, despite Cork Prison being a designated remand prison, it did not operate a Court diversion scheme. Moreover, the CPT's delegation was informed that there were limited possibilities for prisoners to be transferred to either a local psychiatric hospital or the CMH; as regards the latter hospital, it was noteworthy that requests for a transfer under Article 15 of the 2006 Criminal Law (Insanity) Act were rarely made as the psychiatrist had little confidence that the CMH selection procedure would actually result in a transfer of the prisoner to that hospital.

In this context, the CPT received information about the death of a prisoner at Cork Prison on 24 January 2010, who had been under observation for some time after having expressed suicidal thoughts. **The CPT would like to be informed about the conclusions of the inquiry into the death of this prisoner, in particular as regards the care afforded to this person while in custody.**

87. More specifically, the CPT's delegation observed that Irish prisons continued to detain persons with psychiatric disorders too severe to be properly cared for in a prison setting; many of these prisoners are accommodated in special observation cells for considerable periods of time. For instance, at the Central Mental Hospital, the CPT's delegation met with a young man who had been placed in a special observation cell at Mountjoy Prison between 3 August and 11 September 2009. In another case, a prisoner had on several occasions[39] spent considerable time in a special observation cell at Wheatfield prison. Moreover, this prisoner's medical records show that his mental health condition deteriorated significantly during his stay in prison.

The CPT recommends that the Irish authorities take all necessary steps to further enhance the level of care available to prisoners suffering from a psychiatric disorder.

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[39] For instance, the prisoner was placed in a special observation cell between 21 January and 13 February 2009 and between 12 January 2010 and 30 January 2010.

That said, there is a clear limit to the level of care that can be offered to mentally ill persons in a prison setting. A prison cannot be expected to offer the full range of therapeutic options that should be available in a psychiatric hospital: even as regards pharmacotherapy a prison setting imposes restrictions. It is illustrative that in none of the prisons visited, prisoners were treated without their consent. The psychiatrists interviewed on this issue were not aware of any legal constraint in this regard, but were particularly concerned that possible adverse side-effects of medication could not be adequately monitored in prison. Further, certain medication requires such elaborate precautionary measures that it cannot be safely administered in a prison context. Such is for instance the case with clozapine, which is used for treatment -resistant schizophrenia.

88. For some persons currently detained in Irish prisons, the only suitable accommodation is a psychiatric hospital. Given the statutory role of the CMH as regards in-hospital mental health care for prisoners, its present capacity problems are of great concern to the CPT[40]. Moreover, as already mentioned above, transfers of prisoners to regular psychiatric hospitals are rare.

From the point of view of the CPT, the Irish authorities have limited options: they could either increase the bed capacity at the CMH for mentally ill prisoners, or enhance the possibilities, including legal, for regular psychiatric hospitals to receive mentally ill prisoners.

The CPT recommends that the Irish authorities take the necessary steps to enhance the availability of beds in psychiatric care facilities for acutely mentally ill prisoners.

89. As to the conditions in which prisoners suffering from a psychiatric disorder were held, the CPT's delegation found that they were far from adequate at Cork Prison, with dirty observation cells and staff that felt unprepared to deal with these prisoners.

In contrast, in Cloverhill Prison the detention conditions for mentally ill prisoners were much better. Prisoners with severe mental disorders were accommodated in one of the ten double cells at a separate section of the D2 wing and had free access to the landing during day time, where a pool table had been installed. The section also has a separate outdoor exercise yard. Recently, the prisoners had been offered occupational therapy, but few participated so far. To be sure, even under such conditions, a prison is not a substitute for a psychiatric hospital[41].

The CPT was informed that in April 2010 a special High Support Unit for prisoners with a mental illness at Mountjoy Prison had been opened. **The CPT would like to receive detailed information about this Unit, including staffing and regime.**

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40 See also paragraph 115 below.

41 See for instance the case of a prisoner held at Wheatfield prison described in paragraph 87 above.

6. Other issues

a. reception and first night procedures and information to prisoners

90. In addition to medical screening on arrival, the reception and first night procedures as a whole have an important role to play; performed properly, they can identify at least certain of those at risk of self-harm and relieve some of the anxiety experienced by all newly-arrived prisoners. Regrettably, in the prisons visited, with the exception of Midlands Prison, there were no rigorous admission procedures whereby all new prisoners would undergo a cell-share risk assessment before being allocated to a cell and provided with toiletries, bedding and a hot meal. Nor was there any induction programme to acquaint prisoners with the regime and running of the prison, or to ensure that they had been able to contact their family. The Committee considers that such basic procedures on admission are vital in assisting inmates entering the criminal justice system to adjust to prison life.

At Mountjoy Prison, overcrowding was such that newly admitted prisoners were at times accommodated in the shower area of the basement of B Block (B Base) or placed in a special observation cell. However, for most prisoners who were not considered vulnerable due to the nature of their crime, the criterion for placement appeared to be available space or even floor space.

The CPT recommends that the Irish authorities introduce proper reception and first night procedures as well as an induction process for newly-admitted prisoners in establishments which are points of entry to the prison system.

Further, the CPT would like to receive information on the current use of the basement of B Block at Mountjoy Prison[42].

91. In all the prisons visited, inmates complained that they had not received any information about the regulations governing the day-to-day activities and procedures in the prison. Instead, they had to rely on other prisoners to tell them about the regime and the rules, which placed certain prisoners in a superior position. This was particularly true for illiterate prisoners met by the delegation. Further, for foreign national prisoners who did not speak English, the lack of information in a language they could understand placed them in a particularly vulnerable position, as members of the delegation observed in the course of the visit.

At Portlaoise Prison, the delegation pointed out to the Governor that the information booklet which was in the process of being printed contained a number of serious errors – such as mention of the existence of a drug-free landing in the prison when, in fact, no such landing had been established; reference to Hepatitis A and B but not to the far more prevalent Hepatitis C; and the use of misleading language. The provision of information booklets to newly admitted prisoners is positive but every effort must be made to ensure that the content is accurate.

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[42] At the time of the visit, the CPT's delegation was informed of the projected transformation of the B Base into a dedicated committals area for the prison.

The CPT recommends that all newly-admitted prisoners be supplied with information on the regime in force in the establishment and on their rights and duties, in a language which they understand; such information should be provided both orally by the prison administration and in the form of a brochure systematically given to prisoners on their arrival and available in an appropriate range of languages. Copies of the Prison Act 2007 and the Prison Rules 2007 should also be readily available for consultation by prisoners.

b. discipline

92. A new legal basis for the imposition of disciplinary sanctions has been adopted since the CPT's previous visit in 2006. On 31 March 2007, the Prisons Act was enacted, Part 3 of which concerns prison discipline and, more particularly: the sanctions applicable for a breach of discipline; the possibility for a prisoner to petition the Minister of Justice against a sanction; where the sanction concerns a forfeiture of remission of sentence, a right of appeal to an independent special tribunal, with the possibility of access to legal advice or representation and to apply for legal aid.

On 31 October 2007, the Prison Rules for the "regulation and good government of prisons"[43] entered into force, and Rules 66 and 67, taken together with Schedule 1 of the Rules, regulate the procedures for inquiring into a breach of discipline as well as listing the acts which are considered to constitute such a breach. The CPT welcomes the fact that the Rules incorporate previous recommendations made by the Committee, notably: prisoners are to be informed in writing of the charges against them and given sufficient time to prepare their defence; they are also allowed to cross-examine evidence given against them, to call witnesses on their behalf, and to make a plea in mitigation to the Governor before the imposition of any penalty.

93. The CPT does, however, continue to have major reservations over the effect in practice of the authority invested in the governor of a prison to impose on a prisoner who is found to have committed a breach of discipline, the sanction of "loss of all privileges" for a period of up to 60 days (see Article 13.1(d) of the Prisons Act 2007). The delegation observed that such a measure is not infrequently applied and that it can result in inmates being held for prolonged periods in conditions akin to solitary confinement (i.e. confined alone in a cell with no stimulation or contact with the outside world). The Prisons Act 2007 states under Article 13.1(c) that cellular confinement cannot exceed three days. As the CPT made clear in its report on the 2006 visit[44], the imposition of such a regime for up to 60 days as a disciplinary sanction is totally unacceptable.

The CPT recommends that the Irish authorities take the necessary steps in order to ensure that the application of Article 13.1(d) of the Prisons Act 2007 ceases to result in prisoners being held in conditions akin to solitary confinement for prolonged periods. Further, contacts between a prisoner and his relatives should under no circumstances be totally withdrawn[45].

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43 See Article 35 of the Prisons Act 2007.

44 See CPT (2007) 40, paragraphs 92 to 94.

45 See also Rule 60.4 of the European Prison Rules according to which "Punishment shall not include a total prohibition on family contact".

94. As regards the operation of the disciplinary process, the CPT's delegation noted that in certain establishments, notably Portlaoise Prison, the investigation into the alleged offences appeared cursory (i.e. not based upon any concrete evidence) and the punishments harsh. In many cases examined by the delegation, the disciplinary charges were not substantiated in the reports drawn up by prison officers and contained only general accusations, such as "disruptive" or "violent" but with no facts recorded. It appeared that there were no written guidelines to assist prison management in making decisions on the awarding of disciplinary punishments. Further, the records of the hearings were not always comprehensively filled in and questions were left unanswered. A number of specific complaints were received from prisoners relating to the disciplinary process, such as denial to call a witness, no provision of interpretation despite a poor command of the English language and no provision of assistance to an illiterate prisoner.

The CPT recommends that the Irish authorities draw up guidelines for the imposition of disciplinary punishments and that care be taken to ensure the procedural requirements of Prison Rule 67 are diligently applied.

95. From the delegation's many interviews with prisoners, it also became apparent that information on the possibility of lodging a petition against a sanction to the Minister or lodging an appeal against forfeiture of remission was not being clearly communicated to inmates. In addition, where prisoners stated that they had submitted an appeal, there was no written trace in any files.

Further, it is essential that prisoners be afforded the necessary means to draft a petition within the seven day statutory period laid down by the Prisons Act 2007. Such facilitation should include the possibility of a prisoner being able to contact and even meet with his or her lawyer; several allegations were made by prisoners that they had been denied the right to contact their lawyer while serving a disciplinary punishment. In light of the fact that the lodging of a petition does not have a suspensive effect on the implementation of the disciplinary punishment, any appeal must be dealt with expeditiously for it to have any meaning.

