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

**from 7 to 17 September 2003**

The Finnish Government has requested the publication of this response. The CPT's report on the visit to Finland from 7 to 17 September 2003 has been published on 14 June 2004 (see CPT/Inf (2004) 20).

Strasbourg, 8 November 2004



**Response of the Government of Finland to the report on the visit carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 7 to 17 September 2003**



## **Introduction**

This contains the response of the Government of Finland to the recommendations, comments and requests for further information included in the report on the visit carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 7 to 17 September 2003. The report of the CPT was adopted on 8 April 2004.

The interim report includes responses to all the items presented in the summary of the Committee report. For the sake of clarity, the same headings have been used and the same order has been followed in the response as in the Appendix to the report of the Committee.

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

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

## Police establishments

### **Preliminary remarks**

#### Requests for information

- **More precise information about the proposed new legislation according to which the court when deciding on or extending the preventive measure of remand in custody must also systematically take a reasoned decision on the place where such custody is to be carried out, as well as the envisaged date of its entry into force (paragraph 8).**

An extensive overall reform regarding the enforcement of imprisonment and the implementation of remand imprisonment is under preparation in Finland, comprising of a new Prison Act and a new Act on Remand Imprisonment. Government proposals are to be submitted to Parliament in the autumn of 2004. In the same context, an Act on the Treatment of Persons in Police Custody is meant to be submitted to Parliament and it will include provisions on the treatment of persons who have been detained, arrested and kept in police custody. The aim is to issue to Parliament simultaneously with these Government Proposals a Government proposal regarding the organisation and structure of the Prison Service, whereby five regional prisons will be established in Finland.

The CPT has in its earlier reports paid attention to the fact that, in Finland, remand prisoners are kept in police prisons also after the trial on imprisonment. The CPT has recommended that remand prisoners be transferred to establishments maintained by the Prison Service whenever permitted by distances. At the moment, the Act does not stipulate a maximum period for keeping remand prisoners in police prisons.

Chapter 2, section 1 of the proposed Act on Remand Imprisonment would provide for the placement of remand prisoners. The primary placement of a remand prisoner would be the prison functioning as a remand prison closest to the court handling the charges or another prison operating as the remand prison of a regional prison. The proposed provision would amend section 1, subsection 1 of the Act on Remand Imprisonment in force, according to which a remand prisoner may also be placed in police detention facilities approved by the Ministry of Justice.

Subject to the grounds specified in detail in the Act, a remand prisoner could, in derogation from the main rule, also be placed in police detention facilities. The preconditions would be that the placement is necessary in order to segregate the remand prisoner or for security reasons or if the solving of the crime so requires for special reasons. According to the Government Proposal, the necessity precondition should be considered separately in each case taking into account the grounds for the imprisonment, the nature of the crime, the stage of the pre-trial investigation and the need to secure the pre-trial investigation.

As remand prisoners cannot in practice be segregated from others in the same manner in prisons, the need to place the remand prisoner in a police prison is most often due to the need to segregate the remand prisoner at the early stages of the pre-trial investigation. Placement in a police prison may be necessary for example in large criminal cases where there is a danger that evidence is destroyed or that witnesses or the other suspects in the same case are influenced.

Especially at the early stages of remand imprisonment, when the pre-trial investigation of a crime has just been started and hearings take place daily, the solving of the crime may especially require placement in police detention facilities. Security usually refers to the personal safety of a remand prisoner.

The proposed section also proposes that a remand prisoner could not be kept in a police prison longer than for four weeks except for a very weighty reason. These reasons include for example a situation where a remand prisoner has been imprisoned suspected of an extensive or complex criminal case with many parties. Also a serious crime could come into question. Also the own request of the remand prisoner could be considered a very weighty reason in a situation where the remand prisoner has reason to fear for his own safety.

The placement of a remand prisoner would, according to the proposal, be decided by the court handling the imprisonment like today. The court should, however, examine the grounds for the placement more carefully than today.

The proposed section would further provide that if a remand prisoner is placed in a police prison, the placement and the grounds thereto should be reviewed in connection with the re-handling of the imprisonment provided for in chapter 1, section 22 of the Act on Coercive Measures (646/2003).

The purpose is for these Acts to enter into force in 2006.

## **Safeguards against ill-treatment**

### Recommendations

- **The period during which an apprehended/arrested person can be denied the right to notify his next-of-kin or another appropriate person of his situation be shortened substantially (e.g. to 48 hours) (paragraph 12).**
- **The types of situation in which the exercise of the right of notification of custody may be delayed be spelt out more clearly (paragraph 12).**

According to chapter 1, section 7, subsection 2 of the Act on Coercive Measures (450/1987), a relative or another close contact of the arrested person as indicated by him shall be notified of the detainment without delay. If that causes special detriment to the solving of the crime, the notification may, however, be postponed until a court takes the imprisonment request relating to the arrested person up for handling. The notification may, however, not be made against the will of the detained person without a special reason. The postponement of notification shall be decided by the official authorised to make an arrest.

It must be observed that a next-of-kin may be a suspect for the same act/entity of acts as the detained person. In that case, notification to a next-of-kin may cause the special detriment referred to in the previous paragraph to the solving of the crime. On the other hand, it has to be noted that an arrested person always has the right to notify his counsel of his situation.

The proposal for an Act on the Treatment of Apprehended and Arrested Persons under preparation is not meant to provide a factual amendment to the said legal norm. Chapter 2, section 2 of the proposal would state that a remand prisoner and an apprehended

person shall be reserved the right to notify his next-of-kin or another close contact of his detention. It shall not, however, be necessary to reserve an apprehended person a possibility to notify, if he is released within 24 hours from his apprehension unless there are special grounds therefor.

His next-of-kin or another close contact as indicated by the arrested person shall be notified of the placing of an arrested person in custody. If the notification causes special detriment to the solving of the crime, the notification may be postponed at most until a court takes the imprisonment request relating to the arrested person up for handling. The notification may, however, not be made against the will of the detained person without a special reason.

As the main rule, a person indicated by the detained person has even until now been notified of the loss of liberty within a reasonable time. Non-notification is extremely exceptional. In the proposal, non-notification has been restricted to apprehensions of short duration and the postponement of notification to situations where the notifying would cause special detriment to the solving of the crime. The grounds for special detriment must always, where necessary, be stated and thus non-notification is restricted to situations where it is absolutely important for a criminal investigation.

- **Steps shall be taken to ensure that all persons detained by the police enjoy effectively the right of access to a lawyer from the very outset of custody (paragraph 13).**

In accordance with section 10, subsection 1 of the Pre-Trial Investigation Act (449/1987), a party has the right of access to a counsel during pre-trial investigation. The Instructions on the Treatment of Apprehended and Arrested Persons issued by the Ministry of the Interior (SM-2003-03683/Tu-41), which entered into force on 1 January 2004, renew inter alia the obligation, in force already before, that the person detained shall, prior to his placement in custody, be notified of his right of access to a counsel in pre-trial investigation. It is the view of the Ministry of the Interior that the regulation has been complied with without an exception.

It is to be noted that a detained person is questioned immediately or as soon as possible after his arrest with the exception of arrests taking place at night. If the detained person wishes to have access to a counsel at that time, he will not factually have a possibility to use the counsel, with the exception of a possible telephone call, before the first questioning before the counsel has arrived.

If a detained person is not questioned immediately after his apprehension, attention shall be paid to the fact that the detained person is notified of his right of access to a counsel during pre-trial investigation prior to placing him in the detention facilities. At that time, the detained person must himself request access to a counsel if he wants to meet with his counsel before the questioning.

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



- **The Instructions on the Treatment of Apprehended and Arrested Persons shall be amended in accordance with the remarks made in paragraph 14 of the report, i.e., the detained person shall always have the right to consult with an "independent" lawyer in private (paragraph 14).**

Under section 45, subsection 3, a detained person shall always be reserved the right to retain qualified counsel if a person has been denied the right to act as counsel in the pre-trial investigation. The qualifications of the counsel shall be decided upon by the police officer in charge of the pre-trial investigation.

Under section 12 of the Act on Pre-Trial Investigation (615/1974), a remand prisoner and his trial counsel must be allowed to keep in contact by meetings and letters, and, where possible, by telephone. The meeting can be supervised if special reasons exist. Negotiations with the counsel may not be listened to nor may the letters be read unless there is well-founded reason to suspect abuse. In the case of an abuse, a negotiation may be interrupted. Under section 19, subsection 1 of the said Act, the handling of people suspected of crimes shall, where applicable, be governed by the provisions of the Act on Remand Imprisonment.

Under the Instructions on the Treatment of Apprehended and Rested Persons issued by the Ministry of the Interior, a party to a criminal matter must have access to a counsel in pre-trial investigation. If a person has been denied the right to act as counsel in pre-trial investigation, the detained person must be reserved the right to retain qualified counsel. The detained person and his trial counsel must be allowed to keep in contact by meetings and letters and, where possible, by telephone. The meeting can be supervised if special reasons exist. A negotiation with the counsel may not be listened to unless there is a well-founded reason to suspect abuse.

The treatment of apprehended and arrested persons is provided for by an Act. According to the account of the Ministry of the Interior, a negotiation may be listened to in exceptional cases only. The main rule is that a negotiation between counsel and a detained person or prisoner may not be listened to.

- **A detained person should have the right to be examined, if he so wishes, by a doctor of his own choice, in addition to any medical examination carried out by a doctor called by the police ( paragraph 16).**

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

It is unnecessary and not purposeful to have a medical examination of a remand prisoner carried out by a doctor indicated by the remand prisoner in addition to the examination carried out by the health-centre doctor. Health-centre doctors are licensed and they act on civil-servant responsibility.

The proposal for an Act on the Treatment of Apprehended and Arrested Persons under preparation will provide that a person deprived of liberty has the right, at his own cost, to obtain medication, examination and other health care in, or, where necessary, outside the detention facilities upon permission of a doctor arranged by the police unless the measure endangers the purpose of the measure relating to the loss of liberty. Permission from the doctor arranged by the police is necessary to ensure that the person in question actually is a health-care professional.

- **Steps shall be taken to ensure that forms setting out the rights of notification of custody and of access to a lawyer and a doctor are made available to all persons in police custody throughout the country. These forms should be available in an appropriate range of languages. The persons concerned should be requested to confirm with their signature that they have been provided with the forms (paragraph 17).**

The Police Department of the Ministry of the Interior clarified the situation with regard to the form in question right after the preliminary report of the CPT. According to the clarification, the form is used by the police administration in eight different languages. However, several places of detention had run out of the form. The Police Department has submitted the form to all the facilities where detained persons are kept. Instructions on confirming the form with a signature will be given.