The CPT recommends that prisoners be made explicitly aware of their rights to petition the Minister of Justice and, in the case of forfeiture of remission of their sentence, to address the Appeals Tribunal, including the possibility to seek legal advice and legal aid. Further, it recommends that an expeditious procedure for the determination of appeals be put in place in those cases where a punishment is already being served. It also recommends that prisoners should receive a written receipt acknowledging the transmission of an appeal.

96. In the course of the 2010 visit, the CPT's delegation visited the segregation units of Cork, Midlands and Portlaoise Prisons, all of which accommodate inmates from throughout the Irish prison system who are serving a disciplinary punishment of loss of all privileges of up to 60 days.

The material conditions and regime in the three units were similar.

At **Cork Prison**, D Block consists of eight single-occupancy cells (8.5m²) on two floors. Each cell was equipped with a bed, table, chair and a toilet and basin; access to natural light was adequate but the ventilation was poor. At the time of the visit, the unit was fully occupied, which was not unusual. The delegation noted that one cell was filthy (No. 6), and inmates complained generally about the lack of detergent provided to clean the toilets and that they were offered only one shower a week.

In terms of regime, prisoners were in theory deprived of all privileges (family visits, letters, work, smoking, recreation, radio, television and newspapers) throughout their time in D Unit. However, in contrast to the situation in 2006, prisoners were now offered, on a discretionary basis, a screened visit with their family[46] and could send and receive letters. Outdoor exercise took place in a small inner yard; each prisoner was offered at least one hour of exercise every day and depending on the circumstances might take it with other prisoners. Access to the small gym was offered once a week but, at the time of the visit, the instructor had not been available for a couple of weeks which resulted in inmates not being offered gym.

At **Midlands Prison**, the right-hand corridor of the ground floor of C Wing is used for holding prisoners on a disciplinary sanction; it consists of 15 cells, seven of which were being used for holding prisoners on a disciplinary sanction at the time of the visit. The cells were equipped in the same way as ordinary accommodation cells (a bed, table, chair, shelving unit and integral sanitation). Access to natural light was adequate and ventilation was sufficient.

The regime in place was similar to that operating in D Block at Cork Prison; however, no screened visits were offered and written correspondence was not permitted (although prisoners had been given authorisation to send and receive a letter the week prior to the delegation's visit). Prisoners were offered one hour of outdoor exercise every day, usually with one other prisoner, but could choose to split the hour between walking in the yard and exercising on a 'cardio' bike.

At **Portlaoise Prison**, four of the five units of A Block are used for accommodating prisoners undergoing a disciplinary punishment, with two units on the ground floor and two units above them on the first floor. Each unit[47] consists of eight cells (7m²) equipped with a bed, table, chair, shelving unit and integral sanitation. Access to natural light and ventilation were adequate.

The regime was similar to the one in place in the segregation blocks described above, except that each cell was equipped with a television set, which inmates said they were given after two weeks. Again, no contacts with family were permitted although a couple of prisoners stated that they had received a letter a few days prior to the delegation's visit from their family, and that they had been told by the prison authorities that they would be permitted to write a response. As regards time out of cell, it appeared that prisoners had to choose each morning between either one hour of outdoor exercise or a session on an exercise bike. The CPT considers that all prisoners undergoing a disciplinary punishment should be offered a minimum of one hour of outdoor exercise every day. They should not be placed in a position of having to choose between either outdoor exercise or access to an exercise bike .

It is also interesting to note that those prisoners who had received a letter, as well as other prisoners undergoing a disciplinary punishment who had had no correspondence with the outside world, told the delegation that their families were not aware of the fact that they were in the segregation unit. Many prisoners stated that the lack of communication put enormous stress on their relationships.

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46 The screened visits room was being renovated at the time of the visit.

47 The units were designed for ordinary accommodation, with four cells along the left and right hand sides of the unit, with a large open floor space for association in the middle of the unit; an observation room for prison officers was located at one end of the unit. Each unit had its own shower facilities.

97. The CPT has already made a general recommendation as regards the application of Article 13.d of the Prisons Act 2007 (see paragraph 92 above). **Further, the CPT calls upon the Irish authorities to review the operation of the segregation units at Cork, Midlands and Portlaoise Prisons, in the light of the above remarks. Immediate steps should be taken to ensure that all such inmates at Portlaoise Prison are offered at least one hour of outdoor exercise every day.**

Steps should also be taken to address the deficiencies observed as regards the material conditions in D Unit of Cork Prison.

c. contact with the outside world

98. The CPT attaches considerable importance to the maintenance of good contact with the outside world for all persons deprived of their liberty. The guiding principle should be to promote contact with the outside world as often as possible; any restrictions on such contacts should be based exclusively on security concerns of an appreciable nature[48].

The Prison Rules 2007 regulate contact with the outside community, including visits, letters and telephone calls (see Rules 35 to 46). In general, the situation has not evolved considerably since the previous visit of the CPT in 2006. Prisoners are still permitted one half-hour visit per week, plus one discretionary additional fifteen-minute visit. The main development is that in all prisons visited except for Mountjoy Prison, visits were pre-booked. Further, visits were now taking place on weekends. That said, the CPT continues to have a number of concerns as regards visits.

99. The visiting arrangements in **Cork Prison** were totally unsuitable. Up to 12 prisoners were placed shoulder to shoulder on one side of a wide table running the length of the room communicating with two or three visitors each on the other side of the table. The table was fitted with a glass partition (some 15 cm high) and conversations were conducted with raised voices as visitors and prisoners competed to be heard; the resulting cacophony of sound can easily be imagined. Prisoners were forbidden to have any physical contact with their visitors, including with their children. Those who defied the ban were subject to a disciplinary punishment. Such a systematic ban on physical contact between prisoners and their families, in particular their children, is unreasonable, given the search procedures in place. Complaints were also received that there was no possibility to apply for accumulated visits.

At **Mountjoy Prison**, the visiting facilities have remained largely unchanged since the 1993 visit; the three visiting rooms for open visits each contain a table which runs the length of the room separating prisoners from their visitors. Each table was fitted with a barrier (some 15cm high) which was designed to prevent physical contact but the delegation noted that, in practice, physical contact with visitors was tolerated. When the visiting rooms were full, they afforded no privacy whatsoever to prisoners or their visitors and, because of poor acoustics and ventilation, were both noisy and stuffy.

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[48] See also European Prison Rule 24.2.

At **Midlands Prison**, the visiting facilities consisted of four rooms for open visits, each containing eight or ten open-ended cubicles in which a prisoner sat across a wide table from his visitor(s); the one metre high partitions on the left and right side of each table provided a degree of privacy from other prisoners who were having visits. A fifth room, used for closed visits, had a similar lay-out except that the prisoner was separated from his visitor(s) by a screen running down the middle of the table and up to the ceiling. Separately, one room had been furnished with a sofa and chairs and decorated with colourful murals to be used for family visits once a year by prisoners sentenced to life imprisonment[49]. There was also a large waiting room with seats, toilet facilities and a cordoned-off section with toys, games, books and arts materials for children, which was available to all visitors. Such a facility is to be welcomed.

100. The CPT recommends that the Irish authorities review the arrangements for visits, with a view to:

- **increasing the amount of visiting time offered, preferably to at least one hour every week;**
- **ensuring that prisoners and their families can conduct visits with a degree of dignity and respect of privacy (i.e. with appropriate seating arrangements and in an environment which does not require raised voices for communication);**
- **discontinuing the general ban on physical contact between a prisoner and his family; any prohibition of such contact in a particular case should be based upon an individual risk assessment;**
- **introducing the possibility for accumulated visits.**

101. The delegation noted that all persons visiting a prison were now subject to an airport-type security check, including the use of drug detection dogs. The delegation received many complaints relating to the search procedures in place for visitors. By and large, it found that they were carried out respectfully by most prison officers in the establishments visited. However, at Midlands Prison, the delegation requested a review of the search procedures in place for visitors, further to numerous complaints received about the intrusive searches carried out on women visitors and children by a particular female officer, often in full public view. Due regard to decency, privacy and the dignity of the person being searched, as required by Prison Rule 36 (13), was not being respected.

Further, the CPT is also concerned that when a visitor is found not to be carrying drugs after a search, triggered by the sniffer dog, the prisoner in question is nevertheless subsequently placed on a screened visit or refused a visit. This practice appears unjustified. **The CPT would like to receive the comments of the authorities on this matter.**

[49] This yearly visit was in addition to the weekly visits permitted by the 2007 Prison Rules (Rule 35).

d. complaints and inspections

102. Effective complaints and inspection procedures are basic safeguards against ill-treatment in prisons. Prisoners should have avenues of complaint open to them, both within and outside the prison system, and be entitled to confidential access to an appropriate authority[50]. In addition to addressing the individual case involved, the CPT considers that a careful analysis of complaints can be a useful tool in identifying issues to be addressed at a general level.

103. Under the internal grievance procedures (Prison Rule 55), inmates who want to lodge a complaint in a written form must raise the matter during the morning Governor's parade and request to be provided with a complaint form. The Governor on duty will note down the request and the following day or the day after a Chief Officer will bring a numbered complaint form to the prisoner, which he will be expected to fill out and return to the Chief Officer. The Chief Officer is responsible for looking into the complaint and responding to the prisoner.

However, it was clear that in the establishments visited prisoners had no faith in the internal complaints system and this was reflected by the low number of complaints registered. For example, at Cork Prison, the delegation noted that in the period since September 2006 only 46 complaints had been submitted of which some 30 had been subsequently withdrawn by the prisoner concerned. At Portlaoise Prison, only 12 complaints had been submitted during the three years prior to the delegation's visit; of the eight complaints registered since June 2009, five had been made by the same prisoner.

104. A number of prisoners alleged that their lives had been made more difficult because they had decided to pursue a complaint against a particular prison officer[51]. Others alleged that in handing over the complaint form the Chief Officer had intimated that to pursue a complaint would likely result in a transfer to another prison. Indeed, transfer to another prison was the common perception of the outcome should a prisoner submit a complaint.