#### Requests for information

- **Comments of the Finnish authorities on the issue raised in paragraph 15 of the report, as well as information about the operation of the system of legal assistance for detained persons (paragraph 15).**

Under chapter 2, section 1, subsection 1 of the Criminal Procedure Act (689/1997), a person suspected of a crime has the right himself to take care of his/her defence in criminal investigations and in a trial. Under section 45, subsection 1 of the Pre-Trial Investigation Act, a party may be assisted in pre-trial investigation by an attorney-at-law or a public defender or other person qualified as trial counsel under chapter 15, section 2, subsection 1 of the Code of Procedure.

In an individual case, the following may not act as counsel:

- 1) a person who has acted as counsellor of the person suspected of the crime in the crime being investigated or a directly related crime;
- 2) a person who acts as counsel of another person suspected of the crime or a directly related crime if it is to be assumed that this would significantly hinder the clarification of the matter;
- 3) a person who acts or has acted as a public counsellor referred to in chapter 5 a, section 6 a of the Act on Coercive Measures in a matter relating to the crime under investigation or a directly related crime;
- 4) a person who carries out legal assignments together with a person who could not act as counsel of the party for a reason referred to in points 1-3;
- 5) a person who is a suspect or a witness in the crime being investigated or a directly related crime; or
- 6) a person who, as a civil servant or otherwise in the exercise of public power, has participated in measures taken in the crime under investigation or a directly related crime or in a matter relating to such crime.

Under subsection 3 of the section referred to, counsel is approved by the police officer in charge of the pre-trial investigation. If a person has been denied the right to act as counsel in pre-trial investigation, the party must be reserved the right to retain qualified counsel. However, the investigation need not be delayed for this reason.

Under chapter 2, section 1, subsection 3 of the Criminal Procedure Act, a person suspected of a crime is to be appointed a public defender *ex officio*, when:

- 1) the suspect is incapable of defending himself/herself;
- 2) the suspect, who has not retained a public defender, is under 18 years of age, unless it is obvious that he/she has no need of a public defender;
- 3) the counsel selected by the suspect does not meet the qualifications set for a public defender or is unable appropriately to defend the suspect; or when
- 4) there is another special reason for the same.

Under section 4, subsection 1 of the said Act, the public defender is appointed by the court where the criminal case is pending or where a charge for the offence may be brought.

The police must thus *ex officio* reserve a person suspected of an offence an opportunity to retain counsel. However, the police may not order a certain attorney/lawyer to act as counsel of the suspect. The suspect may himself choose his counsel and the police officer in charge of the pre-trial investigation has the right to approve the counsel. Upon the request of the suspect, the police may also assist the suspect in choosing counsel. In this case the police primarily contacts attorneys in the list of attorneys-at-law. The actions of attorneys are supervised by the Board of Directors of the Finnish Bar Association and the Chancellor of Justice of the Council of State. Attorneys are totally independent of the police.

The Ministry of the Interior is not aware of complaints relating to this matter. However, it is clear that counsel must fulfil the criteria laid down in the Pre-Trial Investigation Act.

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

Under section 8, subsection 1 of the Act, legal aid is given by a public legal aid attorney. However, in matters to be heard by a court of law and in certain other situations referred to in the Act, also a private lawyer who has consented to the task may be appointed as counsel.

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

- **Comments of the Finnish authorities on the matter raised in paragraph 19 of the report, especially in view of the signature by Finland of the Optional Protocol to the United Nations Convention against Torture, which provides for the setting-up, designation or maintaining of one or several visiting bodies for the prevention of ill-treatment (paragraph 17).**

The Government of Finland is at present studying the possibilities to ratify the Optional Protocol to the United Nations Convention against Torture and the changes that may result in Finland from the implementation of the Protocol. The response to the question presented by the CPT shall be submitted to the Committee as soon as the clarification is completed.

## **Conditions of detention**

### Recommendations

- **The refurbishment programme concerning Helsinki Police Department shall be carried out without further delay (paragraph 21).**

The refurbishment of the detention facilities of Helsinki Police Department is nearly completed. The detention facilities have been painted and the lighting has been renewed to correspond to the level of the newest prisons. The call system of guards has been renewed and also two radio channels have been opened. The facilities now have also connections for televisions and the cells of remand prisoners have their own toilets.

- **Steps shall be taken at Porvoo and Turku District Police Stations to address the shortcomings related to the conditions of detention referred to in paragraph 22 (paragraph 22).**

At Porvoo, the ventilation of the corridor and entrance hall of the detention facilities has been improved and the cleaning of the detention facilities has been arranged to take place daily. A full renovation of the detention facilities has been started at Turku.

- **Steps shall be taken to ensure that, throughout Finland, all intoxicated persons held by the police are provided with suitable mattresses (paragraph 23).**

The Police Department of the Ministry of the Interior had already early in the 1990s, after the CPT visit, obligated all police departments to acquire a sufficient number of mattresses covered with fire-proof material for the use of intoxicated persons held by the police. At Lahti, a sufficient number of mattresses had not been renewed as they had been damaged in use. According to present information, the matter is now in order also at Lahti District Police Station.

### Requests for information

- **Full details of the detention facilities at Helsinki Police Department as refurbished (paragraph 21).**

A separate written account of the detention facilities at Helsinki Police Department as refurbished is appended to the response.

- **Detailed information about the new facility to replace Ylä-Savo District Police Station in Iisalmi (paragraph 22);**

The new facilities of Ylä-Savo District Police Station has been completed. The detention facilities correspond to the level of the newest prisons. A separate written account of the new facilities replacing the old one at Ylä-Savo District Police Station is appended to the response.

## **Remand detention in police establishments**

### Recommendations

- **The Finnish authorities shall:**
- **ensure that all remand prisoners held in police establishments are offered at least one hour of outdoor exercise every day;**

According to the Instructions on the Treatment of Apprehended and Arrested Persons of the Ministry of the Interior, a detained person shall be arranged a possibility for outdoor exercise for at least one hour per day.

- **Ensure that those police establishments without an in-house medical service, which are accredited to hold remand prisoners, would be visited on a regular, e.g. daily, basis by a nurse. Steps must be taken at all police establishments holding remand prisoners to ensure that such persons are medically screened, within 24 hours of their arrival, by a doctor or a qualified nurse reporting to a doctor, and that the confidentiality of medical consultations is always guaranteed (paragraph 28);**

In accordance with section 10 of the Act on Remand Imprisonment, the health of a remand prisoner shall be attended to. A sick or disabled prisoner shall be treated and rehabilitated in an appropriate manner. In accordance with the Instructions on the Treatment of Apprehended and Arrested Persons of the Ministry of the Interior, a detained person shall be searched before he is placed in a detention room. During the search, attention shall be paid to medical certificates, medical prescriptions, medicines, treatment instructions and badges referring to illnesses. A detained person shall be inquired of his possible illnesses, medication and injuries as well as the causes thereof. The proposal for an Act on the Treatment of Persons Apprehended by the Police shall further provide that a detained person shall have the right to necessary health care and medical care.

### Access to medical consultation and the confidentiality of consultation

The Police Department of the Ministry of the Interior has requested all units accredited to hold remand prisoners to submit an account regarding the manner in which the unit has ensured that a remand prisoner has access to medical screening by a doctor or a qualified nurse and the manner in which the confidentiality of consultations has been guaranteed.

The accounts indicated that, in all units, a remand prisoner has access to medical screening by a doctor on his own request. In addition, a remand prisoner is taken to a medical screening by a doctor whenever there is otherwise reason to suspect that he needs medical treatment. The doctors used are mainly on-call doctors in health-care centres.

The medical screening performed by a doctor or a nurse and the issues revealed therein are confidential and the health-care personnel is subject to a confidentiality obligation. In order to guarantee the safety of the doctor and the nursing staff, also guards and policemen are often present during the screening. Where necessary, the persons responsible for the safety may, however, leave the examination room. Also the guards are subject to a confidentiality obligation.

With the exception of the Sisä-Savo District Police Station, none of the units provides medical screening by a doctor or a nurse automatically within 24 hours from the arrival of the prisoner at the facility. In accordance with the accounts received by the Ministry of the Interior, this has not been considered problematic as a medical screening by a doctor may be guaranteed, where necessary. Not all of the remand prisoners want to have a medical screening.

- **Specific registers recording placements of inmates in isolation cells of police establishments shall be set up (paragraph 33).**

The police has special isolation cells only in very few places, such as for example at Helsinki Police Prison and at Tampere District Police Station, which both have two isolation cells. Suicidal or very angry and aggressive remand prisoners may be placed in these cells. In an extreme situation, a person may be tied down while waiting for a doctor so that he cannot harm himself.

In comparison with a regular cell, the main difference is that, after the door to the cell, the isolation cell has a wall with bars, which allows the personnel to communicate with the person placed in the isolation cell without the fear of an attack. One of the isolation cells at Tampere is equipped with padded walls and ceiling and it does not have any other fittings.

Placing in an isolation cell takes place very rarely, usually a couple of times a year. As the main rule, isolation lasts only for a few hours, i.e., the period of time that it takes a person to calm down. After that he is returned to his own cell.

Placing in an isolation cell is never used as punishment. The use of isolation as a punishment would be clearly in violation of the law and, as such, a punishable act.

There is no special centralised register of placements in isolation cells as the need thereto has not been deemed topical in practice. Despite that, the establishment of police-department-specific registers is being clarified.

Comments

- **The Finnish authorities should seek ways of improving detainees' possibilities for association - preferably outside their cells - or, if this is not feasible, inside the cells (naturally, subject to an assessment of the security risk individual detainees may represent and to the interests of the investigation) (paragraph 25);**
- **To develop the regime of activities for remand prisoners held in police establishments (paragraph 25);**
- **The objective should be to cease holding remand prisoners in police establishments (paragraph 25).**

It is a fact that the possibilities of remand prisoners kept in police premises for association are limited. This is due to the need to secure the investigation as well as to ensure detention and also to maintain order. The liberty of a remand prisoner is, however, limited only to the extent necessary with a view to the purpose of the imprisonment. We should also note that the average time of detention of remand prisoners in police premises is 13 days and questionings also take up a considerable part of that time.

The Government of Finland refers to the clarification of the new legislation presented in paragraph 8. According to the new legislation, the primary placement of a remand prisoner is a prison maintained by the Prison Service. In order to safeguard the investigation, it is, however, necessary in many cases to keep the remand prisoner in police premises where, for example, parties to a crime can be kept segregated from each other. In actual prisons, remand prisoners cannot be kept segregated from each other as efficiently as in police premises and that may endanger the success of the criminal investigation.

- **The Finnish authorities are invited to review whether the existing arrangements as regards the presence of the doctor at Helsinki Police Department are sufficient (paragraph 28).**
- **Arrangements shall made in respect of Helsinki Police Department for the presence of a nurse also at weekends (paragraph 28).**

Helsinki Police Prison has a part-time doctor who is on call at the police prison two hours a time three days a week. During that period, all remand prisoners have the right and possibility to have access to his consultation. The doctor examines all those in custody who have asked to see a doctor as well as those whose treatment or medication, prescribed before, is uncompleted as well as those who, in the opinion of the nurse, need to be examined by a doctor. The present arrangements have been deemed sufficient.