Further, for those complaints that were pursued it was not evident that they were thoroughly investigated or a suitable solution proposed. One recent complaint at Portlaoise Prison referred to a drug detection dog jumping up on the chest and stomach of a prisoner's girlfriend during the search procedures for a visit. The incident was not disputed by the prison authorities but the response merely referred to the fact that the dog had been properly trained. There did not appear to be any "lessons learned" approach to complaints or to recognise that prisoners' complaints represented a potentially important source of information for problems in the system.

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50 The right of prisoners to communicate in confidence with a wide range of national and international bodies is provided for in the Irish Prison Rules 2007 (Rule 44).

51 For example, at Mountjoy Prison an inmate who was pursuing a complaint about being assaulted by a prison officer said that he would receive anonymous threatening messages and that his cell was searched on a disproportionate basis. Once he withdrew his complaint, the messages and cell searches stopped.

105. The CPT considers that the existing internal complaints system needs to be further reviewed; for example, prisoners ought to be able to make written complaints at any moment and place them in a locked complaints box on a prison landing (forms should be freely available and not be the subject of a specific application to the Governor); all written complaints should be registered centrally within a prison before being allocated to a particular service for investigation or follow up. In all cases, the investigation should be carried out expeditiously (with any delays justified) and prisoners should be informed within clearly defined time periods of the action taken to address their concern or of the reasons for considering the complaint not justified. In addition, statistics on the types of complaints made should be kept as an indicator to management of areas of discontent within the prison .

The CPT recommends that the Irish authorities review the current system of complaints, taking into account the above remarks.

106. As regards inspections, the CPT continues to attach particular importance to the work of the Inspector of Prisons in visiting prisons, and has noted the insightful and constructive approach of the Inspector in his reports and actions to date. However, the CPT considers that the provision of health care in prisons should also be a focus of the Inspector's work, and that he should be able to call upon the necessary expertise to make such evaluations. Further, in order for the Inspector to carry out his tasks in an effective manner, **the CPT recalls that it is essential that the necessary resources be allocated for this important function.**

e. transport of prisoners

107. In the response of the Irish authorities to the report on the 2006 visit in relation to the transport of prisoners, it was stated that as far as is reasonably practicable prisoners are offered access to toilet facilities at intervals of no more than two and a half hours at specific secure locations. However, in the course of the 2010 visit, the CPT's delegation again received a number of complaints about the lack of any rest-stop during transfer journeys between prisons, notably between Dublin and Cork, which meant that prisoners could not meet the needs of nature. **The CPT recommends that the authorities review this issue.**

C. Psychiatric institutions

1. Preliminary remarks

108. In the course of the 2010 visit to Ireland, the CPT's delegation carried out visits to the psychiatric hospitals of St Ita's in Portrane and St Brendan's in Dublin; it also carried out a follow-up visit to the Central Mental Hospital (CMH) in Dublin[52].

All three psychiatric hospitals visited are "approved centres" under the provisions of the 2001 Mental Health Act: i.e. they are authorised to accommodate patients involuntarily placed under the provisions of that Act.

The Central Mental Hospital is in addition a "designated centre" under the 2006 Criminal Law (Insanity) Act and may, as the only hospital of this kind in Ireland, accommodate persons detained under the provisions of that Act.

109. St Ita's Hospital is situated just outside the town of Portrane, 30 km north of Dublin. The hospital was built at the beginning of the 20th century and in the past accommodated more than 2,000 patients. At the time of the CPT's delegation's visit in 2010, the hospital accommodated 110 adult male and female patients in seven units: three elderly patients units; two rehabilitation units; and two closed admission units (one for male patients and one for female patients). Six patients were detained under the provisions of the 2001 Mental Health Act and seven patients were mentally incapacitated. The other patients were formally voluntarily admitted.

The CPT's delegation focussed its attention on the closed male and female admission units, situated in a separate building on the hospital grounds. Each unit has 24 beds.

St Brendan's Hospital, founded some 200 years ago, is located on extensive grounds in the city centre of Dublin. The hospital has been in the process of downsizing for some time already: the hospital's capacity has decreased over the past 30 years, from approximately 1,500 to 82 beds at the time of the CPT's visit. The patients are accommodated in five units in two buildings: the closed female O unit and the closed male 8A and 8B units in the hospital's main 18th century building and the open units 3A and 3B in more recent adjacent newer premises. The CPT's delegation focussed mainly on units O, 8A and 8B. A total of 16 patients were detained under the provisions of the 2001 Mental Health Act and four patients were mentally incapacitated.

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[52] The Central Mental Hospital had already been visited by CPT's delegations in 1998, 2002 and 2006.

110. After the CPT's visit, on 1 March 2010, the Minister of State with responsibility for Equality, Disability and Mental Health announced that 15 large scale Victorian-era psychiatric hospitals, including St Ita's and St Brendan's Hospitals, will be closed in the next three years and that those latter two hospitals will cease to accept new patients in the course of 2010[53]. **The CPT would like to be kept informed about the plans to close St Ita's and St Brendan's Hospitals, as well as the arrangements made for patients currently accommodated in both hospitals.**

111. The Central Mental Hospital is still located in Dundrum despite longstanding plans to relocate to more adequate premises[54]. The unsuitability of the present premises is acknowledged by the Irish authorities and documented both in previous CPT reports and in the reports of the Inspector for Mental Health Services. Plans to relocate the CMH to the future Thornton Hall site have now been aborted and other sites, such as the grounds of St Ita's Hospital, are currently under consideration. **The CPT recommends that the Irish authorities decide on the future location for the Central Mental Hospital without further delay.**

112. The number of beds at the Central Mental Hospital has increased from 82 to 99 as a result of the reopening of the refurbished Unit 1, the addition of two beds in the female unit and the opening of a six bed hostel in Dublin city. All except two patients[55], were involuntarily detained under the provisions of either the 2006 Criminal Law (Insanity) Act or the 2001 Mental Health Act[56].

In the course of its visit to the CMH, the CPT's delegation focussed on the admission units A (female) and B (male), and Unit 4 for patients with challenging behaviour.

113. The ongoing process of mental health care reform has made some progress since the CPT's last visit in 2006; in particular, the 2001 Mental Health Act, including the Mental Health Act 2001 (Approved Centres) Regulations 2006, has been fully implemented since November 2006.

The 2001 Mental Health Act provides the legal framework for involuntary placement in a psychiatric hospital. The Act covers matters related to treatment and placement, including review by a Mental Health Tribunal. It also establishes the Mental Health Commission, responsible for standard setting in all establishments under the remit of the Mental Health Act, and strengthens the powers of the Inspector of Mental Health Services.

By issuing rules and good practices on matters such as the use of restraints and on the application of Electro-Convulsive Therapy (ECT), the Mental Health Commission plays an important role in Irish psychiatry. The Inspector of Mental Health Services for his part carries out inspections on an annual basis to all establishments where persons may be involuntarily placed under the Mental Health Act.

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53 Press release Ministry of Health and Children, 1 March 2010, "Minister Moloney outlines Achievements in Mental Health and Priorities for 2010".

54 See for instance "A Vision for Change"; Recommendation 15.1.4 (see also paragraph 7 below).

55 One patient had been made a "Ward of Court" and another patient had formally been discharged, but was still living in hospital accommodation.

56 This number includes four patients who had been voluntarily transferred to the CMH from a prison under Section 15 (1) of the 2001 Mental Health Act.

114. It is, however, unfortunate that a considerable number of recommendations from the 2006 policy document "A Vision for Change", which serves as a "roadmap" for future developments, have not yet been implemented; many of these recommendations could have an immediate positive impact on the quality and cost-effectiveness of psychiatric care in Ireland. For instance, despite the generally acknowledged necessity for more beds for patients that require an elevated security level, the four Intensive Care Rehabilitation Units (ICRU's) have still not been opened[57]. The opening of such ICRU's would contribute to reducing the waiting time for admission to the CMH.

The CPT would like to be informed about the schedule for implementation of the "A Vision for Change" recommendations. In particular, the Committee wishes to be informed about the situation as regards the Intensive Care Rehabilitation Units (ICRU's), including the time frame for their intended opening. Also, the Committee would like to receive information about the category of patients that may be placed in these Units as well as their legal status.

115. Notwithstanding the recent increase in bed capacity by approximately 20%, there is still a considerable waiting list for admission to the CMH, which includes both prisoners[58] and patients already accommodated in a psychiatric hospital[59]. As the CMH continues to experience major difficulties in transferring patients (back) to general psychiatric institutions[60], this lack of bed space is unlikely to be resolved in the near future and, on the contrary, will be further accentuated if the CMH continues to accommodate a growing number of persons with learning disability as their sole diagnosis[61].

The Irish authorities have recognised the need for more beds and the CPT's delegation was told that there are plans for the expansion of capacity of the CMH to 120 beds. While taking note of such plans, the Committee wishes to express some words of caution. The CMH is a high security, forensic psychiatric service with a particular focus on the prevention of re-offending of persons suffering from a mental disorder by means of specialised psychiatric treatment. However, the CPT's delegation observed a tendency to send to the CMH patients with challenging behaviour who, for reasons of cost-effectiveness as well as avoiding unnecessary stigmatisation, may have been better placed in a regular, secure psychiatric setting. For example, during the CPT's visit to the establishment, a patient had to be admitted after a judge decided on a verdict of "not guilty by reason of insanity" for a person accused of a petty offence; the person concerned had a history of disruptive behaviour and alcohol and drug abuse, but he had not been the subject of a specialised medical assessment certifying a psychiatric disorder.

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57 See "A Vision for Change"; Recommendation 11.14

58 See paragraph 87 above.

59 According to the CPT's interlocutors, patients already accommodated in a psychiatric hospital often wait two to three years before a bed in the CMH becomes available.

60 See CPT/Inf (2007) 40, paragraph 119. According to the CMH interlocutors, the hospital accommodates mainly chronic patients for whom there is no bed elsewhere.

61 The CPT's delegation was told that at the time of the visit six such patients were accommodated in the Central Mental Hospital. It is noteworthy that the management of St Joseph's Disability Services told the CPT's delegation that they had never been approached by the CMH to accommodate patients with a learning disability.

116. The CPT considers that the Irish authorities should reflect on the role and place of the CMH within Irish psychiatry. More specifically, thought should be given to the following issues:

- the appropriateness of accommodating patients with intellectual disabilities as primary diagnosis in a forensic psychiatric hospital;
- the appropriateness of referring persons who had not been the subject of an assessment certifying a psychiatric disorder to the CMH for treatment under the "not guilty for reason of insanity" verdict;
- the category of patients that are in need of being hospitalised in a high security setting, such as the CMH.

The CPT would like to receive the comments of the Irish authorities on the above issues.

117. The CPT's mandate relates to persons deprived of their liberty, and not to voluntary patients. However, in the course of the visit, the CPT's delegation observed that many so-called "voluntary" patients were in reality deprived of their liberty; they were accommodated in closed units from which they were not allowed to leave and, in at least certain cases, were returned to the hospital if they left without permission. Further, if staff considered it necessary, these patients could also be subjected to seclusion and could be administered medication for prolonged periods against their wish**.**

In this respect, the CPT observes that at present the Irish legislation does not offer safeguards to patients voluntarily remaining in a psychiatric hospital. Secondly, the CPT notes that Section 16 of the 2001 Mental Health Act provides patients, in procedure to be involuntarily hospitalised, with an opportunity to accept to remain in the hospital as a voluntary patient. However, according to the delegation's various interlocutors if this patient subsequently does not comply with the prescribed treatment, despite continuing to fulfil the admission criteria of Section 8 of the Act, the status of voluntary patient cannot easily be changed to involuntarily; as the delegation was told, in accordance with Section 23 of the Mental Health Act, voluntary patients who have not expressly stated their wish to leave the hospital, may not have their status changed to involuntary whether they comply with the prescribed treatment or not. **The CPT would like to receive the comments from the Irish authorities on the above.**

2. Ill-treatment

118. The CPT's delegation did not receive allegations of ill-treatment of patients by staff. On the contrary, in the institutions visited the delegation observed dedicated staff committed to provide care and treatment to patients, often under difficult conditions.

However, at the hospitals of St Brendan's and St Ita's, there was a significant level of violence, both between patients and directed towards staff. For instance, at St Ita's in 2009, there were 183 assaults registered (both on staff and on other patients). At St Brendan's Hospital, in the second half of 2009, there were reports of 25 assaults on staff.

At times, the violence was of a particularly severe nature. For instance, at St Brendan's Hospital, the death by strangulation of a staff member by a female patient with a billiard cue was only avoided by a last minute intervention by the security officer. An incident of a similar nature had taken place on the female unit at St Ita's Hospital when an elderly patient attempted to choke another patient during her sleep.

119. When the CPT's delegation discussed the significant rate of violent incidents with the management in both hospitals, it was repeatedly said that many of the more serious incidents were caused by a few so-called "difficult patients".

The CPT fully accepts that the behaviour of a limited number of patients may have a major negative influence on the overall atmosphere in a given unit. However, in the CPT's view, the security of both staff and patients on a particular unit is also linked with other factors, such as: material conditions, including the availability of single bedrooms; training of staff; staff-patient ratio; the availability of activities; and the mix of patients on a particular unit.

In this respect, as regards both hospitals, the poor material conditions in many of the units visited, the large dormitories, and the lack of sufficient, experienced staff, contributes to a climate where a patient's behaviour is difficult to monitor and to manage by staff. Moreover, the mix of patients (long term patients with new arrivals/ old patients with very young patients) on certain units appears to contribute to a volatile atmosphere. In such an environment, the staff's role is downgraded from providing care and treatment to maintaining order; for instance, the female admission unit at St Ita's Hospital accommodated 22 patients, between the ages of 19 and 80 years and suffering from a wide variety of mental disorders, in a single dormitory. A similar situation was found in that hospital's male admission unit.

Further, the CPT considers that in both hospitals a thorough analysis of the reported incidents may lead to the identification of certain straightforward measures to prevent violent incidents. For instance, on the female acute unit at St Ita's Hospital a considerable number of incidents between patients were preceded by arguments about property. Nevertheless, none of the patient's personal cupboards on this unit could be locked.

The CPT recommends that the Irish authorities take the necessary steps to reduce violence amongst patients and by patients against staff in the St Ita's and St Brendan's Hospitals, in the light of the above remarks.

3. Living conditions

120. In both St Ita's and St Brendan's Hospital, the living conditions in the units visited by the CPT's delegation left much to be desired.

For instance, the large-capacity dormitories in St Ita's Hospital are scarcely compatible with the norms of modern psychiatry; both acute units had dormitories of 165 m² with 24 beds. Further, the toilet and bath facilities were malodorous and of a design which offered little privacy. Large dormitories were also a feature of St Brendan's Hospital, and some of them were dilapidated.

At both hospitals, beds had been separated with curtains (or a low wall, as was the case of units 8A and 8B at St Brendan's Hospital). However, despite such efforts patients had very little privacy and were at risk of being exposed to aggression from other patients[62]. For this reason, at St Brendan's "O" unit, a particularly aggressive patient slept in the seclusion room at night.

In sum, the CPT's own observations confirm the comments made by the Inspectorate of Mental Health Care Services in its 2009 reports, which described the material conditions in St Ita's Hospital as "poor" and those in St Brendan's Hospital as "unsuitable"[63]. Notwithstanding the planned closure of both hospitals, **the CPT recommends that every effort be made to offer all patients held in these two hospitals appropriate conditions.**

121. In both St Ita's and St Brendan's Hospitals, all patients were allowed outdoor exercise for at least one hour a day, and in some units, such as the "O" and "8A" units at St Brendan's Hospital, there was direct access to a yard throughout the day.

However, as St Brendan's "8B" unit is located on the first floor without an elevator, patients with limited mobility were unable to go outside without first being helped down the stairs by staff. At the time of the visit, three patients had not been able to leave the unit for several weeks, apparently due to staff shortages; this is unacceptable.

The CPT's delegation raised this issue with the management of St Brendan's Hospital, which undertook to take immediate measures to remedy this situation.

The CPT would like to receive confirmation that all patients at St Brendan's Hospital have effective access to outdoor exercise for at least one hour every day.

122. As regards the Central Mental Hospital, the CPT welcomes the material improvements the Irish authorities have continued to make. In particular, it was pleased to note that "slopping out" had completely ended with the refurbishment of the isolation cell in the female unit.

That said, the overall situation for female patients remains unsatisfactory. Due to their limited numbers, female patients in different phases of their treatment are accommodated in a single unit with a uniform regime, in disregard of different needs as regards security. **This situation requires immediate attention from the Irish authorities.**

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62 See also paragraphs 118 and 119 above.

63 Report of the Inspector of Mental Health Services 2009 on St Brendan's Hospital; page 2.

4. Treatment and the use of means of restraint and seclusion

a. treatment

123. The examination of medical files showed that patients in the three institutions visited had an individual treatment plan. Medication appeared to be given in appropriate doses and efforts were made to involve patients in various occupational activities. St Brendan's Hospital, St Ita's Hospital and the CMH all possessed well-equipped departments for occupational therapy with, in principle, designated staff. However, at St Ita's Hospital in particular the use of occupational therapy was severely disrupted by a shortage of staff, which meant that occupational therapy for the two units of the acute unit was limited to some recreation activities, such as knitting and quizzes. **The CPT recommends that the Irish authorities take urgent steps to ensure that in the hospitals visited, sufficient staff is available to offer meaningful occupational activities to patients.**

124. The CPT wishes to stress that psychiatric patients should be placed in a position to give their free and informed consent to treatment. This principle is covered by Section 57 of the 2001 Mental Health Act, which states that a patient's consent to treatment shall be obtained, "unless the treatment is necessary to safeguard the life of the patient, to restore his or her health, to alleviate his or her condition, or to relieve his or her suffering, and by reason of his or her mental disorder, the patient concerned is incapable of giving such consent".

However, the CPT's delegation received complaints that Section 57 allows too much discretion to consulting psychiatrists as the legislation in force does not provide for a clear test of "incapability" and, secondly, that courts lack the necessary expertise to assess whether persons administered medication without prior consent were indeed incapable of giving that consent. **The CPT would like to receive the comments of the Irish authorities on these matters**.

125. The Mental Health Act provides that Section 57 does not apply to certain categories of treatment; in particular electro-convulsive therapy (Section 59) and the continued administration of medicine after three months (Section 60)[64]. In both cases, the Act indicates that when a patient is "unable or unwilling" to consent to the treatment, it may nevertheless be administered if both the treating consultant psychiatrist and a second consultant psychiatrist approve.

The above formulation appears to imply that a capable patient may be forcibly administered ECT, while the same patient may not be forced to take medication (as a result of Section 57). Similarly, it implies that a patient, who could have refused medication as of the outset, can subsequently be obliged to take that medication if he has voluntarily taken it for three months.

The CPT would like to receive the comments of the Irish authorities on these matters.

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[64] The 2001 Mental Health Act also contains a special procedure for psycho-surgery (Section 58); however, the CPT's delegation was told that psycho-surgery is not practised in Ireland.

126. The Mental Health Act does not specify that in case of the application of Sections 59 and 60, the second consultant psychiatrist to approve the administration of such treatment to an "unable or unwilling" patient, should be independent. However, the CPT's delegation noted the practice in St Brendan's Hospital and in the Central Mental Hospital to engage an outside consultant psychiatrist in such cases. **The CPT recommends that the Irish authorities amend Sections 59 and 60 of the 2001 Mental Health Act in the above sense.**

b. means of restraint and seclusion

127. The use of means of restraint is regulated by Section 69 of the Mental Health Act, which provides that both seclusion and the application of mechanical means of bodily restraint must follow the rules laid down by the Mental Health Commission.

The Mental Health Commission's Rules Governing the Use of Seclusion & Mechanical Means of Restraint firmly establish, inter alia, that use of seclusion and mechanical means of restraint are to be applied as measures of last resort. Further, they are to be surrounded by various legal and medical safeguards, to follow a clear procedure and to be duly recorded, including notification to the Mental Health Commission.