At other times, acute illnesses are treated at health-care centres in accordance with the public health-care system. Where necessary, an ambulance with a doctor on board will be on site in just minutes from being called and the full capacity of the municipal health care is available.

A full-time nurse is operating at Pasila Police Prison at the moment and she is normally present on all weekdays. She is in charge of distributing the medication prescribed by a doctor and she attends to the other treatment deemed necessary by the doctor on the basis of his examination. The nurse visits daily those who are in the middle of a treatment or who have complained of their ailments to the guards as well as those taken in custody who, in the opinion of the guards, need treatment. The nurse does not make routine visits to those who, in the entry screening, were not discovered to have any ailments and who do not report any illnesses when asked.

The nurse doses the medication needed during the weekend ready and on Fridays distributes those medicines to the detained persons which do not involve a risk of overdose. The other medication is distributed by the guards in accordance with the instructions given by the nurse.

According to Helsinki District Police Station, these arrangements have functioned without problems already for years. Having a nurse present also on weekends would require the hiring of at least one other nurse and that is not deemed necessary.

In acute cases on weekends and outside office hours, the help provided by the Rescue Services and the services provided by the Helsinki City public health-care have been resorted to and an ambulance or a doctor on-call has been called. The ambulance will be on site in a few minutes and, where necessary, also an ambulance with a doctor.

The Act on Remand Imprisonment and the Instructions on the Treatment of Apprehended or Arrested Persons issued by the Ministry of the Interior require that a possibility to have access to health-care personnel has been arranged and that, where necessary, consultation by a doctor and nursing is acquired as well as the medication prescribed by a doctor is attended to. There is preparedness to take the measures required by these provisions.

The guards are also in charge of the safety of the nurse's and the doctor's rounds, wherefore they have to monitor the round. Therefore a guard is at a seeing distance while they work observing gender rules and modesty.

The guarding personnel at the Pasila Police Prison comprises guards who have received the first-aid training included in a basic course.

- **It is important that police officers working in detention areas benefit from regular first-aid refresher courses (paragraph 28).**

The Police Department of the Ministry of the Interior has requested all units which are accredited to hold remand prisoners to submit an account regarding the manner in which first-aid refresher courses are arranged to police officers working with remand prisoners and the frequency thereof.

According to the clarifications received by the Ministry of the Interior, first-aid refresher courses were arranged for police officers and guards relatively regularly in most units (once in every 1-3 years). The refresher courses are often part of the on-the-job training. The Police Department of the Ministry of the Interior shall further clarify whether more precise instructions should be issued thereon or whether the present situation can be deemed sufficient.



- **It would be desirable for the visiting entitlement of persons detained in "police prisons" to be increased (paragraph 29);**

In accordance with section 13, subsection 3 of the Act on Remand Imprisonment, a prisoner may receive visitors under necessary supervision. While the pre-trial investigation is pending, visits other than those of a next-of-kin may be denied if the visit can be deemed to endanger the purpose of imprisonment. The visits of the next-of-kin and, when supervision is not deemed necessary for some other reason, also other visits may be allowed unsupervised.

The Act on the Treatment of Persons Apprehended by the Police under preparation shall include extensive provisions on the rights and duties of detained persons, inter alia, on correspondence and the use of the telephone, visits and other contacts with the outside world and segregation as a security measure. According to the proposal, a detained person would, as a starting point, have the right to accept visitors under necessary supervision at times reserved for the visits as often as this is possible without detriment to the order and operations of the detention facility. According to the proposal, a visit may be allowed also at other times than those reserved for visits if this is necessary with a view to the contacts of the detained person or for another special reason.

According to the account of the Ministry of the Interior, those detained in police prisons may have visits more flexibly than those detained in remand prisons, where visitors can be received only on 1-2 days a week. The police prison is often located in the municipality of residence of the detained person and it is easier for the visitors to visit the detained person at the police prison than at a remand prison, which may be located far away from the municipality of residence of the detained person. Finland is a vast country and there are only a few remand prisons, and therefore the distances may easily become long.

- **The Finnish authorities are invited to consider replacing the current blanket procedure of screening remand prisoners' correspondence with a case-by-case approach. Further, some of the control duties currently discharged by investigating officers - where still deemed necessary - might well be taken over by other staff (e.g. custodial staff who are in daily contact with the detainees concerned) (paragraph 31).**

The overall reform referred to in paragraph 8 is meant to provide more specifically on the screening of the correspondence of remand prisoners. The proposed Act on Remand Imprisonment would include specific provisions on the screening of correspondence and the reading and confiscation of letter mail. In accordance with chapter 8, section 1 of the proposed Act on Remand Imprisonment, a sealed letter or another postal item addressed to the remand prisoner or sent by him could be x-rayed or opened in order to check that it does not contain unlawful substances or objects. The screening would be subject to case-by-case consideration. In accordance with chapter 8, section 2 of the Act on Remand Imprisonment, a letter, another postal item or message addressed to a remand prisoner or sent by him could be read if this is necessary for a well-founded reason to ensure the purpose of remand imprisonment, to prevent or solve a crime, to prevent a threat to prison order or to protect the safety of the remand prisoner or another person. According to chapter 8, section 3 of the proposed Act, correspondence between a remand prisoner and an authority in charge of the supervision of the operations of the prison or its personnel or a supervisory body of human rights, to which the remand

prisoner under international treaties is entitled to appeal or file complaints, may not be screened or read. The decision-making power will, in accordance with the new Act on Remand Imprisonment, rest on the official in charge of supervision, who in the present organisation is a senior guard.

The proposed Act on the Treatment of Persons Detained by the Police shall include corresponding provisions.

The Government of Finland refers to that stated in paragraph 30. The possibilities to separate supervisory and screening responsibilities from the pre-trial investigation of crimes more clearly shall be clarified.

#### Requests for information

- **Comments of the Finnish authorities on the issues raised in paragraph 30 of the report (paragraph 30).**

The Ministry of Justice appointed on 8 April 2003 a working group which was given the task to 1) clarify the reasons relating to the growth in the number of remand prisoners; 2) clarify the possibilities to increase the use of present criminal-procedure coercive means as an alternative to remand imprisonment; 3) elaborate on the development of new coercive means as an alternative to remand imprisonment and on other measures decreasing imprisonment, 4) clarify the grounds on which the placement of remand prisoners either in prisons or in police detention facilities should be determined, 5) elaborate on measures whereby the number of remand prisoners especially in police detention facilities could be decreased, 6) clarify the possibilities to increase the possibilities of remand prisoners to participate in activities outside the cells in police detention facilities and prisons, as well as 7) propose the necessary changes in the provisions. After completing its work, the working group presented its memorandum and proposal to the Ministry of Justice in February 2004.

The working group emphasised the difference in principle between the leadership of investigation and decisions on the circumstances of the detained. In the largest police prisons remand prisoners are currently placed in a separate cell block supervised by guards. In these facilities, the chief of the investigation department does not act as the chief of the prison department. In smaller units a corresponding distinction is more difficult to implement. At present, however, the investigating officer decides on the rights of the detained person such as visits and restrictions on contacts. The working group proposed that in police prisons the leadership of pre-trial investigation be clearly separated from other decision-making regarding the treatment and daily schedule of the remand prisoner.

The working group further proposed that the persons guarding remand prisoners and in charge of their treatment in police prisons are given appropriate training.

The aim is, with regard to the police, to implement the measures presented above in connection with the entry into force of the proposed legislation on the treatment of persons in police custody. The Government of Finland, however, emphasises that in district police stations where operations are divided between departments, the police prisons and their operative management are mainly even now attended to by a department other than that in charge of criminal pre-trial investigation.

- **More detailed information about the draft legislation setting out precise criteria for applying restrictions on remand prisoners' contacts with the outside world (and requiring this issue to be examined ex officio by the court deciding on remand in custody) paragraph 32).**

In connection with the overall reform referred to above in paragraph 8, also new provisions on the application of restrictions on remand prisoners' contacts with the outside world for reasons of investigation are proposed to be added to the Act on Coercive Means. The proposed legislation would contain provisions on the application of restrictions on contacts with the outside world firstly during pre-trial investigation and secondly during the deliberation of the charges and the trial. The application of restrictions on contacts during the deliberation of the charges and the trial would be subject to tighter preconditions.

According to the new provision, the contacts of a remand prisoner with the outside world could be restricted while the pre-trial investigation is pending. The restrictions could relate to contacts with another remand prisoner, sentenced prisoner or another person. A precondition for the restriction would be that there is justifiable reason to suspect that the contact endangers the purpose of remand imprisonment. The purpose of remand imprisonment is proposed to be governed by chapter 1, section 3 of the Act on Remand Imprisonment. In accordance with the said section, the purpose of remand imprisonment is to secure the pre-trial investigation of a crime, the court proceedings and the enforcement of the sentence as well as to prevent criminal activity from being continued.

A precondition for restricting contacts during the deliberation of the charges and the trial would be that there is justifiable reason to suspect that the contacts would seriously endanger the purpose of remand imprisonment. The reasons for the serious threat should be given case-by-case. If the restriction of contacts were to be extended to apply to the entire prison population, the restriction should be as short as possible.

The section would also provide for persons with whom contacts could not be restricted or with regard to whom there should be especially weighty reasons for the restriction of contacts. Contacts with the counsel of the remand prisoner could not be restricted. In addition, the proposed subsection 2 would provide that contacts with the next-of-kin or another close person could be restricted only for especially weighty reasons. Especially weighty reasons relating to a crime mean for example a situation where the next-of-kin are suspects in the same criminal matter but not all of them have been imprisoned. Such especially weighty reason relating to a crime could also be a situation where a person imprisoned for an extensive economic crime would attempt to conceal his property or destroy his book-keeping material with the help of his next-of-kin or another close person.

The restrictions could apply to correspondence, the use of the telephone, visits or other contacts outside the prison. Also contacts of a remand prisoner with the media could be restricted on the basis of the provision. The restriction could also apply to associating with a certain remand prisoner or remand or other prisoners. The restriction of contacts could not be applied more extensively or longer than necessary.

In accordance with the proposed provision, the application of the restrictions would be decided upon by the court, which should also reconsider the restrictions on contacts when reconsidering the imprisonment. The section would also provide on restricting the contacts of apprehended and arrested persons. The restriction of the contacts of apprehended and arrested persons would primarily be possible on the grounds applicable to remand prisoners.

- **Comments of the Finnish authorities on the allegations heard from several remand prisoners about the use of isolation cells for de facto disciplinary confinement (paragraph 33).**

The police has special isolation cells in very few places only, such as for example at Helsinki Police Prison and at Tampere District Police Station, which both have two isolation cells. Suicidal or very loud and aggressive remand prisoners may be placed in these cells. In an extreme situation, a person may be tied while waiting for a doctor so that he cannot harm himself.

In comparison to a regular cell, the main difference is that, after the door to the cell, the isolation cell has a wall of bars, which allows the personnel to communicate with the person placed in the isolation cell without the fear of an attack. One of the isolation cells at Tampere is equipped with padded walls and ceiling and it does not have any other fittings.

Placement in an isolation cell takes place very rarely, usually a couple of times a year. As the main rule, isolation only lasts for a few hours, i.e., for the period of time that it takes a person to calm down. After that he is returned to his own cell.

Placement in an isolation cell is never used as punishment. The use of isolation as a punishment would clearly be in violation of the law and, as such, a punishable act.

There is no specific centralised register of placements in isolation cells as the need thereto has not been topical in practice. Despite that, the establishment of police-department-specific registers is being clarified.

Chapter 11, section 3 of the proposal for an Act on the Treatment of Persons in Police Custody is meant to provide for the placement of a person under observation, which may be implemented also by placing the person in a so-called isolation cell, should the police station have one. A precondition is that this is necessary in order to prevent suicidal behaviour or to control violent behaviour which cannot be stopped in any other manner and which may cause danger to the safety of the detained person or other persons or considerable damage to property. Placement under observation shall, without delay, be notified to an official of the health-care personnel, who shall examine the medical condition of the detained person as soon as possible.

## **B. Foreign nationals detained under aliens legislation**

### **Preliminary remarks**

#### Requests for information

- **Are there plans to create establishments similar to the Helsinki Custody Unit for Aliens in other parts of the country? (paragraph 34).**

The detention unit located in the premises of the old Katajanokka prison will be moved to new premises in December 2004. The new facility has a capacity for c. 30 detainees. In addition, the premises will also include a reception centre for asylum seekers with a capacity of 45 places. The need to establish other detention units is being clarified.

### **Ill-treatment**

#### Requests for information

- **Results of the inquiries carried out into the case of deportation of a Ukrainian family described in paragraphs 35 and 36 of the report (paragraph 37).**

The Police Department of the Ministry of the Interior has clarified the issue thoroughly. In the case in question, the police has, after first trying to enforce the decision without success, requested official assistance from the health-care personnel in order to get a medical evaluation of the state of health of the family members and possible measures required therefor taking into account inter alia the safety of the flight. In connection with the attempts to enforce the decision, the father and mother of the family have tried to damage themselves and the children have tried to jump to the ground from the entrance of the plane. A nurse has been contacted during the case, who has years of experience inter alia of the treatment of persons who have lost their liberty and deported and she has been asked to assist in the implementation of the deportation. The nurse in turn has requested instructions from a doctor in her work place. The nurse has then, in accordance with the instructions issued by the doctor, given sedative medication intravenously to the parents of the family.

Also the National Authority for Medicolegal Affairs has prepared an account on the case regarding the deportation of the Ukrainian family. In accordance with the National Authority for Medicolegal Affairs, the doctor did, in the particular case, not have sufficient information to order medication without a personal examination of those subject to deportation and no grounds required in the provisions existed to medicate the persons subject to deportation against their will. Therefore the National Authority for Medicolegal Affairs has issued a written warning to both the doctor and the nurse in question.

The case regarding the deportation of the Ukrainian family is also being handled by the Parliamentary Ombudsman.

## Helsinki Custody Unit for Aliens

### Recommendations

- **Measures shall be taken to ensure that all foreign nationals held at Helsinki Custody Unit are offered at least one hour of outdoor exercise every day (paragraph 41).**

Today, Helsinki Custody Unit offers each person at least one hour of outdoor exercise daily. The outdoor exercise possibilities will improve further when the Custody Unit is transferred to the repaired facilities in December 2004.

- **The deficiencies referred to in paragraph 42 of the report as regards the provision of health care at Helsinki Custody Unit shall be remedied. In particular, steps shall be taken to:**

- **ensure that all newly-arrived detainees are promptly examined by a doctor or by a fully-qualified nurse reporting to a doctor;**

The health-care of the Custody Unit is arranged so that a qualified nurse reporting to a doctor examines all new detainees promptly after their arrival.

- **arrange for the daily presence of a person with a recognised nursing qualification. Such a person could in particular perform the initial medical screening of new arrivals, receive request from foreign nationals to see a doctor, ensure that provision and distribution of prescribed medicines, keep the medical documentation (this ensuring confidentiality of medical data) and supervise the general conditions of hygiene;**

The current Custody Unit has 30 places. Therefore it does not offer enough work for a full-time nurse. But it is possible to have a doctor on-site very quickly, when needed. The purpose is for the new custody unit to hire a nurse, who will attend to the foreigners in custody and, where possible, also treat asylum-seekers who have private accommodation (= asylum seekers who have themselves arranged their accommodation).

The documents relating to health care and nursing are today kept so that, in addition to the customer, they are available only to the nurse and the doctor.

- **improve detainees' access to acute dental care;**

The Custody Unit has attended to and will attend to arranging acute dental care.

- **ensure appropriate psychological/psychiatric assistance, preferably by arranging regular visits to the Custody Unit by a psychiatrist and/or a psychologist (paragraph 43).**

Attention has been paid to the issue. Appropriate treatment and therapy will be acquired for those needing psychological or psychiatric help either by calling in a psychiatrist or a psychologist to the Custody Unit or by transporting the person in need of the help to treatment outside the Custody Unit .

### Comments

- **The longer the period for which persons are detained under aliens legislation, the more developed should be the range of activities which are offered to them. Particular attention should be paid to the specific needs of young children and juveniles; education should form an important part of the programmes of activities to be provided (paragraph 41).**

In the new custody unit the activities of foreigners in custody will be planned and implemented so that they correspond to the needs of especially those in a vulnerable position, such as children, juveniles and single women.

- **The Finnish authorities are invited to review the initial and ongoing training of staff at Helsinki Custody Unit, in the light of the remarks made in paragraph 45 of the report (paragraph 45);**

According to the clarification received, the basic training of the staff is good. Many have degrees from a college, a polytechnic or a vocational institution in the fields of health care, social studies or a corresponding field. In addition, the Custody Unit arranges and acquires additional training for example in safety issues.

- **It would be desirable to set up a designated register for the recording of instances of isolation and of the transfer of a foreign national to police custody (paragraph 48).**

The register was set up in October 2003.

### Requests for information

- **More detailed information about the new facility for foreign nationals in Metsälä, including the planned date of entry into service (paragraph 38).**

Metsälä Custody Unit should be completed in December 2004 and the operations of the Custody Unit will then be transferred to the new up-to-date premises. The new premises will, in addition as the Custody Unit, also host a small reception centre for asylum seekers (46 places) as well as an information/service point for asylum seekers with private accommodation. The aim is for the children and spouse of the detained, where possible, to be accommodated in the premises of the open reception centre. On the other hand, the services of the reception centre could also be used by the custody unit. The new premises comply with the Finnish standard for institutions, in addition to which the special features and requirements of custody operations have also been observed. The conditions of the customers will improve considerably; there will be more room for free time activities and hobbies. The outdoor exercise premises will be much more pleasant than at present and there will also be a special outdoor area for i.a. smoking, which the customers will have free access to.

- **Comments of the Finnish authorities on the powers of the police to enter the premises of the Helsinki Custody Unit for Aliens and to impose restrictions on detainees (paragraph 49).**

The Custody Unit operates subordinate to the Ministry of Labour. Its operation and the treatment of persons in custody there are governed by the Act on the Treatment of Aliens in Custody and on a Custody Unit (116/2002). The powers of the police with regard to the Custody Unit as well as the people detained therein are very limited. They are provided for in the Act and relate to decision-making regarding an alien taken into custody or to the enforcement of a deportation decision or to a case where, taking into account the personal and other circumstances of an alien, there is a well-founded reason to suspect that he will make himself guilty of a crime in Finland.

The independent powers of the police with regard to an alien detained in a custody unit are restricted to the following cases:

- The police may forbid contacts with an outsider if, for a well-founded reason, the contact is estimated to endanger the clarification of the entry preconditions of an alien taken into custody and his identity or if there is a justifiable reason to assume that the meeting will contribute to a crime.
- The police makes the decision on segregation in a custody unit if segregation is necessary as an exception to safeguard the clarification of the preconditions of entry into the country or identity.
- The use of the telephone may be conditional so that the detained alien notifies whom he intends to contact. The use of the telephone may be denied if, for a well-founded reason, it may be estimated to endanger the clarification of the preconditions of entry into the country or identity or if there is justifiable reason to assume that the use of the telephone will contribute to a crime. (17 §)
- The right to be in contact with someone outside the custody unit by using telecommunications, other electronic communications or other such technical connection may be restricted on the grounds provided for in section 17 by confiscating the mobile phone or other means of communication from the alien for the duration of the ban.
- An alien may be granted permission to leave the custody unit in order to meet or bury a seriously ill close relative or other close person or for another corresponding reason of special significance.

In cases involving the safety of the custody unit, the director of the Custody Unit or his deputy contacts the police. These cases involve the safety of the persons in custody and the police acts on request of the Custody Unit.

The police has been reserved premises in connection with the Custody Unit, where they can meet with an alien in issues relating to the application of the Aliens Act, such as the reason for entry, travel itinerary and removal from the country. This is done to avoid the transportation of detained aliens and to decrease costs arising from transportation.



Visits of the police to the Custody Unit are agreed upon. The police does not have free access to the premises of the Custody Unit. Nor does the police have authority with regard to the operations and personnel of the Custody Unit.

The detention of an alien is specifically meant to safeguard the clarification of the preconditions of entry of an alien or the enforcement of deportation in cases where another safety measure, for example the duty to report, cannot be deemed sufficient. The assessment of the justification and necessity of detention is performed by the District Court at the latest within four days from the apprehension under section 124 of the Aliens Act. The decision of the District Court is not subject to appeal. The period of detention depends on the progress of the investigation and other authorities. The matters involving a detained person are handled as urgent.

The starting point of the Finnish pre-trial investigation principles is to observe two partly conflicting goals: the requirement of efficiency as well as the legal protection of the citizen and especially of a suspect of a crime. The latter includes the requirement of both an appropriate and fair investigation. A detained alien is deemed comparable to a suspect. Proper and speedy investigation often requires hearing the detained or other measures directed at him, such as e.g. taking him to the embassy of his home country to acquire travel documents.

It would be contrary to the principle of the least harm and more restrictive of the rights of the detained to transport him separately to police premises solely to hear him if the custody unit has premises where the hearing may take place causing the smallest possible harm to the customer. In some cases, for example to take comparison finger prints, it is necessary to transport the detainee to the police station for the procedure. In that case, it is also well-founded to hear him in the premises of the police.

The hearings are recorded using computer-based forms. Both a pending pre-trial investigation and a police investigation relating to asylum are confidential. In order to ensure data security and the legal protection of both the detained person and the police, no outsider can be allowed access to the premises where the police keep their computers and forms.