128. In general, the Mental Health Commission's Rules Governing the Use of Seclusion & Mechanical Means of Restraint correspond closely to the CPT's standards as set out in its 16th General Report. However the Rules do not address certain important matters: notably, that patients subjected to mechanical restraints should at all times be placed under direct supervision of nursing staff; and that secluded patients should be given the possibility to take at least one hour of outdoor exercise on a daily basis, if their medical condition so permits. **The CPT recommends that the Rules Governing the Use of Seclusion & Mechanical Means of Restraint be amended accordingly.**

129. In practice, it appeared that no resort to the use of mechanical means of restraint was made in any of the hospitals visited. However, resort to the measure of seclusion was frequent, although in the cases reviewed by the delegation it was normally for a period of short duration. For instance, at St Brendan's Hospital, between October and December 2009, 142 seclusion orders were made in respect of 17 persons; in 87 cases, the seclusion was ended before expiry of the eight-hour seclusion order, while the remaining 55 orders concerned nine lengthier periods of seclusion, the longest lasting 112 hours.

In terms of supervision during the period of seclusion, for the first hour the Rules provide continuous direct supervision by a nurse who stands outside the seclusion room, after which the direct supervision is reduced to checking on the patient every 15 minutes.

Apart from those at the CMH, all seclusion rooms were equipped with CCTV cameras. Nevertheless, the absence of call bells in several seclusion rooms visited, such as in the "O" unit at St Brendan's Hospital, could create difficulties for patients to contact nursing staff if necessary. **The CPT recommends that Irish authorities ensure that call bells be installed in all seclusion rooms**

130. All measures of seclusion were properly recorded in the hospitals visited; however, in the CMH a central register as regards the use of seclusion was lacking. The CPT considers that central oversight of seclusion (and use of other means of restraint) could be a useful tool in assisting the CMH management in working towards their stated goal of lowering the number of incidents of seclusion in the hospital. **The CPT recommends that the Central Mental Hospital introduce a central register of the use of seclusion.**

131. The CPT's delegation interviewed a few patients at the CMH who stated that they had not been offered a debriefing after a measure of seclusion.

The CPT considers that it is essential for a patient to be debriefed. For the doctor, this will provide an opportunity to explain the rationale behind the measure, and thus reduce the psychological trauma of the experience as well as restore the doctor-patient relationship. For the patient, such a debriefing is an occasion to explain his/her emotions prior to the restraint, which may improve both the patient's own and the staff's understanding of his/her behaviour. The patient and staff together can try to find alternative means for the patient to maintain control over himself/herself, thereby possibly preventing future measures of seclusion. The absence of a debriefing would also be contrary to the Rule 7.4 of the Rules Governing the Use of Seclusion & Mechanical Means of Restraint.

The CPT recommends that the Irish authorities ensure that all patients are offered a debriefing after having been the subject of seclusion.

132. More generally, certain of the delegation's interlocutors stated that the Mental Health Act has had a particularly positive effect in reducing resort to means of restraint and, in particular, seclusion. The strict regulation of seclusion and the supervision of its use by the Mental Health Commission has encouraged hospital staff to seek alternatives in the form of anticipatory behavioural interventions.

That said, in all three of the hospitals visited, the CPT's delegation met with patients who had been administered medication for behaviour control rather than for decreasing symptoms of their disease, notably after an incident which involved physical violence. At present, such use of "chemical restraint" does not qualify as a means of restraint under Irish law and is therefore not subjected to oversight. **The CPT recommends that use of "chemical restraint" be governed by clear rules and subjected to the same oversight as regards other means of restraint.**

5. Staffing

133. In the course of the 2010 visit, the CPT's delegation observed that there was considerable understaffing, particularly of nurses, in the institutions visited. For example, at St Brendan's Hospital, there were 29 vacancies for nurses[65], at the CMH 23 vacancies and at St Ita's 20 vacancies, where another 20 nurses are due to retire in the course of 2010. The general moratorium in place on recruitment of public employees, including nurses, meant that vacant posts could only be filled with nurses on short term contracts, students and staff working overtime.

[65] Sixteen vacancies had been filled by persons on 40 days contracts.

Other professions were also affected by staff shortages: in the CMH three of the seven psychologist posts were vacant and St Ita's lacked a psychologist and a social worker. Such vacancies were not permitted to be filled.

134. The effects of such staff shortages were noticeable in the three hospitals visited; in this context, reference has already been made to the limited amount of occupational activities at St Ita's Hospital[66]. Further, the engagement of an external security guard at the female "O" unit in St Brendan's Hospital to control violent patients is another example of the detrimental side effects of a lack of nurses.

135. The CPT understands that the current economic difficulties require the Irish authorities to cut public expenditure. However, even in times of financial austerity, the authorities should always ensure that there are, at all times, sufficient staff available for psychiatric hospitals to remain safe and secure for patients and staff alike as well as to provide adequate treatment and care for patients; such essential tasks should not be sacrificed. **The CPT recommends that the Irish authorities endeavour to fill vacancies at St Ita's, St Brendan's and the Central Mental Hospital.**

6. Placement and discharge

136. The 2001 Mental Health Act contains distinct procedures for the involuntary placement of persons who are not receiving in-patient care and for persons already hospitalised on a voluntarily basis.

As regards *persons not already receiving in-patient care*, applications for involuntary admission must be recommended by the patient's medical practitioner following which the person will be transferred to a psychiatric hospital.

In case a *person has already been voluntarily admitted* to a psychiatric hospital and explicitly expresses his or her wish to leave, (s)he may be detained for a maximum of 24 hours under Section 23 (1) of the 2001 Mental Health Act by a nurse, a consultant psychiatrist or a registered medical practitioner in case this person suffers from a mental disorder in the sense of the 2001 Mental Health Act.

In both cases, the person concerned must be examined by a consultant psychiatrist within 24 hours.

137. If the consultant psychiatrist is satisfied that the person suffers from a mental disorder, an admission order will be made, which remains in force for a period of 21 days. The period of the admission order may be extended for a period not exceeding three months, in the case of a first renewal order, six months for a second renewal order, and 12 months for any subsequent renewal order. Further, patients are entitled to legal representation.

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66 See paragraph 123 above.

Each decision by a consultant psychiatrist to detain a patient on an involuntary basis or to extend the duration of any such detention will be automatically reviewed by a Mental Health Tribunal, which comprises a lawyer, a consultant psychiatrist and a lay person. The review must be completed within 21 days of the admission/renewal order being signed. Ultimately, in case a detention order is affirmed by a Mental Health Tribunal, a patient may appeal to the Circuit Court.

For both admission and renewal orders, the Mental Health Act requires that an independent psychiatrist examines the patient, interviews the consultant psychiatrist responsible for the care and treatment of the patient, and reviews the records relating to the patient in order to determine, in the interest of the patient, whether the patient is suffering from a mental disorder[67]. The conclusions of the independent psychiatrist are sent to the competent Mental Health Tribunal.

138. The CPT welcomes the legal and medical safeguards surrounding involuntary hospitalisation. However, the Committee observed that in a considerable number of cases an admission or renewal order was not reviewed by a Mental Health Tribunal as, before the Tribunal sitting could take place, the patient had either been discharged or had accepted to remain as a voluntary patient. The result is that a patient does not have the opportunity to have his or her involuntary placement assessed by the Tribunal. In 2009, this happened in approximately 35% of cases. **The CPT would like to receive the comments of the Irish authorities on this question.**

139. The procedures as regards involuntary hospitalisation under the provisions of the 2006 Criminal Law (Insanity) Act were already described in the report on the CPT's 2006 visit to Ireland[68] and do not call for further comments at this stage.

As regards review of detention under the above Act, the CPT was pleased to note that the Mental Health (Criminal Law) Review Board began operating in December 2006[69]. However, the delegation was informed that in the three years since its establishment, only one patient hospitalised after a verdict of "not guilty by reason of insanity" has been discharged from the Central Mental Hospital on the Board's initiative.

The reason for such low number of discharges by the Review Board apparently resides in the fact that under the 2006 Criminal Law (Insanity) Act no power exists to recall a patient if the conditions of discharge are breached. The CPT was informed that on 28 January 2010 the Irish authorities published the 2010 Criminal Law (Insanity) Bill, which will amend the 2006 Act in order to provide for a patient to be returned to the CMH if he or she is in material breach of the conditional discharge order.

The CPT would like to be informed when the 2010 Criminal Law (Insanity) Bill enters into force as well as, in due time, its impact on the discharges initiated by the Mental Health (Criminal Law) Review Board.

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67 See Section 17 of the 2001 Mental Health Act.

68 See CPT/Inf (2007) 40; para 104.

69 See CPT/Inf (2007) 40, paragraph 105.

7. Patients involuntarily detained under the 2006 Criminal Law (Insanity) Act

140. As already indicated in the report on the 2006 visit to Ireland, the 2006 Criminal Law (Insanity) Act does not contain provisions concerning treatment, including consent to treatment, and the use of means of restraint and seclusion. The 2001 Mental Health Act apparently does not apply to these patients even when they are accommodated in an "approved centre" under the provisions of that Act.

141. At present, the Central Mental Hospital voluntarily applies the Mental Health Act provisions, as regards consent to treatment and use of means of restraint and seclusion, to patients placed under the 2006 Criminal Law (Insanity) Act. **The CPT recommends that the Irish authorities introduce legally binding safeguards, including as regards consent to treatment and use of means of restraint and seclusion, for patients detained under the 2006 Criminal Law (Insanity) Act.**

8. Mentally incapacitated patients

142. According to information received from the Irish authorities in February 2010, 147 mentally incapacitated persons ("wards of Court") were detained in Irish psychiatric hospitals[70].

143. At the time of the visit, mental incapacitation followed the procedure set out in the amended 1871 Lunacy Regulation (Ireland) Act and further defined by Order 67 of the Rules of the Superior Courts 1986.

According to the amended 1871 Lunacy Regulation Act "any person of unsound mind and incapable of managing himself or his affairs" may be legally incapacitated by a decision of the President of the High Court, following a petition requesting an inquiry as to the person's soundness or unsoundness of mind. Such petition must be supported by the affidavits of two registered medical practitioners[71]. Subsequently, under Article 11 of the 1871 Lunacy Regulation (Ireland) Act (as amended) the president of the High Court may request the person to be seen by a 'medical visitor'[72], who assesses "the state and capacity of mind" of the person concerned.

144. Whenever the President of the High Court hands down an order for a person to be made a ward of Court, the individual must be informed in person and is granted seven days to object against such an order[73]. In that case, a hearing before the President of the High Court and, if the President decides, a jury will be installed.

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70 This number includes the seven ward of Court in St Ita's, four in St Brendan's Hospital and one in the CMH.