Section 24, subsection 2 of the Pre-Trial Investigation Act is applied with regard to the times of hearings, according to which a hearing may not, without a special reason, take place between 10 p.m. and 7 a.m. except 1) on request of the person heard, 2) in a narrow pre-trial investigation, or for another special reason. In practice, it is not necessary to hear detainees outside the ordinary hours except on their own request.

An alien is sent to the Custody Unit specifically in order to perform police measures. Restricting the entry of the police to the premises of the Custody Unit would lengthen the period that the detainee is in custody and this cannot be in the best interest of the customers of the Custody Unit. It must also in the future be possible for the police, where necessary, to restrict the contacts of a detainee to the outside world or to segregate him from other persons in custody where this is necessary to secure the investigation of the preconditions of entry or identity.

## **Detention in police and Frontier Guard establishments**

### Comments

- **The CPT trusts that, in line with Act No 116/2002, the Finnish authorities will make determined efforts to progressively discontinue the practice of using police premises to hold persons detained under aliens legislation (paragraph 50).**

The Aliens Act (301/2004) determines when an alien detained under the Aliens Act may exceptionally be placed in police premises. Under section 123 of the Act this is possible if the custody units are temporarily full or if the person is detained far away from the closest custody unit. In the first case, the alien shall, as soon as possible, be placed in a custody unit referred to in the Act on the Treatment of Detained Aliens and a Custody Unit (116/2002). In the second case, the custody may not last more than four days.

At the moment, Finland has only one custody unit for aliens referred to in the Aliens Act and operating in Helsinki. A detained alien may exceptionally be placed in police detention premises if the custody unit is full. Another reason for placing a person in police detention premises is that an alien is detained far away from the closest custody unit. In the latter case, the detention may not last more than four days. Finland will examine the need to establish another custody unit.

## **Safeguards**

### Comments

- **The Finnish authorities are invited to address the shortcomings described in paragraph 53 of the report (the Finnish authorities had stated to the CPT that the Police Department had issued instructions according to which detained foreign nationals should be provided with a written account of their rights in a language they understand. However, none of the police and Frontier Guard establishments visited was able to produce such written information to the delegation. The Finnish authorities are invited to address these shortcomings. (paragraph 53).**

The police use their own forms in different languages and other forms clarifying the rights. The use of the forms is also mentioned in different regulations issued by the Ministry of the Interior. In addition, the police regularly use interpreters when communicating with aliens in order to minimise misunderstandings. Delays in access to counsel are hardly always due to the police. The Police Department of the Ministry of the Interior will further clarify the issues referred to in the paragraph with regard to the police and it will clarify its instructions, where necessary. (Cf. also the reply to paragraph 17)

Section 47 of the Act on the Frontier Guard (320/1999) provides for the investigation of a border event and the preconditions of entry of an alien entering the country. Section 11, subsection 1 of the Act on the Frontier Guard provides that a border guard shall notify the grounds for a measure directed at the liberty of a person to the target of the measure or to his representative unless this is impossible due to the state of the person or due to circumstances. During the visit of the CPT, the Aliens Act (378/1991) was in force in Finland and section 47 thereof contained provisions on deciding on detention and the placement of a detained person. The said section 47, subsection 1 provided that the detained person or his representative shall be notified of the grounds for detention.

Along with the entry into force of the new Aliens Act (301/2004) on 1 May 2004, it has been deemed appropriate, in order to improve the legal protection of persons, that with regard to all decisions made under the Aliens Act, the person in question is issued a written decision in his matter with appeal instructions. All the decision forms of the Frontier Guard relating to alien issues have been renewed and translated into different languages, such as Swedish, Russian, German, Spanish, French and English. Thus the shortcomings referred to in paragraph 53 have been addressed.

- **The police should be reminded of the notification requirements set out in Section 70 of the Aliens Act (paragraph 54).**

Attention has already been paid to the issue and the police will be further reminded of the notification requirement set out in section 208 of the new Aliens Act. Therefore omissions of notification should no longer exist.

#### Requests for information

- **Comments of the Finnish authorities on the allegations that foreign nationals had been put under pressure by the police during their detention to make them withdraw their asylum applications, especially at Tampere District Police Station (paragraph 54).**

According to an investigation carried out by the Tampere District Police Station, no evidence was found suggesting that asylum applicants had been put under pressure at Tampere District Police Station to make them withdraw their asylum applications. The Parliamentary Ombudsman has, however, taken the matter under consideration and will issue his decision on the issue later on.

#### **Deportation of foreign nationals by plane or other means of transport**

##### Recommendations

- **Detailed instructions on the procedure to be followed and, more particularly, on the use of force and/or means of restraint authorised in the context of deportation operations should be issued without delay. Such instructions should draw upon the principles set out in the CPT's 13<sup>th</sup> General Report, reproduced in Appendix I to the report (paragraph 58).**

The Ministry of the Interior issued instructions on the deportation procedure as early as in 1998. A statement regarding medication was included in the instruction on 1 January 2004 (SM-2003-03682/Tu-41). The use of medication shall always relate to the treatment of the state of health or an illness on the basis of a medical evaluation. The police has separate instructions also on the treatment of detained persons (SM-2003-00251/Tu-41) and on the use of force (SM-2001-6/Tu-417). The instructions are applied in all police operations including in the enforcement of deportations.

In its statement relating to the Aliens Act in April 2004, Parliament required that the Government urgently prepare provisions on procedure relating to the enforcement of deportations, including the use of restraints and force. The Ministry of the Interior will most likely set up a project to study the need to supplement the Aliens Act with provisions relating to deportation.

## **C Prisons**

### **Preliminary remarks**

#### Comments

**The CPT trusts that the Finnish authorities are taking due account of the principles and measures set out in Recommendation No R (99) 22 of the Committee of Ministers of the Council of Europe concerning prison overcrowding and prison population inflation (paragraph 60).**

In the Finnish penal sanctions system, the main sanctions are unconditional imprisonment, community service, conditional imprisonment and a fine. Juvenile punishment, which was started as an experiment, will be taken into general use. At present, a study is also under way to reduce the number of those whose fines are converted to imprisonment.

The number of sentenced criminals mostly depends on changes taking place in criminality, the ratio of solved crimes, changes in criminalisations and sanction practice as well as the amount of recidivism. The most severe sanctions - imprisonment and community service - have the biggest effect both on the societal and personal levels.

The number of prisoners decreased almost steadily after the Second World War. In 1999 it started to rise. The average prison population grew by 30 percent from 1999 (average prison population 2,743) to 2003 (average prison population 3,578). The increase in the prison population is indicated inter alia as an increase in the number of foreign prisoners, female prisoners, fine-conversion prisoners, remand prisoners and life-sentence prisoners.

The fast increase in the prison population is mainly due to two factors: changes in criminality and its amount and changes in sentencing practice. In the last few years, the sanction level of certain types of crimes has tightened to some extent. The share of imprisonment has increased in most crime groups. In aggravated narcotics offences, the growth is partly due to the fact that the offences have become more serious inter alia due to larger amounts of narcotic substances and increased professional criminality. Violence, property and drunken-driving crimes mainly reflect an increase in the sanction level; the amount of criminality or its nature have not changed.

Another significant change increasing the prison population is a decrease in the use of community service. In 1998, some 4,000 community-service sanctions were imposed. In the last few years, the number had decreased to some 3,300. The use of community service has decreased because the number of sentences that can be converted into community service has decreased and also because a smaller share of imprisonment sanctions that could be converted are converted into community service.

The central goal of imprisonment and community service sanctions is to decrease recidivism. The problem is that Finland has no systematically collected up-to-date data on the effectiveness of penal-law sanctions and the measures performed in connection with them. According to studies on imprisonment, 35 percent of Finnish prisoners entering a prison for the first time will return to the prison. The percentage is on the general Nordic level. With regard to those entering a prison for the second time or more, the recidivism percentage grows gradually.

In the latter half of 2003 and in early 2004, the number of those entering the prisons seems to indicate that the prison population inflation would, at least temporarily, be slowing down. The prison population of 2004 seems to stabilise at the level of 2003.

In evaluating future development, it is important to note that the number of prisoners may continue to rise even if the Prison Service and the community sanctions were to succeed in decreasing recidivism. Measures decreasing recidivism cannot prevent a prison population inflation of the magnitude that has taken place in the past few years. Even if successful, the effects of measures decreasing recidivism are smaller in proportion and slower in their effects. Thus an increase in criminality or a tightening of the sanction level may increase the prison population faster than measures decreasing recidivism lower it.

During the visit of the CPT, the occupancy rate of prisons was 104 percent. Calculated in accordance with the average number of inmates so far this year, the occupancy rate is 103 percent. The occupancy rate varies slightly between prisons and in different seasons. In the autumn, the number of prisoners and the occupancy rate of accommodation capacity rise to some extent.

There are still unrefurbished prison premises in some prisons in Finland. The refurbishment of prisons is continued on the basis of an investment programme lasting until 2011. The primary purpose of the investment programme is not to increase the number of prison places but to make them appropriate in quality. The investment programme has been realised as planned.

#### Requests for information

- **Current state (e.g. timetable) of the reform of legislation pertaining to the enforcement of sentences, the carrying out of pre-trial detention, and the granting of conditional release (paragraph 59).**

Government proposals containing the overall reform are to be submitted to Parliament in the autumn of 2004. The purpose is for the new Prison Act, Act on Remand Imprisonment and the provisions on conditional release of the Penal Code to enter into force in 2006. The overall reform will significantly enhance the legal protection of remand prisoners and sentenced prisoners as well as clarify their legal position.

### **III-treatment and inter-prisoner violence**

#### Recommendations

- **Staff (including medical personnel) at the former Turku Remand Prison and Sukeva Prison shall be encouraged to make use of all means at their disposal to combat and prevent inter-prisoner violence and intimidation, bearing in mind the remarks made in paragraphs 65 and 66 of the report (paragraph 67).**

Prevention of inter-prisoner violence and intimidation is handled in institution-specific and national training events of all personnel groups. The aim is to teach the personnel means to notice risks of violence as well as to interfere in violent behaviour in advance, where possible. In addition, even more attention will be paid to the placement of mutually hostile prisoner groups both into and within institutions. Overcrowding of prisons considerably impedes the safe placement of prisoners. The CPT recommendation has been made known to the directors of the Prison of Southwestern Finland and Sukeva Prison for further measures. The effects of the measures shall be monitored in connection with performance negotiations.

#### Comments

- **The custodial staff at the former Turku Remand Prison should be reminded that inmates must always be treated in a respectful manner (paragraph 63);**

The comment of the CPT has been made known to the director of the Prison of Southwestern Finland with an obligation to remind the staff of the matter with an instruction.

- **The level of staffing must always be sufficient to enable prison officers to adequately supervise the activities of prisoners and support each other effectively in the exercise of their tasks (paragraph 67).**

On 31 December 2003, the total number of staff was 2,728. The average number of prisoners in 2003 was 3,578; thus the ratio between staff and prisoners was 0.76. Although the number of prisoners has been rising in Finland since 1999, it has not been possible correspondingly to increase the number of staff. Therefore more staff would be needed in certain closed institutions.

As stated in paragraph 8 above, a reform of the organisation and structures of the Prison Service is pending in Finland. In the reform, the organisation of the Prison Service would be changed so that, instead of the current 21 independent prisons and the Prison Mental Hospital, it would consist of five regional prisons and a national health-care unit. A regional prison would include prisons and placement units. The aim of the organisational reform is to lighten central administration as well as to enhance prison-service administration by centralising support services, decreasing so-called mid-way administration and by clarifying operational processes. The freed resources are meant to be transferred from administration to work done close to the prisoners.

## Conditions of detention

### Recommendations

- **Custodial staff at Kuopio Prison and the former Turku Remand Prison shall be instructed to grant inmates (and, above all, those sharing accommodation with other inmates) access to a proper toilet facility at any time of day or night, unless overriding security concerns require otherwise (paragraph 69).**

Finnish prisons still have altogether some 750 cells without proper toilets and without access to a common toilet facility at night. Therefore the prisoners in these cells use special buckets with lids.

Last year, the Criminal Sanctions Agency examined more closely the possibilities to decrease the use of the said "chamber pots". Most prisons find it difficult to allow an individual prisoner access to the toilet facilities after the prison ward has been closed due to the small number of custodial staff in the night shift. For security reasons, it is most often required that the prison cell door can be opened at night only in the presence of at least two staff members. In the present common situation of under-staffing, this has become an obstacle to granting access to toilet facilities.

When aiming at decreasing the need to use chamber pots, various replacement solutions have been found in institutions. Some institutions have postponed the closing time of sections and the last toilet visit. The aim is to replace the chamber pots with chemical toilets suitable for cell use. With regard to significantly decreasing the number of cells without toilets, even the said measures are inadequate. The problem will not be finally solved until after the end of the refurbishment programme after the year 2010, when prisons will no longer have cells without appropriate sanitary facilities. The importance of access of prisoners to toilet facilities has been emphasised in instructions. The year-2004 performance goal set by the Criminal Sanctions Agency for all prisons without in-cell toilets is to draw up plans on access to toilet facilities. Where necessary, the prison shall try the arrangements in a part of the prison. The planned practice shall be implemented by the end of 2004.

- **The Finnish authorities shall continue to develop activity programmes for inmates at the former Turku Remand Prison and Sukeva Prison (including work and vocational training) (paragraph 78).**
- **Regarding prisoners segregated from the mainstream, determined efforts shall be made to improve the regimes currently operated. As a first step, possibilities for association outside cells within the units concerned should be enhanced. Further, the space available in the units (e.g. the relatively large corridors at Sukeva Prison) should be exploited to the fullest (paragraph 78).**
- **The provision of outdoor exercise to "fearful" prisoners at the former Turku Remand Prison to be reviewed (paragraph 78).**
- **Developing programmes of activities may well require increasing and/or redeploying staff resources (custodial and specialist). It is also essential that the allocation practice referred to in paragraph 77 of the report be reviewed (paragraph 78).**

The Criminal Sanctions Agency has deemed it very important to increase the activity regimes for inmates. The performance goal set by the Agency for all prisons for 2004 is that the prisons clarify prisoner-type-specifically the impediments to participation and draw up a plan to increase the participation possibilities of prisoners whose placement in activities is difficult. In addition, the goal set to remand prisons for 2004 is to develop the contents of remand imprisonment by increasing the possibilities of prisoners to participate for example in part-time or free-time activities arranged outside the cells. First and foremost, the starting point of Finnish prison service is, however, to try to make it possible also for remand prisoners to participate full-time in purposeful activities although remand prisoners are under no obligation to participate. About one third of remand prisoners participate in full-time activities. Remand prisoners can also participate in the free-time activities of the prison.

In 2004, Sukeva Prison has increased the training possibilities of prisoners. The ADP training with 10 places, which started in 2003, has continued and been extended. Another study group arranged by an outside vocational college was launched in the summer of 2004, directed at prisoners segregated for their own safety. Also that has 10 study places. The training was started with special funding granted by the Criminal Sanctions Agency. Coaching and rehabilitating education and guidance for prisoners segregated on their own request will be launched in September 2004 as a new activity for 9 trainees. It will be arranged by an outside handicraft and industrial art institution.

During winter 2003-2004, Sukeva Prison arranged a Cognitive Skills course, meant especially to prisoners segregated on their own request.

In summer 2004, a partial reorganisation of prison wards was carried out in the former Turku Remand Prison, which is nowadays a part of the Prison of Southwestern Finland. The background of the reorganisation was the need to have a separate ward for those segregated on their own request. One of the wards of the former remand prison with a capacity of 13 has been changed into a ward for prisoners intimidated by other prisoners. All the activities in this ward, including outdoor exercise, are arranged separate from other prisoners. As a result of the change, for example the outdoor exercise of prisoners has been arranged in safe conditions.

Increasing the possibilities of the inmates at the Prison of Southwestern Finland for activities is dependent on additional staff inputs in guidance and custodial tasks. At the beginning of 2004 the prison got a new instructor's post to the women's ward and, as a result of this, the activities in the ward have increased considerably. In summer 2004, a decision was made to change a post into a special instructor in substance abuse work. This may strengthen the intoxicant rehabilitation of the prisoners.

Co-operation between the National Board of Education and the Prison Service intensified in 2003. The joint negotiations covered the increased need for training of prisoners. During the autumn 2004, the purpose is, in co-operation between the authorities, to draft an account on the training of prisoners and especially on their vocational training. The account will form the basis for proposals to develop the training of prisoners and resources.



An institutional inspection was carried out at Sukeva Prison in May 2004. The inspection showed that the greatest challenge of the institution is to develop activities for those segregated on their own request (the fearful). Although the institution does not have a large staff, even small arrangements may result in a significant improvement. Adequate and appropriate premises are available. The institution is to draw up a plan for the development of activities by the end of September.

#### Comments

- **The CPT trusts that the Finnish authorities are making genuine efforts to ensure that the official capacities of Kuopio Prison and the former Turku Remand Prison are respected (paragraph 68).**

Despite the increase in prison population, the aim is to comply with the occupancy rates, where possible. The prison population inflation primarily affects closed institutions. Therefore it is not possible fully to ensure, with regard to any of the closed institutions, that the prison population will not exceed the capacity of the institution. It is, however, the aim of the Prison Service to even out the loading of prisons so that the overcrowding is divided evenly between the prisons and that their capacity is reviewed.

In connection with the refurbishment of Kuopio Prison, the capacity of the prison will increase from 53 to about 80. The new Prison of Southwestern Finland will be taken into use in 2007.

- **The Finnish authorities are invited to ensure the continuous upkeep and refurbishment of the "travelling cells" in the three establishments visited (paragraph 72).**
- **The occupancy rates of the "travelling cells" should always be kept at a reasonable level (i.e. a minimum of 4 m<sup>2</sup> per person (paragraph 72)).**

The travelling cells are subject to upkeep measures regularly in connection with the other upkeep of a prison. The aim is to renovate the cells where necessary, but during the last few years, it has not been possible to e.g. paint the walls due to the high usage rate, because the work will remove the cell from use for at least three days. The non-use of a travelling cell even for a few days causes problems in full prisons.

The Prison of Southwestern Finland has four travelling cells. One of them has eight places, one has six places and two have two places. There is no statistical information on their occupancy rates. An estimated average of five prisoners are accommodated in them daily. Prisoners who will have to stay in a travelling cell longer are placed in the accommodation wards of the prison, where possible.

The travelling cells of Kuopio Prison will be renovated completely in connection with the refurbishment of the prison starting in 2006.

The following travelling cells are available at Kuopio Prison:

Number	size of the cell	number of places per cell
1 cell	30 m <sup>2</sup>	14 places
1 cell	14 m <sup>2</sup>	2 places
5 cells	7 m <sup>2</sup>	1 place

At Kuopio Prison, it is sometimes necessary to accommodate even twice the number of prisoners in the travelling cells. The cells are equipped with twice the number of beds compared to the number of places.

Sukeva Prison has travelling cells as follows:

Number	size of the cell	number of places per cell
1 cell	60 m <sup>2</sup>	14 places
2 cells	13 m <sup>2</sup>	4 places
1 cell	13 m <sup>2</sup>	3 places

Sukeva Prison is not a junction for transit prisoners and so the confirmed travelling cell places are usually sufficient for the needs of transported prisoners.

- **The Finnish authorities are invited to seek to involve a larger number of inmates at Kuopio Prison in organised activities, including education, and to improve possibilities for association for those who do not take part in such activities. Efforts might also be made to enhance the vocational dimension of the existing productive work (paragraph 76).**

On weekdays, nearly 70 % of the prisoners at Kuopio Prison participate in work, education/training or other organised activities. Exercise has been arranged, where possible within the framework of premises and staff, for remand prisoners who do not participate in work or education. Due to the lack of staff and inadequate premises, it has not been possible to arrange other activities. The problem with the premises will be solved when the refurbishment and enlargement of the prison are completed in a few years' time. In the same connection, the prison will naturally also need more staff in order to make the activities more versatile and extensive.

In the closed section of Kuopio Prison, the possibilities for education have been inadequate. In the autumn of 2004, the possibilities for education will, however, improve to some extent. The Criminal Sanctions Agency has granted the prison a separate appropriation for ADP training for the inmates in the closed section and teaching of those with reading and writing difficulties.

The placement unit of the Eastern Finland Prison Service Region is at Kuopio Prison. A significant part of the work time of the study counsellor of the prison is spent on tasks of the placement unit. The study counsellor inter alia prepares the so-called risk and needs assessments and the plans for the term of the sentence. The study counsellor is the education expert at the placement unit. He for example clarifies the educational backgrounds of the prisoners, their unfinished education/training, the education available at prisons, etc. At the same time, he has the possibility to motivate the prisoners to participate in education. The aim of these measures is to promote the education possibilities of the prisoners in their future placement institutions.

The vocational dimension of the productive work arranged by the prison may be enhanced inter alia by integrating vocational training and work. This is a goal applicable to all prisons. The Criminal Sanctions Agency has requested the prisons to present their development plans for at-work training by the end of 2004. At Kuopio Prison, the integration of productive work and vocational training is difficult because the average prisoner stays at the prison only for a short time. Some of the inmates are remand prisoners. Prisoners participating in the programme for convicts of sex-related crimes return to their placement institutions after the programme and it is not often possible to start vocational training during the intensive programme. Some of the prisoners stay in the placement unit only as long as it takes to prepare the risk and needs assessments and the plan for the term of the sentence. As Kuopio Prison is situated in a town, some of the places are reserved for prisoners who study or work outside the institution. It is not possible to take in prisoners who would participate in vocational training in connection with work due to the number of places for prisoners. Work supervision assists in the operations of the placement unit by issuing evaluations on the working ability and function and on the progress of work of the prisoners in placement to the personnel preparing the risk assessments and the plans for the term of the sentence.