71 Article 15, 1871 Lunacy Regulation (Ireland) Act and Chapter II, 4 (3) Order 67, The Rules of the Superior Courts, 1986

72 Article 11 of the 1871 Lunacy Regulation (Ireland) Act

73 Article 13 of the 1871 Lunacy Regulation (Ireland) Act

145. A ward of Court order is of indefinite duration and no automatic review is foreseen by law. The legislation provides that members of the Office of Wards of Court, responsible to the President of the High Court, visit each ward of Court on a regular basis. However, it appears that in practice the status of an individual who has been made a ward of Court is unlikely to be re-examined except in those cases where a specific complaint has been received by the Office of Wards of Court[74]. Further, a ward of Court may petition the President of the High Court for a review. However, even if the President of the High Court orders a review of the decision on legal incapacitation of a particular person, no legal time limits apply[75].

146. The President of the High Court also may decide to detain a ward of Court in a mental hospital[76] but such detention is, at present, not subject to any regulation. In other words, none of the legal and medical safeguards included for instance in the 2001 Mental Health Act apply to wards of Court. Moreover, the CPT's delegation was told that the 2001 Mental Health Act may not even be applied by analogy to wards of Court, as such an application would interfere with the exclusive prerogative of the President of the High Court.

An examination of the files of wards of Court in the institutions visited by the CPT's delegation revealed that, in practice, wards of Court are either detained indefinitely ("until further order") or for a defined period of time. In the latter cases, it sufficed for the treating consultant psychiatrist to declare that an extension of the detention order was in the ward's best interest for the President of the High Court to issue an order extending the involuntary hospitalisation.

147. Without a doubt, the current legislation lacks the necessary procedural safeguards regulating the designation of a ward of court. The CPT has noted that the Irish Law Reform Committee in its 2005 assessment of the legislation in force[77] noted that the ward of court legislation could very well violate Articles 5 (4) and 6 (1) of the European Convention on Human Rights.

However, the CPT has an additional concern; its delegation noted that in more than one file it examined, the President of the High Court mandated a consultant psychiatrist to treat the patient "in his best interest". As the CPT was told, in principle medical staff should consult with the Office of Wards of Court. However, from interviews with staff members of the hospitals visited as well as from consulted documentation, it transpired that the Office of Wards of Court is only consulted when it concerns a medical intervention which takes places outside the hospital.

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74 Page 90, Consultation paper on vulnerable adults and the law: capacity (LRC CP 37-2005) The Law Reform Commission

75 In the case of a file examined by the CPT's delegation during its visit to the Central Mental Hospital, the CPT's delegation noted that a request by the President of the High Court to the CMH to provide a medical opinion had been responded to after eight months and various reminders to the consultant psychiatrist.

76 Article 100 of the 1871 Lunacy Regulation (Ireland) Act

77 Consultation paper on vulnerable adults and the law, The Law Reform Commission (LRC CP 37-2005).

148. The Irish authorities are fully aware of the urgent need to review the mental capacity legislation for adults and have referred to the present legislation as "outdated" when announcing a new Mental Capacity Bill in 2008[78] .

However, to date the Mental Capacity Bill has not yet been published; therefore the 1871 Lunacy Regulation (Ireland) Act remains the primary legislation in this area. The CPT's delegation was assured that under the new legislation mentally incapable persons will benefit from safeguards similar to those contained in the 2001 Mental Health Act. In this context, the CPT would also like to draw the attention of the Irish authorities to Recommendation R (99) 4 of the Committee of Ministers of the Council of Europe to member States on Principles Concerning the Legal Protection of Incapable Adults, which contains 27 governing principles concerning mental incapacity.

The CPT urges the Irish authorities to adopt updated mental capacity legislation without further delay. Further, the Committee recommends that the new legislation takes into account the 27 governing principles listed in Recommendation R (99) 4.

149. According to some of the CPT's interlocutors, it is intended that the new mental capacity legislation will apply only to new cases. If this is correct, it would mean that the current wards of Court will remain under the provisions of the 1871 Lunacy Regulation (Ireland) Act and will therefore be deprived of any safeguards set out in the new legislation. Such a state of affairs would not be acceptable. **The CPT trusts that that the Irish authorities will extend the provisions of the new legislation to all existing wards of court.**

D. Institutions for persons with intellectual disabilities

1. Preliminary remarks

150. The CPT's delegation carried out a targeted follow up visit to St Joseph's Intellectual Disability Services, which the Committee had previously visited in 2002. In the intervening period, the number of residents had decreased significantly, from 236 to 160 at the time of the 2010 visit; according to the CPT's interlocutors, most of the residents who left the institution have been placed in facilities in the community.

151. St Joseph's Disability Services is one of two centres in Ireland, which may accommodate residents with intellectual disabilities who are involuntary placed under the provisions of the 2001 Mental Health Act. The institution receives annual visits from the Inspectorate for Mental Health Services and the Mental Health Commission Rules as regards, inter alia, use of means of restraints and seclusion are applicable.

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78 "Minister Ahern announces proposals for a Mental Capacity Bill" Press release of the Department of Justice, Equality and Law Reform, 15 September 2008.

That said, at the time of the visit, St Joseph's Disability Services did not accommodate any resident detained under the 2001 Mental Health Act and, with the exception of 13 "wards of Court", all residents had been voluntarily admitted. However, many of these so-called voluntary residents were de facto detained: they lived in a closed unit and were not allowed to leave the institution without prior permission.

152. In the report on the 2002 visit, the CPT recommended that the legal situation of persons placed in intellectual disability facilities be reviewed as a matter of urgency and that action be taken with a view to providing a comprehensive legal framework for such institutions, offering an adequate range of safeguards to persons placed in them.

Regrettably, no such legal framework is yet in place for "voluntary" residents. The delegation was informed that the National Quality Standards on Residential Services for People with Disabilities, drawn up in 2008, have apparently not yet to been approved by the responsible Minister.

The CPT recommends the Irish authorities take the necessary steps to ensure that all residents in institutions for persons with learning disabilities benefit from an adequate range of safeguards.

153. St Joseph's Disability Services consists of 13 different units. In the course of the visit, the CPT's delegation focussed on the material conditions in the closed Dunhaven, St. Fiacre's and Dún na Rí units.

2. Ill-treatment

154. As regards the units visited, no allegations of ill-treatment of residents by staff were received by the CPT's delegation. On the contrary, the delegation was often impressed by the efforts made by staff to provide activities and care to these often severely disabled residents.

However, the management of St Joseph's informed the delegation that a member of the clergy had reported that he had repeatedly indecently assaulted a resident. In a letter of 17 May 2010 to the CPT's Secretariat, the Irish authorities stated that a Garda investigation had taken place, the results of which had recently been communicated to the prosecutor. **The CPT would like to be informed, in due course, of the outcome of any judicial proceedings**

155. The delegation did note that there was a significant number of incidents of inter-resident physical assault and of residents on staff. For instance, between January and July 2009 a total of 153 incidents of physical assault were reported. The management of St Joseph's expected that the number of assaults would decrease when the units with larger dormitories, such as Dunhaven, would be relocated to the new Knockamann facilities[79].

[79] See paragraph 156 below.

Better material conditions, such as individual accommodation, play an important role as regards the management of inter-patient violence. However, additional measures could also be envisaged, such as therapeutic interventions and staff training. **The CPT recommends that the Irish authorities take adequate measures to lower the incidences of assault at St Joseph's Disability Services, through inter alia staff training and appropriate therapeutic interventions.**

3. Living conditions

156. As regards the living conditions in St Joseph's, the CPT stated in its report on the 2002 visit that despite the good efforts made "it will be well-nigh impossible to offer satisfactory conditions in facilities which have not been purpose-built or adequately renovated to modern standards. Further, large-capacity dormitories are far from ideal for mentally disabled (..) persons".

In their response to that report, the Irish authorities refer to the construction of a new facility for 60 residents which would replace four dormitory-style units. This project ("Knockamann") was completed in July 2009 and the facilities were ready to be used at the time of the delegation's visit in February 2010. However, due to staff shortages, the transfer of the 60 residents to the new bungalows had not yet taken place and they remain in units which offer very poor living conditions. For instance, the Dunhaven unit was accommodating 12 challenging residents in a gloomy and dilapidated unit, with the dormitory filled with provisional constructions designed to provide some privacy and security for residents. However, this created a number of blind spots, and as a result, the Dunhaven unit was difficult for staff to oversee.

157. The CPT understands that the opening of the Knockamann facility will not lead to the immediate closure of the Dún na Rí and the St Faicre units, which are less dilapidated than other units at St Joseph's. However, the dormitory style of both units as well as the austere atmosphere of, in particular, Dún na Rí, render it inadvisable to continue using both units for their present purposes.

The CPT was informed that plans have been developed to close also these two units, together with the other remaining units of St Joseph's. However, for the time being no funding is available for the construction of new accommodation.

The CPT recommends that the Irish authorities find the means to open the Knockamann facility as soon as possible. Further, the Committee would like to be informed about the time schedule to close the Dún na Rí and St Faicre units.

APPENDIX I

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

Law enforcement agencies

Preliminary remarks

requests for information

- confirmation that all persons detained by the police are physically brought before the judge tasked with examining a request for the extension of their detention (paragraph 10);

- the comments of the Irish authorities on concerns expressed as regards the proposal to amend section 94 of the Garda Síochána Act 2005 outlined in paragraph 13, as well as on criticism concerning the length of time taken to investigate complaints, the independence of Garda investigations into complaints of a less serious nature and the possibility of information concerning complaints which is entered into the PULSE (Police Using Leading Systems Effectively) database being accessible to all Gardai (paragraph 13).

Ill-treatment

recommendations

- senior police officers to remind their subordinates at regular intervals that the ill-treatment of detained persons is not acceptable and will be the subject of severe sanctions (paragraph 16).

Safeguards against ill-treatment of detained persons

- comments

- the authorities are encouraged to pursue their stated intention to equip all police stations with CCTV cameras (paragraph 18).

requests for information

- the current thinking of the Irish authorities concerning the possibility for detained persons to have a lawyer present during any interview conducted by the police, having regard in particular to the most recent case law of the European Court of Human Rights concerning access to a lawyer (paragraph 17);

- whether there are security features surrounding all video-recordings, such as running time and date stamp, to counter any manipulations of recordings (paragraph 18).

Conditions of detention

recommendations

- the deficiencies observed in the cells at Bridewell and Mayfield Garda Stations in Cork and at Coolock Garda Station in Dublin to be remedied (paragraph 19);

- the necessary measures to be taken to ensure that persons detained by the Garda for more than 24 hours are offered the opportunity of outdoor exercise every day (paragraph 20).

Prison establishments

Preliminary remarks

recommendations

- the Irish authorities to continue to pursue vigorously multi-faceted policies designed to put an end to overcrowding in prisons, having regard inter alia to the principles set out in the Recommendations referred to in paragraph 25 (paragraph 25);

- the Irish authorities to take the necessary steps to ensure that juveniles deprived of their liberty are held in appropriate detention centres for their age group (paragraph 26).

comments

- the CPT strongly encouraged the Irish authorities to invest the necessary resources into the existing prison estate to ensure that all prisoners are kept in decent conditions of detention, pending the construction of Thornton Hall prison complex (paragraph 22).

requests for information

- details on the design and future functioning of the Thornton Hall complex as well as information on whether planning for staffing levels and activity programmes is being carried out under the assumption of the design capacity or the much greater figure of operational capacity (i.e. more than 2,000 inmates) (paragraph 23);

- comments of the Irish authorities on devising programmes for persons sentenced to less than six months to serve their sentence in the community (paragraph 24).

Ill-treatment and accountability

recommendations

- the Irish authorities to continue to deliver at regular intervals the message that all forms of ill-treatment of prisoners, including verbal abuse, are not acceptable and will be the subject of severe sanctions. Prison officers to be made fully aware that the force used to control violent and/or recalcitrant prisoners should be no more than is strictly necessary and that once a prisoner has been brought under control there can be no justification for him being struck (paragraph 31);

- the Irish authorities to intensify efforts to tackle the phenomenon of inter-prisoner violence in Mountjoy Prison, in the light inter alia of the remarks outlined in paragraph 33 (paragraph 33);

- when allegations of ill-treatment by prison staff are brought to the attention of the prison management, the staff members concerned to be transferred to duties not requiring day-to-day contact with prisoners, pending the results of the investigation (paragraph 35);

- a timeframe for the internal investigations to be incorporated into the new policy on prisoner complaints/allegations and the effectiveness of the new policy to be assessed after an appropriate interval (paragraph 36).

requests for information

- the outcome of the investigations carried out into 67 allegations of ill-treatment of prisoners by staff at Mountjoy Prison made between 1 January 2008 and 14 May 2009 (paragraph 34);

- information on the ongoing investigations concerning each of the cases set out in paragraph 35 and, in due course, on the final outcome (paragraph 35);

- information on the adoption of any new procedures to ensure effective and impartial investigation of serious complaints (paragraph 37).

Staffing issues

recommendations

- the Irish authorities to take necessary steps to ensure that a rigorous selection and training programme is in place for all staff allocated to St. Patrick's Institution (paragraph 40).

requests for information

- comments of the Irish authorities on the matters referred to in paragraph 39 (paragraph 39).

Conditions of detention

recommendations

- the 7.5 m² cells at Cork Prison no longer to be used to accommodate more than one prisoner and efforts to be made to avoid as far as possible placing two prisoners in the 9 m² cells; none of the cells should hold three inmates (paragraph 41);

- Cork Prison to be kept in a satisfactory state of repair (including adequate lighting in the cell i.e. sufficient to read by outside of sleeping hours) and prisoners to be provided with the necessary cleaning products to maintain their cells in a suitably hygienic state (paragraph 41);

- efforts to be made in the female unit of Limerick Prison to avoid as far as possible placing two prisoners in a "single-occupancy cell"; none of the cells should hold three inmates (paragraph 42);

- in the female unit of Limerick Prison, the other deficiencies highlighted in paragraph 42 to be remedied (paragraph 42);

- at Mountjoy Prison, efforts to be made to avoid as far as possible placing two prisoners in a cell (8m²) designed for single occupancy (paragraph 45);

- greater efforts to be made to keep Mountjoy Prison in an appropriate state of repair, including as regards hygiene in the landings and toilet areas (paragraph 45);

- the necessary measures to be taken at Portlaoise Prison to keep E Block in a suitable state of repair (paragraph 46);

- the Irish authorities to eradicate "slopping out" from the prison system. Until such time as all cells possess in-cell sanitation, concerted action to be taken to minimise the degrading effects of slopping out; the authorities to ensure that prisoners who need to use a toilet facility are released from their cells without undue delay at all times (including at night), and the implementation of this measure to be monitored by senior management (paragraph 48);

- the Irish authorities to strive to develop the prison regimes at Cork and Mountjoy Prisons by offering a broader range of purposeful activities and to increase at Midlands Prison the number of prisoners engaged in such activities (paragraph 51);

- additional efforts to be made to provide female inmates at Limerick Prison with a range of diverse and meaningful activities (paragraph 51);

- the Irish authorities to take appropriate measures to provide young offenders at St Patrick's Institution with a full regime of activities (particularly as regards educational and vocational training) and other rehabilitative services, and to actively encourage their participation in these activities (paragraph 52);

- a sentence plan to be drawn up for all prisoners, with particular attention paid to the needs of persons sentenced to life-imprisonment and other prisoners serving lengthy sentences (paragraph 53);

- the Irish authorities to take appropriate steps to provide prisoners placed on protection for more than a short period with purposeful activities and proper support from the health-care service (paragraph 57).

comments

- the Irish authorities are invited to consider increasing the frequency of showers for inmates, in the light of Rule 19.4 of the revised European Prison Rules (paragraph 41);

- there is a need for a rolling programme of refurbishment at St Patrick's Institution (paragraph 46).

requests for information

- the date when the extension to the female unit of Limerick Prison was opened, its current occupancy levels and of any additional facilities it possesses (paragraph 43);

- the work and vocational opportunities currently available to prisoners in C Block of Portlaoise Prison and the numbers of prisoners engaged in such activities (paragraph 51);

- whether the Integrated Sentence Management system will be extended to all prisons in 2011, as foreseen (paragraph 53);

- the number of prisoners held in the dedicated unit for prisoners on protection in the basement of B Wing at Mountjoy Prison and the regime in place (including the opportunity for purposeful out-of-cell activities) (paragraph 55).

Health-care services

recommendations

- the necessary procedures to be put in place to facilitate the timely emergency transfer to hospital of inmates in E block at Portlaoise Prison as required (paragraph 62);

- the Irish authorities to review the resources of the health care services in the prisons visited, particularly at Cork, Midlands and Mountjoy Prisons, in the light of the remarks in paragraph 64 (paragraph 64);

- the time of attendance of the general practitioners at Cork, Mountjoy and Portlaoise Prisons and at St Patrick's Institution to be increased and appropriate action to be taken to ensure that the two general practitioners at Midlands Prison effectively work there on a full-time basis. An accountable line-management and support system for general practitioners working in prisons to be put in place (paragraph 64);

- the principle of medical confidentiality to be respected, taking due account of the remarks in paragraph 65 (paragraph 65);

- in order for a single comprehensive health-care record to be maintained, steps to be taken to ensure that all relevant medical information pertaining to a prisoner is incorporated within the prisoner medical record system (PMRS), and that paper copies of a prisoner's hospital records and test results are scanned into PMRS. In addition, PMRS should include the functionality to generate a report on all injuries(paragraph 67);

- doctors to be reminded of the importance of recording their findings following a consultation with a patient (paragraph 67);

- the necessary steps to be taken to ensure that all prisoners admitted to prison (whether as new committals or transfers) are subject to a comprehensive medical examination by a medical doctor (or a fully qualified nurse reporting to a doctor) as soon as possible after their admission (paragraph 68);

- the 2009 health-care standards relating to screening upon admission to be systematically applied in all prisons (paragraph 69);

- steps to be taken to ensure that the record in PMRS drawn up following a medical examination of a newly admitted prisoner contains:

  - an account of statements made by the person concerned which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment),
  - an account of objective medical findings based on a thorough examination, and
  - the doctor's conclusions in the light of i) and ii);

  (paragraph 71);

- the result of the medical examination referred to in paragraph 71 to be made available to the prisoner concerned (paragraph 71);

- all necessary steps to be taken to ensure the implementation of the various elements of the drug strategy programme throughout the prison system (paragraph 73);

- all prisoners admitted while on a methadone maintenance programme in the community to be able to continue such maintenance within prison as part of a comprehensive drug treatment programme (paragraph 75);

- prisoners undergoing drug withdrawal to be provided with the necessary support to alleviate their suffering and not to be placed in a cell without integral sanitation (paragraph 75);

- steps to be taken to remedy the deficiencies related to the prescription of methadone described in paragraph 76 (paragraph 76);

- the prescribing of psychotropic drugs at Midlands Prison to be reviewed (paragraph 78);

- the Irish authorities to take all necessary steps to further enhance the level of care available to prisoners suffering from a psychiatric disorder (paragraph 87);

- the Irish authorities to take the necessary steps to enhance the availability of beds in psychiatric care facilities for acutely mentally ill prisoners (paragraph 88).

comments

- the compiling of an annual report on the state of the medical services in the Irish Prison Service would be beneficial (paragraph 59);

- the CPT invites the Irish authorities to establish secure rooms in the hospitals to which prisoners are routinely sent (paragraph 66);

- the CPT trusts that in the context of the review of medication being prescribed to individual prisoners in Cork, Midlands and Mountjoy Prisons, including the inmates referred to in paragraphs 74 and 78, the dose of methadone will be considered as an integral part of the review (paragraph 77);

- the review of the use of special observation cells is an opportunity to clearly identify the purpose of these cells and to ensure that there are clear operating procedures governing the placement of inmates in them (paragraph 83).

requests for information

- the steps being taken to set up drug-free units (paragraph 73);

- copies of the reports on the review of Primary Care Practice in Cork, Midlands and Mountjoy Prisons and of drug treatment services in Cork, Midlands and Mountjoy Prisons (paragraph 77);

- a copy of the report on the review of the use of special observation cells and information on any measures taken in the light of that report (paragraph 83);

- the conclusions of the inquiry into the death of a prisoner at Cork Prison on 24 January 2010, in particular as regards the care afforded to this person while in custody (paragraph 86);

- detailed information about the High Support Unit for prisoners with a mental illness at Mountjoy Prison, including staffing and regime (paragraph 89).