At the moment, the fields of work in the prison are meaningful especially taking into consideration that the prisoners are usually at Kuopio Prison only for a short time. The prison also has a handicraft workshop, where the work varies inter alia in accordance with the working ability of the prisoners, and a carpenter's workshop doing basic carpentry work. If a prisoner stays in the institution long enough, it is possible that he learns several phases of carpentry.

#### Requests for information

- **More information on the plans to renovate/rebuild Kuopio Prison (including the timetable envisaged) (paragraph 70).**

The goals of the refurbishment of Kuopio Prison have been specified in connection with an up-date of the investment programme. The investment programme also had to be checked in connection with the development project of the organisation and structures of the Prison Service. The preliminary plan is that the refurbishment of Kuopio Prison would start in 2006. The plan is to increase the capacity of the prison from 53 to about 80 places.

- **The Finnish authorities are invited to comment on the catering arrangements at the former Turku Remand Prison (paragraph 73).**

At Turku Remand Prison, the prisoner can stock up with drinking water in his cell whenever the doors are open. In addition, drinking water is distributed on request of the prisoner at around 7.15 p.m. At night, no drinking water is distributed. The new Prison of Southwestern Finland will be taken into use in 2007 and the cells there will have toilet facilities and a possibility to get drinking water at all times.

On weekdays, the prison serves breakfast, lunch, dinner and an evening snack. On weekends, the meals served are breakfast, lunch and an evening snack. The meals on weekends are more substantial than on weekdays and the total energy content of the food is the same every day.

The meals are served before the start of the work day of the prisoners at around 6.30-7 a.m., at lunch time around 11 a.m. - 12 noon and at the end of the work day at around 4 p.m. All prisoners cannot have their meals at the same time and therefore dinner is served to some groups on weekdays already before 4 p.m. In addition, the prisoners get a cold evening snack which, at the Prison of Southwestern Finland, is distributed in connection with dinner to be taken to the cell. Some of the prisoners may feel that no food is served at the prison after dinner as they do not take the snack offered to their cells.

The menus of the Prison Service are planned so that the nutrition content of the food complies with the "Finnish Nutrition Recommendations" issued by the National Nutrition Council. The nutrition recommendations have been issued to apply to all citizens and they especially obligate parties who arrange mass catering. The amount of energy served at the prison corresponds to the energy need of a young man doing medium-hard work. The prisoners may freely take bread, potatoes and vegetables. Thus also those whose energy need is bigger than normal get their energy needs fulfilled.

In accordance with section 15 of the Prison Administration Decree, the basic diet is derogated from only if the health or the religious conviction of a prisoner so requires. Diets necessary for health-related reasons are determined by the prison's doctor and those under religious grounds by the prison director. The Criminal Sanctions Agency draws up instructions on the implementation of the most common diets in the joint menu of the Prison System. In order to implement more rare diets, instructions on special diets drawn up by the Association of Clinical and Public Health Nutritionists in Finland have been distributed to the kitchen staff of prisons. The basis for a diet determined by a doctor is always medical; the food preferences of a prisoner do not form a basis for a diet.

Diets granted on religious grounds are implemented in compliance with the generally known dietary regulations of each religion. In accordance with current legislation, there is no obligation to determine a diet on other than a religious conviction.

## Health care

### Recommendations

- **Attendance by a general practitioner at the former Turku Remand Prison and Sukeva Prison should be increased. The authorities should also take steps to reinforce dental and psychotherapeutic services at Sukeva (paragraph 80).**

The aim is to increase the attendance hours by doctors at Turku Remand Prison and Sukeva Prison with the measures available. It is not possible to establish a full-time doctor's post at Sukeva Prison, but the aim is to enhance the health care also by enhancing the use of other health-care personnel as well as by increasing the acquisition of outside health-care services within the framework of the resources available. The acquisition of physiotherapy and dental-care services will be increased where allowed by the resources.

- **Nursing staff resources at the former Turku Remand Prison should be increased (paragraph 81).**

The plan is to reorganise entire prison health-care in the near future as part of the reform plan of the organisation and structures of the Prison Service. The need for nurses at the different places will be re-estimated at that time. The operations of Turku Remand Prison will be transferred to the new prison facility together with the rest of the Prison of Southwestern Finland. The polyclinics will merge and the situation will improve.

- **Psychiatric/psychological services at the former Turku Remand Prison and Sukeva Prison shall be strengthened substantially; regarding the latter establishment, further efforts should be made to fill the vacant post of a psychologist (paragraph 83).**

The post of a psychologist at Sukeva Prison has been vacant but there have been no applicants. The aim is to fill the post as soon as an applicant is found. The psychiatric services at Turku Remand Prison were exceptionally limited at the time of the visit of the CPT as the permanent holder of the post was substituting for the senior physician of the Prison Mental Hospital. The situation at the Prison Mental Hospital improved on 1 September 2004, when the holder of the post of the senior physician started in his post again after a leave of absence.

### Comments

- **The practice adopted at Kuopio and Sukeva Prisons, where nurses are required to initiate medical treatment of often serious medical conditions without proper examination by a doctor, should be reviewed (paragraph 82).**

The prison's doctor is always responsible for the medication given there. The nurses may not give or initiate any prescription medication without an order by the doctor given separately with regard to each patient. On weekends the other staff has been given instructions for situations where a prisoner is showing signs of a medical problem and where a prisoner is transported to public health care outside the prison.

After the visit of the CPT, the practice has been changed.

## Other issues

### Recommendations

- **A right to appeal against a decision of placement in solitary confinement should be introduced (paragraph 89).**

Today, the prisoner has the right to appeal against a decision of placement in solitary confinement ordered as a disciplinary sanction. No regular right of appeal exists against a short-term segregation implemented as a precautionary measure for example due to intoxication. As this most often involves a very short-term segregation, the right to appeal would not in practice be of significance because there would seldom be time to handle the appeal during the segregation.

In accordance with the new Prison Act, a prisoner would have the right to appeal against a longer-term segregation referred to in chapter 18, section 5 of the Prison Act. This segregation corresponds to the segregation referred to in chapter 3, section 9 of the present Act on the Enforcement of Sentences.

Even if a prisoner does not have a regular right of appeal against a short-term isolation or segregation, he always has the right to file a complaint to the superior of the official who has made the decision, to the Criminal Sanctions Agency or to the Deputy Parliamentary Ombudsman. These authorities examine the legality of the decision.

- **Steps shall be taken to ensure that leaflets are systematically given to prisoners on their arrival. These leaflets should be available in an appropriate range of foreign languages (paragraph 94).**

The Prisoner-Rule File containing the provisions, regulations and instructions relating to prisoners was up-dated in spring 2004. It is available to the prisoners in the wards. The prisoner's rules have recently been translated into English and the purpose is to send them to prisons during the autumn 2004.

The prisons have so-called new-arrival guides, distributed to the prisoners upon arrival. For example, prisoners arriving at Kuopio Prison receive a new-arrival guide, which briefly explains the operations of the prison and the issues relating to prisoners. In spring 2004, the staff of the reception ward of the prison was reminded of the importance of distributing the guide to all prisoners. The guide will be translated into all appropriate languages in the autumn 2004.

- **The Finnish authorities shall take steps to fully exploit potential offered by the existing intoxicant-free units at the former Turku Remand Prison. Further, efforts should be made to increase the number of places in the respective unit at Sukeva Prison, and to create such a facility in the context of the planned rebuilding of Kuopio Prison (paragraph 97).**
- **Drug-counselling and rehabilitation services should be made more widely available at the Turku and Sukeva establishments (paragraph 97).**

Sukeva Prison has an intoxicant-free ward for 19 inmates. The resources and structure of the prison do not, at the moment, permit the establishment of other intoxicant-free wards.

There is no intoxicant-free unit in the closed ward of Kuopio Prison. With the present structure of the prison, it is not possible to establish an intoxicant-free unit. The aim is to correct the problem in connection with the refurbishment of the prison starting in 2006.

Prison wards were reorganised at the Prison of Southwestern Finland (the former Turku Remand Prison) during the summer 2004. In this connection, the intoxicant-free unit for 12 inmates situated in the earlier remand-prison building was closed and a new intoxicant-free unit for 21 inmates was founded in the other building unit of the Prison of Southwestern Finland. This made it possible to increase the number of places for those committed to intoxicant-free prison life by eight. In the summer 2004, a decision was made to convert one of the posts of the prison into a special instructor in substance abuse work. The arrangement will strengthen the intoxicant rehabilitation of the prison.

### Comments

**The CPT trusts that the facilities available for unsupervised visits at the three prisons visited are used to their fullest potential (paragraph 93).**

The Criminal Sanctions Agency shall supervise the appropriate use of the facilities in the performance negotiations.

- **Ideally, visits by an outside body to prison establishments should take place on a monthly basis, and be unannounced (paragraph 95);**

The Government of Finland is at present studying the possibilities to ratify the Optional Protocol to the United Nations Convention against Torture and the changes that may result from the implementation of the protocol in Finland. The response to the question presented by the CPT shall be submitted to the Committee as soon as the clarification is completed.

### Requests for information

- **Information, in respect of 2003, on the total number of appeals lodged by prisoners against disciplinary sanctions and the outcome of these appeals (paragraph 87).**

In 2003, altogether 986 disciplinary sanctions were imposed on prisoners. Altogether 27 disciplinary sanctions were appealed against to the District Court. The appeal was dismissed in 26 cases. In one case, the solitary confinement of 14 days, ordered by the prison director, and not calculated as imprisonment time, was changed by the decision of the District Court into 10 days of solitary confinement not to be calculated as imprisonment time.

- **Further details on plans to provide a regulatory framework for the imposition of disciplinary sanctions on remand prisoners (paragraph 88).**

The new Act on Remand Imprisonment will include specific provisions on the disciplinary system of remand prisoners. The disciplinary system will, in most parts, be the same as for sentenced prisoners with the exception that remand prisoners could not be ordered to forfeit time served. The specific provisions in the Act on disciplinary sanctions aim at increasing the transparency and predictability of the system as well as at abolishing the use of such precautionary measures (for example segregation due to intoxication) which may in fact correspond to solitary confinement. The possibility to order a disciplinary sanction on a remand prisoner for an offence committed in the prison, estimated to be punishable by a fine, will also speed up and enhance the operability of the system. Today for example an unlawful use of narcotics has to be taken to court. A remand prisoner shall have the right to appeal against all disciplinary sanctions to the Administrative Court.

- **Comments of the Finnish authorities on the placement of agitated or violent prisoners in isolation by custodial officers without any involvement of medical staff (paragraph 90).**

All isolation decisions shall be notified to the health-care staff for evaluation. Sometimes urgent isolation decisions have to be made and health-care personnel is not immediately available at all times of the day. In these cases, the necessary precautionary detention shall be effected immediately and the health-care personnel shall perform a medical examination of the prisoner as soon as it is possible.