Other issues

recommendations

- the Irish authorities to introduce proper reception and first night procedures as well as an induction process for newly-admitted prisoners in establishments which are points of entry to the prison system (paragraph 90);

- all newly-admitted prisoners to be supplied with information on the regime in force in the establishment and on their rights and duties, in a language which they understand; such information should be provided both orally by the prison administration and in the form of a brochure systematically given to prisoners on their arrival and available in an appropriate range of languages. Copies of the Prison Act 2007 and the Prison Rules 2007 should also be readily available for consultation by prisoners (paragraph 91);

- the Irish authorities to take the necessary steps to ensure that the application of Article 13.1(d) of the Prisons Act 2007 ceases to result in prisoners being held in conditions akin to solitary confinement for prolonged periods (paragraph 93);

- contacts between a prisoner and his relatives should under no circumstances be totally withdrawn (paragraph 93);

- the Irish authorities to draw up guidelines for the imposition of disciplinary punishments and care to be taken to ensure the procedural requirements of Prison Rule 67 are diligently applied (paragraph 94);

- prisoners to be made explicitly aware of their rights to petition against a sanction to the Minister of Justice and, in the case of forfeiture of remission of their sentence, to address the Appeals Tribunal, including the possibility to seek legal advice and legal aid (paragraph 95);

- an expeditious procedure for the determination of appeals to be put in place in those cases where a punishment is already being served (paragraph 95);

- prisoners to receive a written receipt acknowledging the transmission of an appeal (paragraph 95);

- the Irish authorities to review the operation of the segregation units at Cork, Midlands and Portlaoise Prisons, in the light of the remarks in paragraph 96 (paragraph 97);

- immediate steps to be taken to ensure that all inmates accommodated in the segregation unit at Portlaoise Prison are offered at least one hour of outdoor exercise every day (paragraph 97);

- steps to be taken to address the deficiencies observed as regards the material conditions in D Unit of Cork Prison (paragraph 97);

- the Irish authorities to review arrangements for visits, with a view to:

  - increasing the amount of visiting time offered, preferably to at least one hour every week;
  - ensuring that prisoners and their families can conduct visits with a degree of dignity and respect of privacy (i.e. with appropriate seating arrangements and in an environment which does not require raised voices for communication);
  - discontinuing the general ban on physical contact between a prisoner and his family; any prohibition of such contact in a particular case should be based upon an individual risk assessment;
  - introducing the possibility for accumulated visits**.**

  (paragraph 100);

- the Irish authorities to review the current system of complaints, taking into account the remarks in paragraph 105 (paragraph 105);

- the question of rest-stops during transfer journeys between prisons, notably Dublin and Cork, to be reviewed (paragraph 107).

comments

- it is essential that the necessary resources be allocated to the Inspector of Prisons (paragraph 106).

requests for information

- the current use of the basement of B Block at Mountjoy Prison (paragraph 90);

- comments on the placement on a screened visit or refusal of a visit in respect of a prisoner whose visitor was found not to be carrying drugs after a search, triggered by the sniffer dog (paragraph 101).

Psychiatric institutions

Preliminary remarks

recommendations

- the Irish authorities to take a decision on the future location for the Central Mental Hospital (CMH) without further delay (paragraph 111).

requests for information

- the plans to close St Ita's and St Brendan's Hospitals, as well as the arrangements made for patients currently accommodated in both hospitals (paragraph 110);

- the schedule for implementation of the "A Vision for Change" recommendations and, in particular, the situation as regards the Intensive Care Rehabilitation Units (ICRU's), including the time frame for their intended opening, as well as information about the category of patients that may be placed in these Units and their legal status (paragraph 114);

- comments of the Irish authorities on the following issues:

  - the appropriateness of accommodating patients with intellectual disabilities as primary diagnosis in a forensic psychiatric hospital;
  - the appropriateness of referring persons who had not been the subject of an assessment certifying a psychiatric disorder to the CMH for treatment under the not guilty for reason of insanity verdict;
  - the category of patients that are in need of being hospitalised in a high security setting, such as the CMH;

  (paragraph 116);

- comments of the Irish authorities on the remarks made in paragraph 117 concerning "voluntary" patients (paragraph 117).

Ill-treatment

recommendations

- the Irish authorities to take the necessary steps to reduce violence amongst patients and by patients against staff in the St Ita's and St Brendan's Hospitals, in the light of the remarks in paragraph 119 (paragraph 119).

Living conditions

recommendations

- every effort to be made to offer appropriate conditions to all patients held in St Ita's and St Brendan's Hospital (paragraph 120).

comments

- the situation of female patients in the Central Mental Hospital requires immediate attention (paragraph 122).

requests for information

- confirmation that all patients at St Brendan's Hospital have effective access to outdoor exercise for at least one hour every day (paragraph 121).

Treatment and the use of means of restraint and seclusion

recommendations

- the Irish authorities to take urgent steps to ensure that in the hospitals visited, sufficient staff is available to offer meaningful occupational activities to patients (paragraph 123);

- the Irish authorities to amend Sections 59 and 60 of the 2001 Mental Health Act to the effect that the second consultant psychiatrist whose approval is required for administration of treatment under those Sections must be independent of the establishment concerned (paragraph 126);

- the Rules Governing the Use of Seclusion & Mechanical Means of Restraint to be amended so that patients subjected to mechanical restraints are at all times placed under direct supervision of nursing staff, and that secluded patients are given the possibility to take at least one hour of outdoor exercise on a daily basis, if their medical condition so permits (paragraph 128);

- call bells to be installed in all seclusion rooms (paragraph 129);

- the Central Mental Hospital to introduce a central register of the use of seclusion (paragraph 130);

- the Irish authorities to ensure that all patients are offered a debriefing after having been the subject of seclusion (paragraph 131);

- the use of "chemical restraint" to be governed by clear rules and subjected to the same oversight as regards other means of restraint (paragraph 132).

requests for information

- comments of the Irish authorities on the issues concerning Section 57 of the 2001 Mental Health Act referred to in paragraph 124 (paragraph 124);

- comments of the Irish authorities on the issues concerning Sections 59 and 60 of the Mental Health Act referred to in paragraph 125 (paragraph 125).

Staffing

recommendations

- the Irish authorities to endeavour to fill vacancies at St Ita's, St Brendan's and the Central Mental Hospital (paragraph 135).

Placement and discharge

requests for information

- comments of the Irish authorities on the question raised in paragraph 138 (paragraph 138);

- the timely entry into force of the 2010 Criminal Law (Insanity) Bill as well as, in due time, its impact on the discharges initiated by the Mental Health (Criminal Law) Review Board (paragraph 139).

Patients involuntarily detained under the 2006 Criminal Law (Insanity) Act

recommendations

- the Irish authorities to introduce legally binding safeguards, including as regards consent to treatment and use of means of restraint and seclusion, for patients detained under the 2006 Criminal Law (Insanity) Act (paragraph 141).

Mentally incapacitated patients

recommendations

- the Irish authorities to adopt updated mental capacity legislation without further delay. The new legislation to take into account the 27 governing principles listed in Recommendation R (99) 4 of the Committee of Ministers of the Council of Europe (paragraph 148).

comments

- the CPT trusts that the Irish authorities will extend the provisions of the new mental capacity legislation to all existing wards of court (paragraph 149).

Institutions for persons with intellectual disabilities

Preliminary remarks

recommendations

- the Irish authorities to take the necessary steps to ensure that all residents in institutions for persons with learning disabilities benefit from an adequate range of safeguards (paragraph 152).

Ill-treatment

recommendations

- the Irish authorities to take adequate measures to lower the incidences of assault at St Joseph's Disability Services, through inter alia staff training and appropriate therapeutic interventions (paragraph 155).

requests for information

- the outcome of any judicial proceedings concerning the person who had reportedly indecently assaulted a resident at St Joseph's (paragraph 154).

Living conditions

recommendations

- the Irish authorities to find the means to open the Knockamann facility at St Joseph's as soon as possible (paragraph 157).

requests for information

- the time schedule to close the Dún na Rí and St Faicre units at St Joseph's (paragraph 157).

APPENDIX II

LIST OF THE NATIONAL AUTHORITIES, NON-GOVERNMENTAL ORGANISATIONS AND OTHER ORGANISATIONS WITH WHICH THE CPT'S DELEGATION HELD CONSULTATIONS

A. National authorities

Department of Justice, Equality and Law Reform

Dermot AHERN T.D.	Minister for Justice, Equality and Law Reform
Sean Aylward	Secretary General
James Martin	Assistant Secretary, Prisons Policy and Criminal Law Reform
Michael Flahive	Assistant Secretary, Garda
Brian Purcell	Director General, Irish Prison Service
Fergal BLACK	Director of Healthcare, Irish Prison Service
William CONNOLLY	Director of Operations, Irish Prison Service
Pat HOGAN	Detective Chief Superintendent, An Garda Síochána
Noirin O'SULLIVAN	Assistant Commissioner, An Garda Síochána
Michelle Shannon	National Director, Irish Youth Justice Service
Gerry Malone	Principal Officer, Irish Naturalisation and Immigration Service
Mary Burke	Principal Officer, Prisons and Probation Policy Division and CPT Liaison Officer

Department of Health and Children

John MOLONEY T.D.	Minister for Equality, Disability & Mental Health
Barry ANDREWS T.D.	Minister for Children and Youth Affairs
Michael SCANLAN	Secretary General
Bairbre NIC AONGUSA	Director, Office for Disability and Mental Health
Colm DESMOND	Principal Officer, Disability
Dora HENNESSY	Principal Officer, Mental Health
Martin ROGAN	Assistant National Director Mental Health
Pat DEVITT	Inspector of Mental Health Services
Sandra WALSH	CPT Liaison Officer

Other authorities

Garda Síochána Ombudsman Commission
Inspector of Prisons and Places of Detention
Irish Council for Human Rights
Mental Health Commission

B. Non-governmental organisations

Amnesty International
Immigrant Council of Ireland
Irish Council of Civil Liberties
Irish Prison Reform Trust

C. Other organisations

Irish College of Psychiatry