- **More information on the creation of a designated visiting facility at Sukeva Prison (paragraph 92).**

Plans have been made at Sukeva Prison to build facilities for visits under special supervision. Also the reception facilities of the prisoners would be improved in the same connection. The needs clarification of the project is pending and, according to preliminary plans, the project would be implemented in 2006-2007.



## **D. Niuvanniemi Hospital**

### **Preliminary remarks**

#### Requests for information

- **Confirmation of the entry into service of the ward for juvenile patients, as well as information about its functioning (e.g. the therapeutic/rehabilitative activities available) (paragraph 99).**

The 12-bed ward for juvenile patients at Niuvanniemi Hospital was taken into use on 1 January 2004. After a thorough initial examination, the adolescent receives adolescent and forensic psychiatric treatment in accordance with an individual care plan based on the findings of the examination. Realisation of the goals of the care plan are monitored regularly. Community-orientation, model-learning, activeness and an individual care relationship go hand in hand in the treatment. Special attention is paid to working in co-operation with the families and networks of the adolescents. The adolescents may also go to school in the unit premises.

The personnel of the juvenile ward consists of a senior physician, a specialist in adolescent psychiatry, a psychologist, an occupational therapist, a head nurse, an assistant head nurse, 12 nurses, 24 mental-health nurses, one social worker, an office secretary and four ward assistants.

The floor plan of the ward is appended.

### **Living conditions**

#### Comments

- **The criteria used for assessing whether a patient can have access to outdoor exercise should be reviewed (paragraph 102).**

The patients at Niuvanniemi Hospital, irrespective of whether they are in hospital for treatment or an examination, are taken to outdoor exercise by the staff. Due to the special features of the patients, it has been deemed important that a doctor examines the patients admitted and decides when the staff can take the patient outdoors or when the patient may participate in outdoor exercise without direct control. The grounds for granting a permission for outdoor exercise are the same for all patients and dependant on the patient's state of health. At the moment, almost all patients at the hospital are allowed to participate in outdoor exercise. In a few cases, outdoor exercise has been denied of patients receiving treatment on the grounds of their current state of health. Nor have patients been taken out against their will.

After the visit of the CPT, special attention has been paid to giving the patients at least one hour of daily outdoor exercise. This has been done by arranging other activities differently and by increasing the nursing staff.

## **Staff and treatment**

### Comments

- **The Committee trusts that determined efforts will be made to involve a greater number of patients suffering from grave mental disorders in activities which are responsive to their individual needs and abilities (paragraph 106).**

Most patients at Niuvanniemi Hospital suffer from schizophrenia, the negative symptoms of which may be manifested inter alia as social withdrawal and apathy. The purpose has certainly not been to ignore these symptoms. The matter has been addressed by allocating staff resources. On the other hand, it has also been noted that the activation of a passive schizophrenic is very difficult. The central treatment-related problem is that there is generally not enough knowledge of the motivation methods.

Especially with a view to the rehabilitation of patients, a post of a neuro-psychologist was founded at Niuvanniemi Hospital at the beginning of 2004. The post is the first post of a neuro-psychologist in a mental hospital in Finland founded solely for the needs of persons suffering from psychic disorders. The hospital has two occupational therapists whose work input will be directed especially at the solving of this problem.

### Requests for information

- **The comments of the Finnish authorities on the subject referred to in paragraph 108 of the report (paragraph 108).**

An amendment of chapter 4 a of the Mental Health Act (1423/2001) entered into force on 1 June 2002. The amendment reformed the provisions relating to the limitations on patients' fundamental rights during involuntary treatment and examination as well as the related coercive means. The reform aimed not only at unifying the use of limitation at psychiatric treatment units but also at safeguarding the fundamental rights of patients.

In accordance with section 22 b of the Mental Health Act, a patient must be cared for, as far as possible, in mutual understanding with the patient. If the patient is able to decide on his care and objects to a certain treatment, he shall, in accordance with the general principles of the Act on the Status and Rights of Patients (785/1992), be treated with medically acceptable methods that he consents to. This requires ascertaining the opinion of the patient on the treatment and changes in the treatment, where possible. Also in involuntary treatment, the main rule is that the treatment is implemented in mutual understanding with the patient and that resorting to limitations of the patient's right of self-determination form an exemption.

At least so far, the provisions on the rights of patients do not include the right to get a second opinion on the treatment. In practice, out-patients have been able to get such an opinion by changing doctors within the public health-care system or by transferring to private health-care. Also the doctor or nurse responsible for the care of a hospitalised patient may change on request of the patient. There are no legislative obstacles to a patient being treated at a psychiatric hospital or his next-of-kin or other close person acquiring an assessment on the state of health of the patient from a doctor outside the hospital.

## Means of restraint/seclusion

### Recommendations

- **patients who have been subject to seclusion or other means of restraint receive a debriefing after the end of these matters (paragraph 113).**

Chapter 4 a of the Mental Health Act provides for the conditions for limiting the patient's right of self-determination. In accordance with the Act, it is not possible to limit the patient's right of self-determination to punish the patient for unwanted behaviour.

At Niuvanniemi Hospital, the practice already is that, after the use of seclusion or other means of restraint, the patient receives a debriefing from the persons responsible for the treatment, i.e., by the doctor and the nursing staff. The debriefing is recorded in the file of the patient. The chief physician of the hospital has drawn attention to the clarity of entries made in the files regarding debriefing.

### Requests for information

- **Confirmation that the administration of medication for the purpose of controlling aggressive or violent behaviour is subject to the same recording/reporting obligations as those applying to seclusion and physical means of restraint (paragraph 110);**

At Niuvanniemi Hospital, a patient is medicated to control aggressive or violent behaviour only if the said behaviour is due to a mental illness. If a patient is medicated against his will, this is recorded in the list referred to in section 22 k, subsection 2 of the Mental Health Act. The use of medication administered parenterally against the will of the patient is relatively rare at the hospital.

The Ministry of Social Affairs and Health has sent a letter to Niuvanniemi Hospital requesting the hospital to specify its internal instructions so as to avoid any unclarity when treating a patient.

- **How is it intended to implement the provision referred to in paragraph 111 of this report in the case of involuntary patients without a support person/guardian (e.g. are there any plans to appoint a support person specifically for patients subject to means of restraint?) (paragraph 111).**

The appointment and duties of an appointed personal trustee are governed by the Guardianship Services Act (442/1999). A guardian is appointed by the court. If the patient himself understands the meaning of the issue and wants a guardian, also the Local Register Office may appoint a guardian. The hospital shall, where necessary, file a petition for the appointment of a guardian but the petition does not bind the party deciding on guardianship.

If, when assessing the state of health of a patient upon his entry to the hospital, it seems that special limitations have to be applied to him repeatedly or for a long time under the Mental Health Act, the hospital usually files a petition to the Local Register Office for the appointment of a guardian.

The provisions relating to guardianship were reformed in 1999. Guardianship is closely linked to the system of municipal civil-servant guardians, which does not seem to be very suitable to the handling of issues relating to a person, such as the notifications referred to in the Mental Health Act. A co-operation group of guardianship services set by the Ministry of the Interior is handling the needs to amend the Guardianship Services Act. The group includes representatives from the Ministry of Justice, the Ministry of Social Affairs and Health and the Association of Finnish Local and Regional Authorities. In this connection, also the need for guardianship of patients treated at hospitals and the way to arrange it shall be clarified.

- **Details concerning the procedures for appointing support persons and the requirements these persons have to meet (e.g. in terms of previous experience and qualification) (paragraph 111).**

There are no special requirements relating to training or qualifications. Also the relatives of the patient may act as his guardian. According to information from the Helsinki Local Register Office, approximately half of all guardians are municipal guardians and approximately half are relatives. At least in large towns, the municipal guardians are lawyers.

## **Safeguards**

### Recommendations

- **It is recommended that the Finnish authorities review the procedure by which the continuation of treatment of civil and forensic psychiatric patients are decided, in the light of the remarks made in paragraph 120 (paragraph 121);**

In September 2004, the Ministry of Social Affairs and Health set a working group with the task of inter alia evaluating the relevance of provisions on forensic psychiatric patients. The term of the working group will end on 31 December 2005. The working group shall, in accordance with its task, evaluate the preconditions of involuntary treatment of forensic psychiatric patients. In addition, the working group shall, taking into account the recommendations of the Committee, also evaluate the appropriateness of the provisions and practices relating to the ascertainment of the need for treatment.

- **The practice that patients undergoing mental examination are not allowed to receive visits during the assessment period should be reviewed (paragraph 123);**

The report states that, according to the established practise of the hospital, patients undergoing mental examination are not allowed to receive visits during the assessment period. There is apparently some confusion here. Patients undergoing mental examination are allowed to receive visitors as before. The hospital deems that maintaining contacts with relatives is important to the patient. Therefore the visits of the next-of-kin are prioritised, where possible.

The visits of relatives of patients undergoing mental examinations may have been restricted when the relative has been a victim of the assault with which the patient is charged. In this case, it is feared that the frequent presence of the relative during the examination period may confuse the examination result. These cases are, however, highly exceptional.

- **The conditions under which visits take place at Niuvanniemi Hospital should be improved. Ideally, there should be designated rooms for visits (which could, if necessary, be subject to supervision) (paragraph 123).**

After the visit of the CPT, attention has been paid at Niuvanniemi Hospital to the external conditions of visits. At present, two conference rooms have been reserved for visits, both of which are accessible directly through the front door. Thus the visitor need not go through a ward. Staircases are used as visiting facilities only in compelling situations, for example in the case of patients with a tendency to escape. The nursing staff supervises the visits, where necessary.

Maintenance of contacts of patients with the relatives is supported inter alia by arranging home leaves.

#### Comments

- **Pending the drawing-up of an appropriate brochure, a file containing information about relevant legislation and the effective exercise of patients' rights (including possibilities for filing complaints and for challenging certain decisions) should be available for consultation by patients on each ward at Niuvanniemi Hospital (paragraph 122).**

Sections 10 and 11 of the Act on the Status and Rights of Patients were available in the wards in the autumn of 2003. They were placed on the notice boards and on the walls of the corridors of the isolation facilities. The Patient Ombudsman of the hospital has been quickly available to give any information required to the patients.

After the comments of the CPT, Niuvanniemi Hospital has increased the information given to patients on their rights. The wards have folders which contain the following documents: the Act on the Status and Rights of a Patient, the Mental Health Act, the general hospital order and the instructions of the hospital on the limiting of the right of self-determination of the patient, a form for filing a complaint used by the office of the Parliamentary Ombudsman and a list of authorities supervising the operations of the hospital. The folder also contains a short document on the right of patients to one hour of outdoor exercise daily and the right to unrestricted contacts with a legal representative. In addition, the document states that the hospital supports contacts with close relations.